

# Legislative Journal

TUESDAY, DECEMBER 6, 1983

SESSION OF 1983

167TH OF THE GENERAL ASSEMBLY

No. 88

## SENATE

TUESDAY, December 6, 1983.

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

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

## PRAYER

The Chaplain, the Reverend Dr. ROBERT E. MAYER, Pastor of the Church of the Open Door, Lebanon, offered the following prayer:

With grateful hearts, our Heavenly Father, we bow before Thee again on this the second day of this week, thankful, our Father, for Thy enabling grace to enable us to make proper decisions, to work together for better government and to consider issues that are very vital for all those who are concerned.

We thank Thee, Heavenly Father, that Thou art God and there is none beside Thee and that we can call upon Thee for wisdom and understanding and we pray this may be endowed upon each person, each one of our wonderful Senators, this afternoon. We thank Thee for them. We realize this is a high calling. It is a great responsibility. It is an awesome job. But we thank Thee, our Father, that by Thy grace and wisdom, each one can work in a very positive way and much will be accomplished then to bring glory to Thyself and benefit to all of the citizens of our Commonwealth.

We pray now that as the Senators go into Session that Thou will bless them, encourage their hearts and may this be a day of great accomplishments. We pray, Father, when the day is concluded each one may be able to look back, saying, "Truly a great work has been accomplished, whereof we are glad." We will all be thankful for that and we ask that it will come to pass in the name of Thy Son, our wonderful Savior, Jesus Christ, with thanksgiving. 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 December 5, 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.

## LEGISLATIVE LEAVES

Senator JUBELIRER. Mr. President, the Committee on Banking and Insurance is currently meeting under the chairmanship of Senator Holl. I request temporary legislative leaves of absence for all Members on our side of the aisle and they include: Senator Loeper, Senator Pecora, Senator Kusse, Senator Holl, Senator Helfrick and Senator Hopper. Senator Zemprelli will have Members of his caucus there as well.

Mr. President, I request a temporary legislative leave of absence for Senator Kratzer who is attending a public hearing on Senate Bill No. 1091.

Senator ZEMPRELLI. Mr. President, I request temporary legislative leaves of absence for Senator Scanlon, Senator Mellow, Senator Ross and Senator O'Pake. I concur with the Majority Leader that there are Members of my caucus who are in attendance at committee meetings and I request temporary legislative leaves of absence on their behalf. Mr. President, I will notify the Chair as soon as I am notified that they are at these meetings.

I also reiterate the request for a legislative leave of absence for the entire week for Senator Reibman.

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

## LEAVE OF ABSENCE

Senator ZEMPRELLI asked and obtained leave of absence for Senator BODACK, for a portion of today's Session, for personal reasons.

## COMMUNICATIONS FROM THE GOVERNOR

### NOMINATIONS BY THE GOVERNOR REFERRED TO COMMITTEE

The PRESIDENT pro tempore laid before the Senate the following communications in writing from His Excellency, the Governor of the Commonwealth, which were read as follows, and referred to the Committee on Rules and Executive Nominations:

### MEMBER OF THE STATE BOARD OF AUCTIONEER EXAMINERS

December 2, 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 Theodis Moye (Public Member), 623 Whitney Avenue, Wilkinsburg 15221, Allegheny County, Thirty-eighth Senatorial District, for reappointment as a member of the State Board of Auctioneer Examiners, to serve until June 10, 1986, and until his successor is appointed and qualified.

DICK THORNBURGH.

MEMBER OF THE STATE BOARD  
OF CHIROPRACTIC EXAMINERS

December 2, 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 Thomas R. Butler, D.C., 737 East Linn Street, Bellefonte 16823, Centre County, Thirty-fourth Senatorial District, for appointment as a member of the State Board of Chiropractic Examiners, to serve until July 15, 1985, and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Conrad F. Matz, Jr., D.C., Monroeville, resigned.

DICK THORNBURGH.

MEMBER OF THE BOARD OF TRUSTEES  
OF DANVILLE STATE HOSPITAL

December 2, 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 Betty Ann Moyer, 438 Mill Street, Danville 17821, Montour County, Twenty-seventh Senatorial District, for appointment as a member of the Board of Trustees of Danville State Hospital, to serve until the third Tuesday of January, 1985, and until her successor is appointed and qualified, vice Joseph A. Schott, Danville, resigned.

DICK THORNBURGH.

MEMBER OF THE BOARD OF TRUSTEES  
OF DANVILLE STATE HOSPITAL

December 2, 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 Harry L. Stump, 103 Bloom Street, Danville 17821, Montour County, Twenty-seventh Senatorial District, for appointment as a member of the Board of Trustees of Danville State Hospital, to serve until the third Tuesday of January, 1989, and until his successor is appointed and qualified, vice Frederick T. Trump, Bloomsburg, whose term expired.

DICK THORNBURGH.

MEMBER OF THE BOARD OF TRUSTEES  
OF DANVILLE STATE HOSPITAL

December 2, 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 John F. Trowbridge, 102 West Mahoning Street, Danville 17821, Montour County, Twenty-seventh Senatorial District, for appointment as a member of the Board of Trustees of Danville State Hospital, to serve until the third Tuesday of January, 1989, and until his successor is appointed and qualified, vice Paul Dent, Danville, whose term expired.

DICK THORNBURGH.

MEMBER OF THE BOARD OF TRUSTEES  
OF EMBREEVILLE STATE HOSPITAL

December 2, 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 Robert H. Hanna, M.D., 6 Prout Drive, Coatesville 19320, Chester County, Thirteenth Senatorial District, for appointment as a member of the Board of Trustees of Embreeville State Hospital, to serve until the third Tuesday of January, 1989, and until his successor is appointed and qualified, vice Joseph B. Gilley, Downingtown, deceased.

DICK THORNBURGH.

MEMBER OF THE PUBLIC EMPLOYEE  
RETIREMENT STUDY COMMISSION

December 2, 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 Marvin Ginsburg, Esquire, 713 Harvard Road, Bala Cynwyd 19004, Montgomery County, Seventeenth Senatorial District, for appointment as a member of the Public Employee Retirement Study Commission, to serve until October 28, 1987, and until his successor is appointed and qualified, vice William H. Hansell, Jr., Allentown, resigned.

DICK THORNBURGH.

MEMBER OF THE ALLEGHENY COUNTY  
BOARD OF ASSISTANCE

December 2, 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 Richard G. Lewis (Republican), 216 Lingrove Place, Pittsburgh 15208, Allegheny County, Forty-third Senatorial District, for appointment as a member of the Allegheny County Board of Assistance, to serve until December 31, 1983, and until his successor is duly appointed and qualified, vice Addie Knox, Pittsburgh, resigned.

DICK THORNBURGH.

MEMBER OF THE MONROE COUNTY  
BOARD OF ASSISTANCE

December 2, 1983.

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate Judith Ann Bendixen (Republican), Star Route Box 5C, Pocono Summit 18346, Monroe County, Twentieth Senatorial District, for appointment as a member of the Monroe County Board of Assistance, to serve until December 31, 1984, and until her successor is duly appointed and qualified, vice Lawrence A. Wills, East Stroudsburg, resigned.

DICK THORNBURGH.

MEMBER OF THE UNION COUNTY  
BOARD OF ASSISTANCE

December 2, 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 Carolyn F. Baker (Democrat), R. D. 3, Lewisburg 17837, Union County, Twenty-seventh Senatorial District, for appointment as a member of the Union County Board of Assistance, to serve until December 31, 1985, and until her successor is duly appointed and qualified, vice Ethel L. Derr, Laurelton, resigned.

DICK THORNBURGH.

RECALL COMMUNICATIONS  
LAID ON THE TABLE

The PRESIDENT pro tempore laid before the Senate the following communications in writing from His Excellency, the Governor of the Commonwealth, which were read as follows, and laid on the table:

MEMBER OF THE COUNCIL OF TRUSTEES OF  
CLARION UNIVERSITY OF PENNSYLVANIA  
OF THE STATE SYSTEM OF  
HIGHER EDUCATION

December 2, 1983.

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 August 1, 1983 for the appointment of J. David Griffin, Ph.D., 519 Holly Road, Monroeville 15146, Allegheny County, Forty-fourth Senatorial District, as a member of the Council of Trustees of Clarion University of Pennsylvania of the State System of Higher Education, to serve until the third Tuesday of January, 1989, and until his successor is appointed and qualified, vice Mary C. O'Toole, Tionesta, whose term expired.

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

DICK THORNBURGH.

MEMBER OF THE COUNCIL OF TRUSTEES OF  
CLARION UNIVERSITY OF PENNSYLVANIA  
OF THE STATE SYSTEM OF  
HIGHER EDUCATION

December 2, 1983.

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 nomina-

tion dated August 1, 1983 for the appointment of Paul A. Weaver, 1072 Sunset Drive, Clarion 16214, Clarion County, Forty-first Senatorial District, as a member of the Council of Trustees of Clarion University of Pennsylvania of the State System of Higher Education, to serve until the third Tuesday of January, 1989, and until his successor is appointed and qualified, vice William E. Sheridan, Clarion, whose term expired.

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

DICK THORNBURGH.

MEMBER OF THE COMMONWEALTH OF  
PENNSYLVANIA COUNCIL ON THE ARTS

December 2, 1983.

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 July 29, 1983 for the appointment of C. William Laff, 423 Winton Street, Pittsburgh 15211, Allegheny County, Forty-second Senatorial District, as a member of the Commonwealth of Pennsylvania Council on the Arts, to serve until July 1, 1986, and until his successor has been appointed and qualified, Henry S. McNeil, Plymouth Meeting, deceased.

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

DICK THORNBURGH.

MEMBER OF THE STATE BOARD  
OF LANDSCAPE ARCHITECTS

December 2, 1983.

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 August 29, 1983 for the appointment of Bernice Craig (Public Member), 210 North Houcks Road, Harrisburg 17109, Dauphin County, Fifteenth Senatorial District, as a member of the State Board of Landscape Architects, to serve for a term of three years and until her successor is appointed and qualified, but not longer than six months beyond that period, to fill a new position.

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

DICK THORNBURGH.

MEMBER OF THE STATE BOARD OF  
PUBLIC WELFARE

December 2, 1983.

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 August 17, 1983 for the appointment of Beryl Brown, 135 Laurel Lane, Camp Hill 17011, Cumberland County, Thirty-first Senatorial District, as a member of the State Board of Public Welfare, to serve until June 7, 1988, and until her successor is appointed and qualified, vice the Honorable Joseph V. Zord, Jr., Pittsburgh, whose term expired.

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

DICK THORNBURGH.

**TREASURER, IN AND FOR THE COUNTY  
OF WESTMORELAND**

December 2, 1983.

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 July 25, 1983 for the appointment of Philip E. Davis, R. D. 6, Box 1516, Mount Pleasant 15666, Westmoreland County, Thirty-ninth Senatorial District, as Treasurer, in and for the County of Westmoreland, to serve until the first Monday of January, 1984, vice Andrew N. Kritsky, resigned.

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

**DICK THORNBURGH.**

**MEMBER OF THE CARBON COUNTY  
BOARD OF ASSISTANCE**

December 2, 1983.

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated September 19, 1983 for the appointment of James F. Walker (Republican), 200 Centre Avenue, Jim Thorpe 18229, Carbon County, Twenty-ninth Senatorial District, as a member of the Carbon County Board of Assistance, to serve until December 31, 1985, and until his successor is duly appointed and qualified, vice Beatrice Zimmerman, Summitt Hills, resigned.

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

**DICK THORNBURGH.**

**MEMBER OF THE CLARION COUNTY  
BOARD OF ASSISTANCE**

December 2, 1983.

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated September 19, 1983 for the appointment of J. Donald Lynch (Republican), P. O. Box 152, St. Petersburg 16054, Clarion County, Twenty-fifth Senatorial District, as a member of the Clarion County Board of Assistance, to serve until December 31, 1985, and until his successor is duly appointed and qualified, vice F. Duane Hartle, Marble, resigned.

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

**DICK THORNBURGH.**

**MEMBER OF THE HUNTINGDON COUNTY  
BOARD OF ASSISTANCE**

December 2, 1983.

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated September 19, 1983 for the appointment of Violet M. Snyder (Democrat), P. O. Box 225, Petersburg 16669, Huntingdon County, Thirtieth Senatorial District, as a member of the Huntingdon County Board of Assistance, to serve until

December 31, 1984, and until her successor is duly appointed and qualified, vice Michael Raymond Miller, Huntingdon, resigned

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

**DICK THORNBURGH.**

**MEMBER OF THE JUNIATA COUNTY  
BOARD OF ASSISTANCE**

December 2, 1983.

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated September 19, 1983 for the appointment of Otto C. Brubaker (Republican), R. D. 1, Richfield 17086, Juniata County, Thirty-fourth Senatorial District, as a member of the Juniata County Board of Assistance, to serve until December 31, 1983, and until his successor is duly appointed and qualified, vice Horace R. Bacon, Port Royal, resigned

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

**DICK THORNBURGH.**

**MEMBER OF THE MCKEAN COUNTY  
BOARD OF ASSISTANCE**

December 2, 1983.

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated September 19, 1983 for the appointment of Kenneth Jadowiec (Republican), 51 Constitution Avenue, Bradford 16701, McKean County, Twenty-fifth Senatorial District, as a member of the McKean County Board of Assistance, to serve until December 31, 1984, and until his successor is duly appointed and qualified, vice Gary A. Hardes, Port Allegheny, resigned.

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

**DICK THORNBURGH.**

**MEMBER OF THE MCKEAN COUNTY  
BOARD OF ASSISTANCE**

December 2, 1983.

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated September 19, 1983 for the appointment of Patrick G. Shields (Republican), 240 Congress Street, Bradford 16701, McKean County, Twenty-fifth Senatorial District, as a member of the McKean County Board of Assistance, to serve until December 31, 1983, and until his successor is duly appointed and qualified, vice Elizabeth A. Enos, Bradford, resigned.

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

**DICK THORNBURGH.**

**MEMBER OF THE SCHUYLKILL COUNTY  
BOARD OF ASSISTANCE**

December 2, 1983.

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated September 19, 1983 for the appointment of Jane C. Diebert (Republican), 8 Centre Avenue, Schuylkill Haven 17972, Schuylkill County, Twenty-ninth Senatorial District, as a member of the Schuylkill County Board of Assistance, to serve until December 31, 1985, and until her successor is duly appointed and qualified, to fill a new position.

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

DICK THORNBURGH.

MEMBER OF THE WESTMORELAND COUNTY  
BOARD OF ASSISTANCE

December 2, 1983.

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated September 19, 1983 for the appointment of John J. Durco (Republican), Forbes Road, P. O. Box 22, Greensburg 15601, Westmoreland County, Thirty-ninth Senatorial District, as a member of the Westmoreland County Board of Assistance, to serve until December 31, 1985, and until his successor is duly appointed and qualified, vice Dr. Robert A. Dannels, North Huntingdon, deceased.

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

DICK THORNBURGH.

## REPORT FROM COMMITTEE

Senator WENGER, from the Committee on Agriculture and Rural Affairs, reported the following bill:

**HB 350 (Pr. No. 2289) (Amended)**

An Act relating to euthanasia of pet animals; prohibiting certain methods of euthanasia; providing for a limited license to dispense certain drugs; providing for regulation and enforcement; and providing penalties.

## LEGISLATIVE LEAVE CANCELLED

The PRESIDENT pro tempore. The Chair recognizes the presence of Senator Kratzer on the floor and his temporary legislative leave of absence will be cancelled.

## CALENDAR

### SPECIAL ORDER OF BUSINESS

#### SB 1010 CALLED UP OUT OF ORDER

**SB 1010 (Pr. No. 1265)** — Without objection, the bill was called up out of order, from page 3 of the Third Consideration Calendar, by Senator JUBELIRER, as a Special Order of Business.

## BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

**SB 1010 (Pr. No. 1265)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, prohibiting the retention of military property after notice to return.

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

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

#### NAYS—0

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

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

## GUESTS OF SENATOR ANTHONY B. ANDREZESKI PRESENTED TO SENATE

Senator ANDREZESKI. Mr. President, in our gallery today are two individuals who have traveled to Harrisburg on many occasions to testify before various committees on the need for more humane ways for animal euthanasia. I would like to ask these two individuals to please stand and be recognized. They are Mrs. Margaret Payne and Mrs. Joan LoParo who is the president of Because You Care in Pennsylvania. I ask the Senate to afford them their usual warm welcome.

The PRESIDENT pro tempore. If the guests of Senator Andrezeski will please rise, the Senate would like to extend to you a very warm welcome.

(Applause.)

## RECESS

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

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

**AFTER RECESS**

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

**CONSIDERATION OF CALENDAR RESUMED****REPORT OF COMMITTEE OF CONFERENCE****REPORT ADOPTED**

**SB 206 (Pr. No. 1535)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for prohibited offensive weapons; permitting the use and possession of black-jacks by certain police officers, sheriffs and deputy sheriffs; further providing for an exception relating to antique firearms; and further providing for institutional vandalism.

Senator STAUFFER. Mr. President, I move that the Senate adopt the Report of Committee of Conference on Senate Bill No. 206.

On the question,

Will the Senate agree to the motion?

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

**YEAS—50**

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

**NAYS—0**

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

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

**LEGISLATIVE LEAVES**

Senator SCANLON. Mr. President, I request temporary legislative leaves of absence for Senator Williams, Senator Musto and Senator Zemprelli.

Senator JUBELIRER. Mr. President, I request a legislative leave of absence for the remainder of today's Session for Senator Street.

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

**LEGISLATIVE LEAVES CANCELLED**

Senator JUBELIRER. Mr. President, may we take the Members of the Committee on Banking and Insurance off legislative leaves of absence?

The PRESIDENT pro tempore. The Chair sees Senator Loeper, Senator Pecora, Senator Holl, Senator Helfrick, Senator Hopper and Senator Scanlon. Senator Mellow and Senator Ross are here. Senator O'Pake and Senator Bodack have returned and Senator Kusse is here. According to the records of the Chair, the only Members who are now on legislative leaves of absence are Senator Zemprelli, Senator Williams, Senator Street and Senator Musto. Senator Reibman is on legislative leave of absence for the entire week.

**CONSIDERATION OF CALENDAR RESUMED****REPORT OF COMMITTEE OF CONFERENCE****REPORT ADOPTED**

**HB 379 (Pr. No. 2035)** — The Senate proceeded to consideration of the bill, entitled:

An Act providing for the licensing and regulating of public adjusters and public adjuster solicitors.

Senator JUBELIRER. Mr. President, I move that the Senate adopt the Report of Committee of Conference on House Bill No. 379.

On the question,

Will the Senate agree to the motion?

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

**YEAS—50**

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

**NAYS—0**

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

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

**BILL WHICH HOUSE HAS NONCONCURRED  
IN SENATE AMENDMENTS****BILL OVER IN ORDER**

**HB 690** — Without objection, the bill was passed over in its order at the request of Senator JUBELIRER.

### PREFERRED APPROPRIATION BILL ON CONCURRENCE IN HOUSE AMENDMENTS

#### SENATE NONCONCURS IN HOUSE AMENDMENTS

**SB 877 (Pr. No. 1137)** — The Senate proceeded to consideration of the bill, entitled:

An Act making appropriations to the Treasury Department out of various funds to pay replacement checks issued in lieu of outstanding checks when presented and to adjust errors.

Senator JUBELIRER. Mr. President, I move that the Senate do nonconcur in the amendments made by the House to Senate Bill No. 877, and that a Committee of Conference on the part of the Senate be appointed.

The motion was agreed to.

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

### BILLS ON CONCURRENCE IN HOUSE AMENDMENTS

#### BILLS OVER IN ORDER

**SB 11, 950, 966 and 967** — Without objection, the bills were passed over in their order at the request of Senator JUBELIRER.

### THIRD CONSIDERATION CALENDAR

#### BILLS OVER IN ORDER

**HB 92, SB 198 and HB 743** — Without objection, the bills were passed over in their order at the request of Senator JUBELIRER.

### BILL REREFERRED

**SB 907 (Pr. No. 1083)** — The Senate proceeded to consideration of the bill, entitled:

An Act repealing a part of Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, relating to limitations on certain awards for damages.

Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

### MOTION TO REREFER

Senator LEWIS. Mr. President, in reviewing Senate Bill No. 907, it appears to me the direct consequence will be an increase in expense to municipalities as the result of the elimination of certain insurance payment coverage from the calculation of benefits that are payable under the Municipal Tort Liability Act. As a result of this, it seems to me this bill falls squarely within the Senate Rule that requires that any provision that may involve an expenditure of state or municipal funds first have a fiscal note from the Committee on Appropriations. In light of that circumstance, I move at this time that Senate Bill No. 907 be rereferred to the Committee on Appropriations.

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

On the question,

Will the Senate agree to the motion?

### POINT OF ORDER

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

The PRESIDING OFFICER. The gentleman from Bucks, Senator Lewis, will state it.

Senator LEWIS. Mr. President, will the Chair advise if under the Rules of the Senate this bill should be rereferred to the Committee on Appropriations by action of the Chair in light of the fact that it contains an expenditure for municipal governments?

Senator JUBELIRER. Mr. President, would the gentleman from Bucks, Senator Lewis, yield? I think we can save a lot of time. We have no objection to the bill being rereferred to the Committee on Appropriations and if the gentleman has so moved, we would not object.

The PRESIDING OFFICER. The Senate Rules do provide that where an expenditure of Commonwealth funds is required, the bill must be rereferred to the Committee on Appropriations. The gentleman's point is well-founded.

And the question recurring,

Will the Senate agree to the motion?

The motion was agreed to.

The PRESIDING OFFICER. Senate Bill No. 907 is rereferred to the Committee on Appropriations.

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

### BILL OVER IN ORDER

**SB 1015** — Without objection, the bill was passed over in its order at the request of Senator JUBELIRER.

### BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

**SB 1144 (Pr. No. 1558)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 5, 1933 (P. L. 364, No. 106), entitled, as amended, "Business Corporation Law," clarifying the right of directors and officers to consider the effects of corporate actions upon employees, suppliers, customers and communities; providing for interested shareholder transactions; and conferring certain rights on noncontrolling shareholders.

Considered the third time and agreed to,

On the question,

Shall the bill pass finally?

The PRESIDENT pro tempore. The Chair recognizes Senator Howard.

Senator HOWARD. Mr. President, may we be at ease?

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

(The Senate was at ease.)

Senator ZEMPRELLI. Mr. President,—

The PRESIDENT pro tempore. Senator Zempirelli, Senator Howard has the floor. On the question of final passage of Senate Bill No. 1144, the Chair recognizes Senator Howard.

Senator HOWARD. Mr. President, I have no objection to yielding to Senator Zemprelli if he wishes to make a comment at this time.

Senator ZEMPRELLI. Mr. President, it is not a question of a comment. I was going to make a request that I think will be properly in order when the gentleman finishes his remarks.

Senator HOWARD. Mr. President, I plan to vote against this bill and I feel constrained to explain to the Members why I think Senate Bill No. 1144 represents a substantial departure from the role of State government, generally, and the State Senate, in particular, in the field of commerce in the State of Pennsylvania. I think many of the Members have already read an article which appeared in the Wall Street Journal today on page 10, which talks about this bill. While I think many of the issues raised by that article are arguable, but what, in fact, does remain is that the passage of this bill is going to inject the Legislature in Pennsylvania into currently two major proxy battles that are confronted by Pennsylvania based corporations. God knows how many more will be affected by it that we cannot anticipate at this time.

I do not wish to argue the merits of the proxy battles. I do not think any Member here is equipped to decide which side in those battles is right, if there is, in fact, a right. We have the Securities and Exchange Commission whose job it is to safeguard the public interest in the trading of stock and the matters that relate to this form of commerce. To pass Senate Bill No. 1144 places Pennsylvania unique among the states. We will be the only state that has this type of legislation. It is obviously directed at current troublesome problems confronted by Pennsylvania corporations. I think to establish the precedent that this Legislature is going to interest itself in this type of business is out of order. I think it may work against the interests of the public in battles that may lie in the future that we cannot even anticipate.

Mr. President, it troubles me that we are discussing this matter because, I think, whether we like it or not, it suggests manipulation of the Legislature by people outside the Legislature. I think that is unhealthy. I think it has implications that we do not entirely understand and for that reason I do not feel we have any business at this time passing this type of legislation. I expect to vote against it.

### RECESS

Senator ZEMPRELLI. Mr. President, I feel it is imperative the Members of the Democratic caucus meet for a few minutes. I am requesting a recess of the Senate for that purpose.

The PRESIDENT pro tempore. For the purpose of a Democratic caucus which will take place immediately in the Minority caucus room at the rear of the Senate Chamber, the Senate is in recess.

### AFTER RECESS

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

The Senate has before it Senate Bill No. 1144, Printer's No. 1558.

And the question recurring,  
Shall the bill pass finally?

Senator ZEMPRELLI. Mr. President, I request that Senate Bill No. 1144, Printer's No. 1558, go over in its order.

Senator JUBELIRER. Mr. President, I ask for a "no" vote. Since it is a request, do you want to put that in the form of a motion?

Senator ZEMPRELLI. Mr. President, if the request is denied, I would, of course, put it in the form of a motion.

Senator JUBELIRER. Mr. President, we ask the Members of the Senate to vote "no." I think we have discussed the bill and it is ready to be voted upon.

The PRESIDENT pro tempore. At present, Senator Jubelirer, the matter is a request. Do you object to the bill going over?

Senator JUBELIRER. Mr. President, I object.

### MOTION FOR BILL OVER IN ORDER

Senator ZEMPRELLI. Mr. President, I move that Senate Bill No. 1144, Printer's No. 1558, go over in its order.

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

Senator ZEMPRELLI. Mr. President, I understand I may make some comments as to why I believe the bill should go over in its order.

Mr. President, Senate Bill No. 1144, Printer's No. 1558, is on the third day of the Calendar. Several of the Members on this side are sponsors and may very well agree the bill has merit and, perhaps, would want to vote for it. However, there have been a number of questions raised by a number of people who have a vital concern with the outcome of this bill which sets up different propositions dealing with restructuring of corporate enterprises. As a matter of fact, when we first began to discuss this issue in our caucus, it became so well-known as to what was happening that various institutions, corporations and other persons who have an interest in the outcome of this bill began to call on the telephone while we were still in caucus. We are beginning to get divergent views as to what this bill would do, all of which makes us believe, at least some of us believe, that it is an extremely important bill and, quite frankly, we are not quite sure what the bill does.

There are those who have indicated it favors stockholders. There are others who have said, quite frankly, that this bill is an effort to save poor management in several companies that are Pennsylvania companies at this time and would insulate that management against those who might want to probe and also take over those companies. All of this leads us to believe there is a great deal to this bill and we would welcome the opportunity to deliberate a little bit more rather than be put to the issue of voting on this bill this evening.

Mr. President, I am sensitive to the fact that I am a sponsor of the bill. I am sensitive to the fact that there are others on our side of the aisle who are sponsors of the bill and, quite



frankly, I may very well vote for this bill. As of this moment I do not feel I have the knowledge and the understanding of the bill to know whether my action for or against the bill would, in fact, be the proper action and that is the reason why I have moved on my behalf and others of my caucus who want to take a real good look at this bill and understand what it really is.

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

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

#### YEAS—20

Andrezeski	Lincoln	O'Pake	Scanlon
Bodack	Lloyd	Reibman	Singel
Early	Lynch	Rocks	Stapleton
Kelley	Mellow	Romanelli	Stout
Lewis	Musto	Ross	Zemprelli

#### NAYS—30

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

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

And the question recurring,  
Shall the bill pass finally?

Senator BELL. Mr. President, before the recess and before the other motion, the gentleman from Bucks, Senator Howard, made a presentation against this bill. One of the things the gentleman said is we should not lead the nation with this type of legislation. Perhaps it is time we started leading the nation. I know over two hundred years have lapsed since the Declaration of Independence, but perhaps it is time for some state to start protecting the minority shareholders against pirate raids by these great corporate giants.

Mr. President, in my district there are two corporations which have pushed for years to have the employees buy stock. I am speaking of Sun Oil and Scott Paper. Do I protect the little wage earner, the small shareholder, and blaze the way in America? I am going to vote for my people.

#### LEGISLATIVE LEAVE

Senator JUBELIRER. Mr. President, I request a temporary legislative leave of absence for Senator Corman.

The PRESIDENT pro tempore. The Chair hears no objection and the leave is granted.

And the question recurring,  
Shall the bill pass finally?

Senator FUMO. Mr. President, I rise to speak on behalf of Senate Bill No. 1144. Quite frankly, I think it is going to pass this evening. I think we should say why.

I was first approached with this legislation a number of weeks ago by members of the Chamber of Commerce. When it was originally proposed to me I sat back, quite frankly, as a Democrat and was very surprised. I said this is the kind of legislation I would normally see come out of the Democratic caucus and not from big business. After closer scrutiny I took a look at it and had some philosophical problems with it. I sent the bill to some lawyers that do large corporate work and whose reputations and opinions I respect. I also sent it down to some of my professors at the Wharton School of the University of Pennsylvania because I had problems with it changing the basic rules of the game, and when it was explained that it was motherhood and apple pie, it still rubbed me the wrong way. It was one of my professors at Wharton that put it in a nutshell for me and made me understand it and made me be at peace with my vote today. The explanation was that every day big business is telling us they want government off their backs. They do not want regulation; they say leave us alone. In this particular instance they have come to us and asked for regulation and asked to get involved. I do not mind that, even though it may seem to be inconsistent, because as I have said in the opening of my remarks, this bill should be a Democratic bill. This bill would basically protect the corporations that are in Pennsylvania.

We all cry out on this floor on an almost daily basis about protecting the jobs and the economy of this state. This bill will help us to do that in some small way. This will bring to Pennsylvania a better corporate climate even though there are those who do not like the climate in Pennsylvania and often accuse us of high taxation and everything else. It is incumbent upon us to help them when and where we can.

This bill would prevent foreign interests from coming in and taking over Pennsylvania corporations and obliterating those corporations, putting them out of business, milking their assets, milking their cash and, in the end, increasing unemployment because of the people who they would lay off after the mergers were consummated.

Mr. President, we also need a bill like this to protect the shareholders on the back end of a corporate takeover. Everyone admits that if they are in the beginning and are in the front end and they get a premium paid for their stock, that is good. Once the magic number is reached, when control is obtained, the people on the back end get absolutely nothing. This bill would insure that those people would be taken care of.

I am not naive, Mr. President. I also know this bill will probably have a chilling effect on adverse corporate takeovers. I also say to the Members that that is not necessarily a bad thing; in fact, it is a good thing when a corporation has been started in Pennsylvania and the people who started it have invested their capital to put our Pennsylvanians to work, we have an obligation to help that corporation as much as we can within the reasonable bounds of our economy. This move and this bill would do that, Mr. President.

There are those in this Chamber who would argue, "Let us not do this expeditiously. What is really going on? Let us slow it down."

I would say to them that unless they disagree philosophically with this bill, then let us get on with the business of Pennsylvania and protect these corporations as expeditiously as we can. This bill is not a cure-all, but this bill will give to those people who want to try and help the economy of Pennsylvania another tool in their arsenal to help us out.

I say to my colleagues on this side of the aisle that although this appears to be big business legislation, and it may very well be, our constituents work in the factories owned by the big businesses. We are crazy if we want to drive those businesses out of our state along with those jobs. Let us act on this bill affirmatively tonight, Mr. President, and let us do it expeditiously. Let us help those people who need our help now regardless of what their past political persuasions may have been.

Senator ZEMPRELLI. Mr. President, I wish I could be as sure as the two previous speakers as to what this bill does. The reason I had requested the bill go over earlier was so I could have that satisfaction. I want the Members of this Senate to understand that in the Forty-fifth Senatorial District, I, perhaps, as much as anybody else was responsible for the passage of what was called the Pennsylvania Williams Anti-Takeover Bill because I had seen the viable Copperweld building business in Glassport, Pennsylvania, taken over by French concerns but who now no longer operate that plant. I have some very mixed emotions about this bill. When some of the businesses in my area contacted me and gave me a brief synopsis of what this bill purported to do, I was impressed because it was my initial belief that it was a companion to the same philosophy as the anti-takeover bill that involved Copperweld in Glassport.

I am not sure about that. I have some very serious reservations. I followed very closely what was happening in the Gulf Oil situation. I am not so sure the fellow who was pushing around in that company and trying to acquire the stock did not shake loose a rather lethargic corporate structure for the good of that company. I am not sure it was bad. I am not sure tonight what this bill would do and whether it is good or bad. I am not sure it is for the benefit of the stockholders. I am, at least, very apprehensive about it based on the physical facts of who is voting for this bill and who is voting against it, therefore, I hesitate to subscribe to the fact that the bill belongs to any one caucus, whether it be Republican or Democrat.

The difficulty comes, Mr. President, when we have a hard time discerning in a bill of this kind whether it is for the benefit of stockholders or whether it is for the benefit of preserving management because the basic function of management is to operate a company in such a fashion that it would produce a profit for the stockholders. To a great extent their interests are parallel and, therefore, we can make a consistent argument that this is for the stockholders whereas, in fact, it may also be for the benefit of preserving the management against a takeover by other interests that may be in the best interests of the company.

Mr. President, I pose these questions only to relate to the Members of this Senate that as I stand before them tonight I

am uncertain as to what this bill actually does. I would have liked to have had the opportunity to have heard from more people. I have heard pro and con. I have heard names like Scott Paper being involved. I have heard names like Mack Truck being involved and they have opposite views. I have heard many, many different concerns and it is my judgment each of them had a very special interest from which they were moving, none of which was to the best interest of this Senate. I am sure it was for the best interest of the various companies that were involved either pro or con.

Mr. President, there is one thing for certain and that is if we had this issue, as important as it is—and I am going to make a statement that, perhaps, this is the most important bill we will be voting on in this Session—if we had the opportunity to really inspect this bill, and to really talk to a lot of people who are experts in what corporate structures are and what we are trying to prevent and whose interest we are trying to foster, we might have what I would consider an educated view on a vote that would be deliberate, meaningful and with good sense. I am sorry to say I am not possessed with those qualities or with the information tonight that would allow me to make that kind of a vote. Therefore, I am going to vote against this bill and I may regret it because, perhaps, Monday or Tuesday or Wednesday of next week I might have found the wisdom in examining this bill that would have allowed me to vote for it. I would like to vote for this bill for the benefit of some of the companies in my district that have asked me to, but that is not enough. It is not enough without knowing what the full impact is or where somebody is coming from, whether the bill is good or bad.

Mr. President, there is a great deal of excitement about this bill. There is a massive move to move this bill tonight. We requested it go over and there was a resistance by the Majority Party. It is amazing how much interest there became in this bill the moment there was some indication that there were some Members of the Democratic side of the aisle that wanted to take a little closer look at it. Enough said. The bill is going to pass. I sincerely hope that others will want to examine Senate Bill No. 1144 with greater detail than we have had the opportunity to do.

Senator FISHER. Mr. President, as the prime sponsor of this bill, I must say I am very pleased to act in that capacity, even though my colleague, the gentleman from Philadelphia, Senator Fumo, has categorized it as a Democratic bill, because I think it is a very, very important bill to the Pennsylvania economy for many of the reasons the previous speakers have pointed out.

Mr. President, obviously, the subject matter of this bill is a very complex one. Anytime we deal with changing the Corporate Code, it is not an issue that comes before this General Assembly on a regular basis. As a prime sponsor, I have become convinced that although the subject matter of the law we are dealing with is complex, the changes are really not that complex. The changes are significant to the various corporations in Pennsylvania, particularly in the third section of the bill, Section 910. They could be significant changes, but the

changes in and of themselves are not complex. I do not think we are acting on this bill in a fashion that is too hasty. I think there have been opportunities for those 160 or so companies which would be affected by the third section of the bill to have adequate input, because although the bill has not been in the legislative process for much more than a month, the bill had been around in the Pennsylvania circles and people had an opportunity to review the content even before its final draft and before its introduction.

Let me make a comment on two particular parts of Senate Bill No. 1144, one of which the gentleman from Bucks, Senator Howard, had commented on in his remarks before the recess. That issue was also commented on today by the Wall Street Journal when they commented on this particular legislation. I would like to indicate for the record that it is my interpretation and the interpretation of others that this bill, particularly Section 910, would not affect proxy fights. It would not affect the proxy fight in this state. It would not affect the Gulf Oil situation. The definition of control is when a particular shareholder would acquire voting power over 30 percent of the voting shares of a publicly traded Pennsylvania corporation. Voting power, although not defined in this bill, is defined under the Corporate Code and voting power is explicitly defined as the power to vote or direct the voting of a voting share. In a proxy situation, the actual direction of that vote is made by the shareholder who signs the proxy statement and forwards it to the corporation. It is not made by the corporation and their directors who hold the proxies. I am convinced, in looking at that analysis and in talking with others, that is a very accurate interpretation of what voting power under the control section means.

The second major point I would like to briefly discuss is the issues the gentleman from Allegheny, Senator Zemprelli, has raised as to whether or not the bill needs more consideration, particularly as it reflects and may affect certain corporations. I do not know, no matter how long we would consider this bill, that we could come up with the answer as to whether or not the change would be right for any specific corporation. Perhaps the most important provision in this act is the fact we are changing the Corporate Code. We are changing Section 910 to give the minority shareholders some additional rights. We are also saying, for each corporation, they are going to have two and maybe three separate opportunities to assess whether or not that section is best for that corporation and best for the shareholders. The directors within ninety days of the passage of this legislation could opt out from that section of the bill. If the directors do not opt out from that section of the bill, the shareholders could opt out from those provisions of the bill by amending the Articles of Incorporation at any time. If the board of directors should precipitously, within ninety days, opt out by amending the by-laws, the shareholders at a later time would have the opportunity to override the action of the board of directors by shareholder action and further amending the articles. In fact, there are three safeguards and, basically, if we pass this law, which I hope we do, every Pennsylvania corporation affected by it, and particu-

larly those 150 or 160 publicly owned corporations can look closely at the provisions, they can look closely at the opportunities for their company and they can look closely at the opportunities in the way this bill affects their company in the future. Every corporation is going to have an opportunity to do things in this state to remain in this state that they may not have today without this legislation.

Mr. President, that is the extent of my formal remarks. I would, however, like to submit for the record the following statement which comments on, perhaps, a couple of the other provisions and some of the provisions which I have touched upon. I offer this statement for the record.

The PRESIDENT pro tempore. The gentleman's additional statement will be made part of the record.

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

This is an analysis of Senate Bill No. 1144, amending the Business Corporation Law (BCL) of the Commonwealth of Pennsylvania. Senate Bill No. 1144 applies only to corporations incorporated in the Commonwealth of Pennsylvania and relates to the internal corporate affairs and rights of shareholders traditionally covered by the BCL.

Senate Bill No. 1144 has three primary purposes:

First, Senate Bill No. 1144 makes explicit the principle that, when taking corporate action, directors and officers may, in considering the best interests of the corporation, consider the effects of any such action on, among others, employees, suppliers and customers of the corporation and communities in which offices or other establishments of the corporation are located.

Second, Senate Bill No. 1144 requires approval of certain transactions with interested shareholders in a manner analogous to the existing corporate approval required of transactions with interested directors. Specifically, transactions such as mergers, sales of substantially all of the assets and liquidations where one shareholder is a party to, or receives different consideration in, the transaction must be approved either by disinterested directors or by disinterested shareholders exclusive of the votes of the interested shareholder who has a personal stake in the transaction.

Finally, Senate Bill No. 1144 provides the BCL's existing appraisal procedures to noncontrolling shareholders of a corporation in the event a material change occurs in the control of the corporation, where such change is affected by a direct purchase of stock instead of through a merger or one of the other traditional methods for changing control. Under Senate Bill No. 1144, any person who obtains control over a corporation—defined in the bill as voting power over at least 30 percent of the outstanding voting shares—must provide all other shareholders with the opportunity to obtain the fair value of their shares from the controlling person.

The following paragraphs discuss in greater detail each substantive section of the bill.

A. Section 1 of Senate Bill No. 1144 (Amendment to Section 408 of the BCL).

Under the present Section 408 of the BCL, the directors and officers of a Pennsylvania corporation stand in a fiduciary relationship to the corporation.

As various courts interpreting similar laws of other states have concluded, this fiduciary relationship does not foreclose a corporate director or officer from considering, when taking any corporate action, the effects of such actions on, among others, employees, suppliers and customers of the corporation and residents of nearby communities.

Senate Bill No. 1144 codifies this conclusion, thereby eliminating any doubt as to its propriety in the context of actions taken by a director or officer of a Pennsylvania corporation.

Codification of this rule serves the public interest since corporate actions—especially mergers, acquisitions, transfers of corporate assets and transfers of control—often have serious consequences for the corporation's employees and local communities as well as for shareholders. When all such interests are considered by directors and officers, the corporation and its shareholders benefit, since the loyalty of employees and the support and respect of the community all contribute to the corporation's success. The Commonwealth and its citizens also benefit from the stability of jobs and the stability of the tax base.

B. Section 2 of Senate Bill No. 1144 (Amendment to Section 409.1 of the BCL).

Section 409.1 of the BCL presently regulates transactions between a corporation and a director with an interest in the transaction. Such interested director transactions ordinarily are either approved by the shareholders or by a majority of disinterested directors—in other words, by persons who have no personal stake in the transaction.

Senate Bill No. 1144 extends Section 409.1's protections to certain extraordinary corporate transactions involving interested shareholders who, like directors, may be able to influence or control such transactions for their personal gain at the expense of other shareholders and the corporation. In essence, the bill through a new Subsection C to Section 409.1, requires that mergers, consolidations, sales of substantially all of the assets or liquidations receive, in addition to any other approval required by law, or by the corporation's articles or otherwise, the approval of a majority of the disinterested shareholders.

Such approval by disinterested shareholders is not required, however, with respect to the interested shareholder transaction most likely to be encountered—the forced sale of minority shareholders' shares pursuant to a merger, the terms of which are controlled by the interested shareholder—if the shares subject to the forced sale are purchased for at least the highest price previously paid by the interested shareholder in acquiring shares of the same class.

In addition, such disinterested shareholder approval is not required if the transaction is approved by a majority vote of the board of directors without counting the vote of directors (i) who are officers or directors of, or who have a material equity interest in, the interested shareholder or (ii) who were nominated for election by the interested shareholder and first

elected to the board of directors within twenty-four months of the directors' vote on the transaction.

The concept of interested shareholder specifically includes a shareholder who is or controls a party to a proposed transaction, such as a shareholder who controls a shell corporation with which the corporation requesting approval of its shareholders will merge. Interested shareholder would also include a shareholder who, directly or indirectly, receives the assets of a corporation upon liquidation, while the other shareholders simply receive cash, or who is or controls the transferee of substantially all of the assets of the corporation in a sale or exchange. A shareholder is not an interested shareholder simply because he receives a proportionate share of the consideration offered equally to all shareholders or because he receives different consideration due to his election to exercise appraisal rights, or other rights, which were afforded all shareholders.

In addition, an interested shareholder does not include a person who is acting in good faith and not for the purpose of circumventing the Subsection as an agent, bank, broker, nominee or trustee for one or more other persons, to the extent that such other person or persons are not interested shareholders. In other words, if a broker or trustee is acting on behalf of a large number of shareholders one of whom may be an interested shareholder, the shares voted by the broker on behalf of the shareholders who are not interested shareholders will be counted as shares voted by disinterested shareholders.

C. Section 4 of Senate Bill No. 1144 (Section 910 of the BCL).

The BCL presently provides substantial protection for shareholders in most transactions in which a material change occurs in the control or business of the corporation. For example, the BCL sections governing mergers, consolidations and the transfers of substantially all of a corporation's assets require approval by the board of directors and shareholders and, in certain instances, provide shareholders with the opportunity to dissent and receive an appraised fair value for their shares. These provisions protect shareholders who have invested in a corporation and help ensure that they can obtain the fair value of their investment if there is a transfer of control.

A gap exists in this statutory protection relating to transfers in control, however, when a person simply acquires a large percentage of the voting shares and, hence, has obtained the power to elect a majority of the board of directors through voting power. In this situation, control has changed without the vote of the board of directors or shareholders as a group and without the opportunity for shareholders to dissent and obtain the fair value of their shares. In these instances, shareholders who are not afforded the opportunity to sell their shares to the acquiring person are left as minority shareholders in a corporation under different control of which they may not approve, where they and the board have not had the opportunity to review and approve such change in control. This shift in control is frequently deemed to occur in a publicly-traded company when as little as twenty-five to thirty

percent of the voting power is purchased and exercised by a person or group.

In certain instances, Pennsylvania case law has consistently and traditionally imposed a fiduciary duty on controlling shareholders. In addition, the BCL has, for many years, regulated restrictions on transfers of securities and has afforded shareholders certain rights, including appraisal rights in specific circumstances. These traditional regulations with respect to actions between the corporation's shareholders and between the corporation and its shareholders are identical in scope and kind to those now proposed in Senate Bill No. 1144 as new Section 910 of the BCL.

Section 910 protects certain shareholders by adapting and employing the appraisal procedures currently existing under Pennsylvania law. Simply put, the Section provides that where a person (or group of persons) acquires voting power over at least 30 percent of the outstanding voting stock of a publicly-traded corporation all other shareholders may obtain the fair value of their shares from the controlling person. This remedy is analogous to that traditionally provided in certain cases where obligations of control shareholders imposed by various corporate laws are satisfied by remedies granted directly to the minority shareholders.

Briefly, the procedures specified by the Section in order to effectuate its purpose are as follows:

A person acquiring voting power over at least 30 percent of the outstanding voting shares is required to provide to all other shareholders a notice describing to such other shareholders the right granted by the Section to obtain for their voting shares from such person the fair value to be determined, if necessary, later in an appraisal proceeding under the BCL.

The amount of cash per share which a shareholder will be entitled to receive under such appraisal proceeding will be an amount equal to the fair value of such share as of the day prior to the date on which the control transaction occurs (i.e., the day prior to the day on which the controlling shareholder obtains at least 30 percent of the outstanding voting power) taking into account all factors which may be relevant to the determination of the fair value of such share as of such day, including the increment which represents a proportion of the value payable for acquisition of control of a corporation.

Upon the occurrence of a control transaction, each shareholder can either: (a) do nothing and hold his shares; (b) obtain fair value for his shares from the controlling shareholder with such fair value to be determined pursuant to the BCL's appraisal procedures, in accordance with Section 910; or (c) sell his shares at any other price agreed upon by such shareholder and the controlling shareholder. Of course, nothing in the Section prevents any shareholder from selling his shares at any time to any buyer at any price upon which they may agree.

If a minority shareholder elects to obtain fair value for his shares from the controlling shareholder pursuant to Section 910, he tenders his share certificates to the controlling shareholder. The controlling shareholder will then become the

owner of the shares represented by such certificates when he accepts such tendered shares in exchange for agreeing to pay for such shares their fair value, which, as previously described, will be subsequently determined pursuant to the Section's provisions.

The remedy provided by the Section is triggered only when a person or group acquires the status of a controlling person or group as defined in the Section. A controlling person or group means a person or group that has voting power over voting shares of the corporation entitling the holders thereof to cast at least 30 percent of the votes that all shareholders would be entitled to cast in an election of the directors of the corporation.

Voting power over a voting share exists if a person has or shares, directly or indirectly, or through, among other things, options, contracts, conversion rights or by acting jointly or in concert by any means whatsoever, the power to vote or to direct the voting of such voting share. For instance, a person who has the contractual right to determine the voting of a voting share would be deemed to have voting power over such voting share. Such contractual right may exist because of an irrevocable proxy granting discretionary voting power, or through other means. In addition, a person may have the right to direct the voting of a voting share because of a right to convert an interest into a voting share, such as owning an interest in a voting trust convertible into underlying voting shares, and carrying the presently exercisable right to direct the voting of such shares.

A person does not have voting power with respect to a voting share, however, if the power to vote or direct the voting of such share is not presently exercisable. For instance, warrants or convertible securities not carrying the right to vote or to direct the voting of the shares into which they can be exchanged or converted do not provide voting power.

The Section may be rendered inapplicable with respect to any corporation, upon the vote of such corporation's shareholders, by an amendment to the corporation's articles. In addition, the board of directors of a corporation may elect to render the Section inapplicable with respect to the corporation by adopting, within ninety days of the enactment of the Section, an amendment to the corporation's by-laws. Consequently, if the board of directors acting for the shareholders, or the shareholders themselves, do not believe that the protection provided by the Section is required or desirable with regard to their particular corporation, the Section has a built in mechanism for eliminating its applicability. Since the Section's purpose, however, is to provide a necessary remedy for shareholders, the board's action with regard to a by-law amendment is effective only if it is taken within the first ninety days after the enactment of the Section, and the applicability of the Section and its protections can be reinstated at any time by the shareholders by rescinding the by-law amendment.

There is no restriction on which directors or shareholders may take the action permitted under Subsection A of Section 910. All that is required is that such action be taken by what-

ever vote of directors or shareholders is necessary in order to amend the by-laws or articles, respectively. Consequently, such vote may be taken notwithstanding the interest, direct or indirect, of any person or group, which would otherwise be a controlling person or group, in any such action, and no director or shareholder (including a person or group which would otherwise be a controlling person or group) will be disqualified from voting on such action, nor would any such action be void or voidable, on the grounds that the action is in the interest of, or contrary to the interest of, any particular shareholder or group of shareholders. Therefore, there should be no undue complication for corporations with existing shareholders which would otherwise be controlling persons or groups subject to the provisions of the Section when such corporations desire to render the Section inapplicable.

Section 910 applies only to transactions occurring after the effective date of the statute. Present holdings of large shareholders are not affected unless those shareholders, after enactment of the Section, both purchase additional voting shares and increase their percentage voting power in the corporation. Purchases which simply maintain a shareholder's percentage voting power would not trigger the Section. The use of the word "purchase" in the Section is intentional: accretions of voting power due to the acquisition of shares pursuant to devises or distributions from trusts, etc. are not intended to be covered.

Trustees, nominees and others acting as agents for beneficial owners of shares who are not themselves a controlling person or group are not affected at all.

Because corporations that are closely held almost always have a few individuals who control the corporation and hold large portions of the corporation's stock and because such stock is usually not publicly traded anyway, the Section has been limited in application only to companies registered under the Securities Exchange Act of 1934.

Finally, a person considering an acquisition of voting power that would trigger the Section's provisions may provide the notice required by the Section simultaneously with such attempted acquisition, and may stipulate in the notice that the rights specified in the notice granted by the Section will be afforded only if the acquisition is completed or if certain other conditions are met. Thus, a person could provide the notice under Section 910 at the same time as an offer to acquire all of the voting shares of a corporation for a set price, with a stipulation that the set price offer will not be consummated if more than some specified percentage of the corporation's shareholders demand appraisal pursuant to Section 910's provisions.

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

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

Senator FISHER. I will, Mr. President.

Senator ZEMPRELLI. Mr. President, would the gentleman tell us when he introduced Senate Bill No. 1144 into the Senate?

Senator FISHER. Mr. President, the bill was introduced in mid-November.

Senator ZEMPRELLI. Mr. President, was that immediately prior to the Thanksgiving day recess?

Senator FISHER. Mr. President, I believe that is correct.

Senator ZEMPRELLI. Mr. President, were there any public hearings held on this bill?

Senator FISHER. Mr. President, there were no public hearings held on the bill.

Senator ZEMPRELLI. Mr. President, is it not a fact that it is on third reading today and has been on the Calendar for three legislative days?

Senator FISHER. Mr. President, that is correct.

Senator ZEMPRELLI. Mr. President, does the gentleman know why there is such a haste to pass this bill tonight?

Senator FISHER. Mr. President, the only thing I know is that it was felt that, particularly until yesterday or perhaps the end of last week, the bill was one which had the complete support of the corporate community in Pennsylvania and others such as the labor community, and I have been led to believe and I may still correctly believe that they were familiar with the bill. I do not want to misstate that statement as far as labor, but as far as we knew, the information about the bill had been broadly disseminated and there was no opposition to it. In having had an opportunity to review the comments that were submitted by the one corporate entity in Pennsylvania who came forth to comment on the bill, it was my belief the major objection which that group had was overcome by the amendments which were submitted yesterday. Consequently, not knowing of any additional objections, and still not knowing of any additional objections, it was a decision of the Leadership to run the bill at this time.

Senator ZEMPRELLI. Mr. President, did the gentleman notice that House Bill No. 500 is a mortgage foreclosure bill? Has this bill been on the Calendar longer than the mortgage foreclosure bill?

The PRESIDENT pro tempore. It would be the opinion of the Chair that that question does not in any way reflect upon the measure which is before the Senate. The Senator is requested to keep his questions on this bill and not on other matters before the Senate. The relative times of one bill or another really has nothing to do with the merits of this bill.

Senator ZEMPRELLI. Mr. President, I disagree with the Chair. I suggest to the Chair that the importance of the legislation and its need for expediency can be judged by the importance of other bills and their expediency in being handled by this Chamber and that they are very consistent on this—

The PRESIDENT pro tempore. The Chair disagrees, Senator. Would you please confine your questions to the subject matter of this bill.

Senator ZEMPRELLI. Mr. President, does the gentleman know any particular companies that need to be saved by virtue of this legislation at the present time?

Senator FISHER. Mr. President, I, personally, do not know of any companies which need to be saved. Obviously, there are a number of companies in Pennsylvania who are



interested in it. The Pennsylvania Chamber of Commerce who represents their interests here have indicated an interest in it. I actually did learn firsthand from reading the Wall Street Journal the facts about the matter with Scott Paper. If the Wall Street Journal is accurate on that part of the matter, apparently Scott Paper could benefit from the passage of this legislation, but I do not know that firsthand nor have I specifically heard that from that corporation.

Senator ZEMPRELLI. Mr. President, have the people from Scott Paper advised the gentleman of their interest in this bill?

Senator FISHER. Mr. President, I just answered that question. Scott Paper has indicated an interest in the legislation but the facts of Scott Paper's case I have no knowledge of, other than what I read in the Wall Street Journal.

And the question recurring,  
Shall the bill pass finally?

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

#### YEAS—30

Bell	Helfrick	Lynch	Snyder
Brightbill	Hess	Moore	Stauffer
Corman	Holl	O'Connell	Street
Fisher	Hopper	Pecora	Tilghman
Fumo	Jubelirer	Rhoades	Wenger
Greenleaf	Kelley	Shaffer	Williams
Hager	Kusse	Shumaker	Wilt
Hankins	Loeper		

#### NAYS—19

Andrezeski	Lewis	O'Pake	Singel
Bodack	Lincoln	Reibman	Stapleton
Early	Lloyd	Rocks	Stout
Howard	Mellow	Romanelli	Zemprelli
Kratzer	Musto	Ross	

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

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

### SECOND CONSIDERATION CALENDAR

#### BILL REREPORTED FROM COMMITTEE AS AMENDED ON SECOND CONSIDERATION AMENDED

**SB 402 (Pr. No. 1534)** — The Senate proceeded to consideration of the bill, entitled:

An Act relating to the development of oil and gas and coal; imposing duties and powers on the Department of Environmental Resources; imposing notification requirements to protect landowners; and providing for definitions, for various requirements to regulate the drilling and operation of oil and gas wells, for gas storage reservoirs, for various reporting requirements, including certain requirements concerning the operation of coal mines, for well permits, for distance requirements, for well casing requirements, for safety device requirements, for storage reservoir obligations, for well bonding requirements, for a Well Plugging Restricted Revenue Fund to enforce oil and gas well plugging requirements, for the creation of an Oil and Gas Technical Advisory Board, for oil and gas well inspections, for enforcement and for penalties.

The bill was considered.

On the question,

Will the Senate agree to the bill on second consideration?

#### FISHER AMENDMENT I

Senator FISHER offered the following amendment:

Amend Sec. 212, page 29, lines 26 through 30, by striking out all of said lines; page 30, lines 1 and 2, by striking out all of line 1 and "confidentiality shall not exceed three years" in line 2 and inserting: similar data as compiled, required under subsection (b) or drill cuttings required under subsection (c) shall be retained by the well operator and shall be filed with the department three years after completion of the well. Upon request of the well operator, the department shall extend the date for the filing of the data but the extension shall not exceed five years from the date of completion of the well

On the question,

Will the Senate agree to the amendment?

It was agreed to.

On the question,

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

#### FISHER AMENDMENT II

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

Amend Sec. 201, page 11, lines 8 and 9, by striking out all of said lines and inserting:

(e) The department shall issue a permit within 45 days of the submission of a permit application unless the department denies the permit application for one or more of the five reasons set forth below: Provided, however, That the department shall

Amend Sec. 201, page 11, lines 17 and 18, by striking out "will not satisfy the requirements of this" and inserting: is in violation of any of the provisions of this act, or if issuance of such permit would result in a violation of this

Amend Sec. 201, page 15, line 11, by striking out "department" and inserting: Environmental Quality Board

Amend Sec. 201, page 15, line 17, by striking out "department" and inserting: Environmental Quality Board

Amend Sec. 201, page 15, by inserting between lines 23 and 24:

(m) The department may establish a procedure for accelerated approval of well permit applications in hardship cases, as defined by regulation of the Environmental Quality Board, consistent with the requirements of this act.

Amend Sec. 212, page 29, lines 26 through 30, by striking out all of said lines; page 30, lines 1 and 2, by striking out all of line 1 and "confidentiality shall not exceed three years" in line 2 and inserting: similar data as compiled, required under subsection (b) or drill cuttings required under subsection (c) shall be retained by the well operator and shall be filed with the department three years after completion of the well. Upon request of the well operator, the department shall extend the date for the filing of the data but the extension shall not exceed five years from the date of completion of the well

Amend Sec. 216, page 38, line 28, by inserting after "proposal.": The chairman of the board shall be invited to participate in the presentation of all regulations of a technical nature before the Environmental Quality Board to the extent allowed by procedures of the Environmental Quality Board.

Amend Sec. 602, page 75, line 20, by striking out "drilling" and inserting: operations regulated by this act

On the question,

Will the Senate agree to the amendment?

It was agreed to.

And the question recurring,

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

Senator SCANLON. Mr. President, I would like the record to show that had I been in my seat, I would have voted "no."

The PRESIDENT pro tempore. The Chair thanks the gentleman. His remarks will be spread across the record.

And the question recurring,

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

#### ANDREZESKI AMENDMENT I

Senator ANDREZESKI offered the following amendment:

Amend Sec. 205, page 21, by inserting between lines 19 and 20:

(c) The restrictions imposed by subsections (a) and (b) shall not apply to shallow wells drilled to a depth of 1,000 feet or less.

On the question,

Will the Senate agree to the amendment?

Senator ANDREZESKI. Mr. President, in western Pennsylvania we have a unique working relationship between a group of small businessmen who drill shallow wells. Shallow wells are defined as gas wells less than 1,000 feet deep. For anywhere from \$6,000 to \$10,000, many consumers throughout western Pennsylvania have been able to drill gas wells which enabled them to hook up directly with a natural resource rather than hook up directly with a gas utility line.

Mr. President, the purpose of my amendment is to remove the well location restrictions for wells drilled to a depth of 1,000 feet or less. This would allow someone to easily drill a well in the city. I would like to point out in many cities in northwestern Pennsylvania not only homeowners but also churches, hospitals, public schools, private schools and a variety of business people are drilling shallow gas wells which amount to about two days work by a rig for completion of a well. What we are trying to do is keep the small businessmen who are involved in buying a half million dollar piece of equipment working and also providing a method of easily obtaining a natural resource for consumers, small business people, churches and organizations in Pennsylvania.

I understand there has to be some regulation of what we are doing. That is why I am a cosponsor of this bill. I do not feel this amendment will in any way hamper any environmental problems or environmental concerns. I do think it will expedite any process that a person who would like to drill a well within a residential area would have.

Mr. President, I ask for my fellow colleagues' consideration of this amendment.

Senator WILT. Mr. President, I rise in opposition to this amendment. The basic premise of Senate Bill No. 402 was environmental movement which basically came out of northwestern and northcentral Pennsylvania because of the environmental problems with the drilling industry. The regulation or the statement within the legislation that precludes drilling within 200 feet of a building seems to be reasonable if we are, in fact, to protect a neighbor from another neighbor or a drilling entity from a neighbor. It is difficult to preclude property rights. As a strong defender of that very premise, I can appreciate why one would choose to do with his property what one would like to do. If one is drilling a gas well, regardless of the depth, within 200 feet of a neighbor's house, there are inherent dangers in the drilling process in itself to say nothing of the environmental ramifications.

For over a year we have listened to the "yes but" arguments as they relate to Senate Bill No. 402. It is my contention that if we were to adopt this amendment, we, in essence, are taking one of the very fibers of the environmental influence that Senate Bill No. 402 should have in the Commonwealth in cleaning up a problem which we have in curtailing the expansion thereof.

Mr. President, I guess I have some difficulty thinking it is proper for someone to drill on a plot that is smaller than the lot of an individual house. If, in fact, there is a desire and there is a community spirit that would permit that activity, there is within the bill as it is presently structured a proposition similar to an appeal in a zoning situation where one could go through an appeal and hearing process and if all who are in the vicinity were in agreement, then the individual could proceed with the drilling. They are not totally precluded from drilling under the bill and the proposed statute as it presently is, but the amendment would give one the right to go ahead without recognizing the imposition it would impose on his neighbor and, in fact, the neighborhood. I strongly oppose the amendment.

Senator ANDREZESKI. Mr. President, I stand here and echo the concerns of any person who has worked with this bill and who has dealt with the fact that we have to do something about saving the terms of the environment contained in well drilling. This amendment simply allows someone to drill a well on their property. This amendment also eliminates, on pages 20 and 21, Sections a and b, many of the delay tactics that are contained. I will admit someone can drill in less than 200 feet, but the variances, the restrictions, the submission of a plan, the additional measures, facilities and practices to be employed during the well site construction, drilling and operation and variances required will do nothing but slow down a process where now, as a matter of fact, it takes months to obtain a well drilling permit. What we are doing in the passage of this bill without this amendment is delaying for a great length of time something that has been backed up in DER for years and years.

Mr. President, in closing, I again ask the Members to consider this amendment in a positive way. This amendment in no way impacts on the environment. What it does do is help a



group of business people who are making a living and providing jobs in western Pennsylvania and throughout the state and a group of consumers who are looking for and have the facilities available for an alternative to being locked in to a private utility company.

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

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

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

The PRESIDENT pro tempore. The gentleman will be so recorded.

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

#### YEAS—20

Andrezeski	Lewis	Musto	Scanlon
Bodack	Lincoln	Reibman	Singel
Fumo	Lloyd	Rocks	Stout
Hankins	Lynch	Romanelli	Williams
Kelley	Mellow	Ross	Zemprelli

#### NAYS—29

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

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

And the question recurring,

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

#### ANDREZESKI AMENDMENT II

Senator ANDREZESKI offered the following amendment:

Amend Sec. 201, page 9, line 3, by inserting after "well" where it appears the first time: more than 1000 feet in depth

Amend Sec. 201, page 9, line 6, by inserting after "(e).":

No person shall drill a well to a depth of 1000 feet or less without having first obtained a well permit pursuant to subsection (k).

Amend Sec. 201, page 15, by inserting between lines 10 and 11:

(k) The department shall issue a permit for a well of a depth of 1000 feet or less upon submission of the following:

(1) A plot prepared by and affixed with the seal of a competent individual licensed and registered as a professional engineer or professional land surveyor pursuant to the provisions of the act of May 23, 1945 (P.L.913, No.367), known as the Professional Engineers Registration Law, on forms to be furnished by the department, showing the political subdivision and county in which the tract of land upon which the well to be drilled is located, the name of the surface landowner of record and lessor, the name of the owner of record or operator of all known underlying workable coal seams, if any, the acreage in the tract to be drilled, the proposed location of the well determined by survey, the courses and distances of such location from two or more permanent identifiable points or landmarks on said tract boundary corners, and the proposed angle and

direction of such well, if the well is to be deviated substantially from a vertical course.

(2) A permit fee of \$25 for two years immediately following the effective date of this act.

Amend Sec. 201, page 15, line 11, by striking out "(k)" and inserting: (l)

Amend Sec. 201, page 15, line 18, by striking out "(l)" and inserting: (m)

On the question,

Will the Senate agree to the amendment?

Senator ANDREZESKI. Mr. President, on behalf of the shallow well drillers, consumers, the small businessmen in Pennsylvania, schools, churches and people who, by virtue of living in an industrialized society, live in suburban and city areas, I offer this amendment.

This amendment would change the well permit requirements for shallow gas wells which are drilled to a depth of 1,000 feet or less to include the permit requirement which is a submission of a plan prepared by a competent engineer or land surveyor to show the location of the well, the names of the surface or landowner or lessor, the angle and direction of the well, and a permit fee for wells drilled to a depth of 1,000 feet or less shall be \$25 for two years instead of the present \$75 fee.

For many of the previous reasons mentioned on the other amendment, even more in terms of continuing on with our lengthy agenda tonight, I ask the Senate and my colleagues to consider these amendments in terms of trying to provide consumers, whether they be small business consumers, with an easily reached alternative to the monopoly they now face on energy and a chance for a new business segment that is out there working for new small business in Pennsylvania. I ask that they vote for this amendment.

And the question recurring,

Will the Senate agree to the amendment?

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

#### YEAS—20

Andrezeski	Lewis	Musto	Scanlon
Bodack	Lincoln	Reibman	Singel
Fumo	Lloyd	Rocks	Stout
Hankins	Lynch	Romanelli	Williams
Kelley	Mellow	Ross	Zemprelli

#### NAYS—29

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

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

And the question recurring,

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

It was agreed to.

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

**BILL REREPORTED FROM COMMITTEE AS  
AMENDED OVER IN ORDER**

**HB 500** — Without objection, the bill was passed over in its order at the request of Senator JUBELIRER.

**PREFERRED APPROPRIATION BILL  
OVER IN ORDER**

**SB 1044** — Without objection, the bill was passed over in its order at the request of Senator JUBELIRER.

**BILL ON SECOND CONSIDERATION AMENDED**

**SB 277 (Pr. No. 296)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further limiting suspension of license for certain activities.

The bill was considered.

On the question,

Will the Senate agree to the bill on second consideration?

Senator O'CONNELL offered the following amendment:

Amend Sec. 1 (Sec. 1538), page 1, line 13, by striking out "first provided the" and inserting: provided one

Amend Sec. 1 (Sec. 1538), page 1, line 17, by inserting after "person": for one time only

On the question,

Will the Senate agree to the amendment?

It was agreed to.

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

**BILLS OVER IN ORDER**

**SB 442 (Pr. No. 1449)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 3, 1937 (P. L. 1333, No. 320), entitled "Pennsylvania Election Code," providing for the availability of applications for official absentee ballots and voter registration forms.

The bill was considered.

On the question,

Will the Senate agree to the bill on second consideration?

**MOTION TO REVERT TO PRIOR  
PRINTER'S NUMBER**

Senator JUBELIRER. Mr. President, I move that Senate Bill No. 442 revert to the form it was in under Printer's No. 482.

On the question,

Will the Senate agree to the motion?

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

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

Senator JUBELIRER. I will, Mr. President.

Senator KELLEY. Mr. President, would the gentleman explain the difference between the two printer's numbers and what would be excluded by the motion being affirmatively considered?

Senator JUBELIRER. Mr. President, perhaps, if the gentleman from Westmoreland, Senator Kelley, would direct that question to the prime sponsor, the gentleman from Luzerne, Senator O'Connell, he might be able to answer that question better than I.

Senator KELLEY. Mr. President, I desire to interrogate the gentleman from Luzerne, Senator O'Connell.

The PRESIDENT pro tempore. Will the gentleman from Luzerne, Senator O'Connell, permit himself to be interrogated?

Senator O'CONNELL. I will, Mr. President.

Senator KELLEY. Mr. President, I pose the same question to the gentleman from Luzerne, Senator O'Connell.

Senator O'CONNELL. Mr. President, I understand the gentleman from Philadelphia, Senator Fumo, offered an amendment to that bill which dealt with the distribution of registration forms. He was concerned that if they were not available to our constituents, the Department of State would make them readily available. In discussions with the gentleman from Philadelphia, Senator Fumo, he agreed that, after some consideration, this is improper in this particular piece of legislation and should be considered elsewhere. He agreed to revert back to the prior printer's number.

Senator KELLEY. Mr. President, regardless of the opinion of one other Member, I think that because it is now before us for consideration, as a deliberative Body we should all make a judgment. Am I not correct, Mr. President, in saying that the motion to revert will strike out the free distribution of registration and only retain in the bill the absentee ballot provision?

Senator O'CONNELL. Mr. President, that is correct.

Senator KELLEY. Mr. President, then, anyone who would support the motion to revert would be in favor of reducing and excluding the free distribution of registrations in this section of the Code as opposed to the absentee ballot. Is that correct?

Senator O'CONNELL. Mr. President, that is correct.

Senator KELLEY. Mr. President, I urge a vote against the motion to revert. I think that in a sense—we should all, no matter whether it be in this section or not, it being in a duplicate section of the Election Code—this would not be prohibitive in any manner, but I think the public policy by us should be that we cannot have absentee ballots and no one can vote unless he or she is registered. I think, therefore, we should commit ourselves to retaining as free and liberal a course of registration of electors in this Commonwealth as possible. Therefore, I would say the present posture of the bill is the one which we should give consideration to and vote "yes" or "no," rather than reversion. I urge a negative vote on the motion.

The PRESIDENT pro tempore. The Senate will be at ease for a moment. Senator Kelley, will you approach the desk? The Senate will be at ease.

(The Senate was at ease.)

The PRESIDENT pro tempore. The matter before us is of some importance and it is the opinion of the Chair that a question of Senator Kelley was not heard correctly by somebody he was interrogating. I think it is important that the record have the opportunity of being accurate because people are able to hear questions and respond to them accurately.

Senator KELLEY. Mr. President, in gratitude to explanations by the Chair and counsel for the respective parties, I misstated, based on an answer which I received in my interrogations, that the effect of reverting would not be a deletion from the law but only from the particular bill and would have no effect on an already existing law which has the same purpose of freedom which I was arguing against. I see no problem in voting for reversion.

Senator FUMO. Mr. President, I rise because apparently there may have been some misconstruction of some of my words between the staff and I, but not between the gentleman from Luzerne, Senator O'Connell, and myself. This problem was originally brought to our attention by a number of groups in some counties where apparently they were turned down for registration forms needed in order to conduct registration drives. The local county commissioners either said, (a) they did not have them, (b) stalled them off, or (c) gave them one or two blanks when they wanted to conduct a massive registration drive. When the issue came up about absentee ballots, we wanted to make sure the system was uniform and we added the amendment in committee. However, the staff of the committee of the gentleman from Luzerne, Senator O'Connell, advised me that this is already the law in Pennsylvania and, therefore, this would not only be redundant, but would be redundant in a bill in which it is probably not germane. Based on that piece of information, that this is already covered in the act and, if it is, then obviously we are going to need an investigation into why it is not happening and that is why I agreed to take it out, not to curtail the dissemination of registration forms from the Department of State.

The PRESIDENT pro tempore. The Chair thanks the gentleman and now that there is a full understanding on the motion to revert, those in favor give their consent by voting "aye," opposed, "no."

The Senate will be at ease.

(The Senate was at ease.)

Senator FUMO. Mr. President, I am advised by counsel for the Leadership on our side of the aisle that this apparently is not covered in the law of Pennsylvania and it is germane to this bill. For that reason I ask the Senate not to revert, but to allow this to go through in the interest, if nothing else, of clarifying the fact that if a local county commissioner's office does not want to give out registration forms for any reason, they can be available at the Department of State. We should have some outlet somewhere for these registration forms.

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

#### MOTION FOR BILL OVER IN ORDER

Senator JUBELIRER. Mr. President, I move that Senate Bill No. 442 go over in its order.

The motion was agreed to.

The PRESIDENT pro tempore. Senate Bill No. 442 will go over in its order.

**SB 519 and HB 574** — Without objection, the bills were passed over in their order at the request of Senator JUBELIRER.

#### BILL ON SECOND CONSIDERATION

**SB 639 (Pr. No. 1154)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 71 (State Government) of the Pennsylvania Consolidated Statutes, changing a definition; and further providing for creditable nonstate service.

Considered the second time and agreed to,

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

#### BILL LAID ON THE TABLE

**SB 698 (Pr. No. 786)** — The Senate proceeded to consideration of the bill, entitled:

An Act authorizing and directing the Department of General Services with the approval of the Governor and the Department of Agriculture, to convey to the Salem Evangelical Church 8.468 acres of land, more or less, situate in Penn Township, Snyder County, Commonwealth of Pennsylvania.

Upon motion of Senator JUBELIRER, and agreed to, the bill was laid on the table.

#### BILL OVER IN ORDER

**SB 705** — Without objection, the bill was passed over in its order at the request of Senator JUBELIRER.

#### BILL ON SECOND CONSIDERATION AMENDED

**SB 709 (Pr. No. 1527)** — The Senate proceeded to consideration of the bill, entitled:

An Act authorizing the Department of General Services to convey a tract of land in Mahoning Township, Montour County to the Danville Daycare Center for Child Development Inc.

The bill was considered.

On the question,

Will the Senate agree to the bill on second consideration?

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

Amend Sec. 2, page 2, line 25, by inserting after "Section 2.": The purchase price of fair market value shall be paid in full to the Commonwealth over a maximum period of five years and may be paid in equal annual installments. If paid in annual installments, the first payment shall be due on July 15 of the year following the effective date of this act, and each succeeding payment shall be due on July 15 of the year in which it is due.

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

Senator HELFRICK. Mr. President, my amendment gives a period of five years to pay for this particular piece of land. It is a budget payment amendment.

Senator ZEMPRELLI. Mr. President, we believe this establishes a very dangerous precedent to allow for the installment payment for land purchased from the Commonwealth. Our caucus has deliberated very carefully about Senate Bill No. 709. It is not so much that, perhaps, this would not be justified in this circumstance, but to allow for the installment payment on the purchase of real estate from the Commonwealth of Pennsylvania is a practice, I think, that would establish a dangerous precedent. We are asking the Members of the Senate to reject it for that reason. We are not only dealing with this particular piece of real estate, we are also certainly dealing with the principle of everybody who wants to acquire a piece of land from the Commonwealth of Pennsylvania would want to do it on an installment payment plan suitable to their needs.

Senator HELFRICK. Mr. President, I am not certain if this sets a new precedent or not. I do not know if this has been done in the past. However, Secretary Baran from General Services was perfectly in agreement with it.

Senator JUBELIRER. Mr. President, to answer the gentleman's query in his argument, I am advised by counsel that it is not a precedent at all. It has been done. It is done, I guess, on a case-to-case basis with the approval of the Secretary of General Services. We are looking now to see if we can cite the precise precedent, but I would never argue with Steve MacNett when he says it is not a precedent.

Senator ZEMPRELLI. Mr. President, as to picking yourself up by your own bootstraps, I would like to have for my own information an indication of when that has been done in the past. It may reflect a change in my view. I understand there are some statutes that deal with the subject of payment. However, here is a situation where the Commonwealth is delivering a deed and then asking for payment later. If it were, in fact, a situation where the payments were made in installments and a deed was delivered after the time the payments were completed, I could understand that situation, but to suggest here that we would deliver a deed and then allow the party to make installment payments is somewhat contrary to any principle of good judgment and good business practice. I am very much interested in a precedent. I also say it is repugnant to good government to allow the practice to alter from case to case. There ought to be an established practice that would allow for all persons to be able to purchase real estate from the Commonwealth under the same rules and regulations rather than to administer to the particular discretion of the party in charge as to how he feels about a particular transaction.

Senator EARLY. Mr. President, I think we are deviating from the original purpose of selling property owned by the State of Pennsylvania. This is a precedent we started a few years ago for the purpose of generating money for the State of

Pennsylvania. Needless to say, we do need money. If we come along and say we will sell the property but we will give individuals five years to pay it, that is not going to solve our cash flow problem, especially the cash flow problem we have now. I do not imagine this particular piece of real estate or piece of ground is anything of any great size that we would be concerned about, but I think there are other pieces of property we have sold and property we will sell in the future that will be quite large. We would not want to sell that on a five year payment plan. I also think, Mr. President, that the various banks are not going to get into the Legislature, so, I think we ought to make the same deal where we will not get into banking. That is basically what we are doing here. Is there any reason why this particular group cannot go to the local bank, borrow the money and in turn pay the State of Pennsylvania and then pay the interest as they would do regardless if they bought it from a private individual? I ask that in the form of a question.

Mr. President, would the gentleman from Luzerne, Senator Helfrick, be kind enough to answer my question?

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

Senator HELFRICK. I will, Mr. President, but at the present time I am not able to answer it. I am sure the request was made because of that reason. It is for a child development center from a small group and I do not believe they could go to the banks. I do not say it is impossible, but I do not believe they could go to the banks.

Senator EARLY. Mr. President, what the gentleman is saying is they are a bad risk. If we are going into business, I think we ought to start off with our first deal by selling to someone who has the possibility of paying. With that, Mr. President, I think we should oppose this amendment.

Senator JUBELIRER. If I may have a little leeway, I also recommend to the gentleman from Allegheny, Senator Zemprelli, that he check Act No. 199 of 1982 which I think was a precedent for the act.

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

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

#### YEAS—27

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

#### NAYS—21

Andrezeski	Lewis	Reibman	Singel
Bodack	Lincoln	Rocks	Stapleton
Early	Lloyd	Romanelli	Stout
Fumo	Mellow	Ross	Williams
Hankins	Musto	Scanlon	Zemprelli
Kelley			

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

On the question,

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

It was agreed to.

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

### LEGISLATIVE LEAVES

Senator JUBELIRER. Mr. President, I request legislative leaves of absence for the remainder of today's Session for Senator Howard and Senator Fisher.

Senator ZEMPRELLI. Mr. President, I request a temporary legislative leave of absence for the balance of the Session for Senator Fumo.

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

### SECOND CONSIDERATION CALENDAR RESUMED

#### BILLS OVER IN ORDER

**HB 726, SB 882, 906, 928, 972 and 988** — Without objection, the bills were passed over in their order at the request of Senator JUBELIRER.

#### BILL ON SECOND CONSIDERATION AMENDED

**SB 994 (Pr. No. 1533)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 30 (Fish) of the Pennsylvania Consolidated Statutes, further providing for the operation of watercraft while under the influence of alcohol or a controlled substance; providing for testing apparatus, procedures and personnel; and providing for the crime of homicide by watercraft.

The bill was considered.

On the question,

Will the Senate agree to the bill on second consideration?

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

Amend Sec. 2 (Sec. 5125), page 7, line 22, by striking out "fishing and"

On the question,

Will the Senate agree to the amendment?

It was agreed to.

On the question,

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

It was agreed to.

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

#### BILLS OVER IN ORDER

**SB 1017, 1023, 1045 and 1053** — Without objection, the bills were passed over in their order at the request of Senator JUBELIRER.

### BILLS ON SECOND CONSIDERATION

**SB 1079 (Pr. No. 1480)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes, adding a provision relating to the transfer of property to fiduciaries; changing provisions relating to investments by fiduciaries; clarifying the method of payment when the Commonwealth is intestate heir; authorizing acknowledgments of self-proved wills to be taken before an attorney and then certified by him to a notary; modifying the duty of a personal representative regarding inventories; authorizing the annexation of a copy of certain other accounts to an account of the administration of the estate; making the time for advertisement of accounts four weeks in all cases; providing that the account of the personal representative be filed with the clerk; adding a rule of will interpretation regarding nonademption and attorneys-in-fact; providing that a personal representative is not liable for continued distribution in the same pattern after a change in law; amending provisions relating to disclaimers; and making technical changes and repeals.

Considered the second time and agreed to,

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

**SB 1080 (Pr. No. 1369)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of November 30, 1965 (P. L. 847, No. 356), entitled "Banking Code of 1965," providing clarification that affiliated banks may invest trust funds in each other's common trust or collective investment funds.

Considered the second time and agreed to,

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

### BILLS RECOMMITTED

**SB 1084 (Pr. No. 1373)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of September 20, 1961 (P. L. 1548, No. 658), entitled "Credit Union Act," further providing for corporate or central credit unions.

Upon motion of Senator JUBELIRER, and agreed to the bill was recommitted to the Committee on Banking and Insurance.

**SB 1085 (Pr. No. 1374)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of September 20, 1961 (P. L. 1548, No. 658), entitled "Credit Union Act," further providing for credit unions.

Upon motion of Senator JUBELIRER, and agreed to the bill was recommitted to the Committee on Banking and Insurance.

### BILLS OVER IN ORDER

**SB 1103, 1115, 1132, 1134, HB 1137, 1174 and 1290** — Without objection, the bills were passed over in their order at the request of Senator JUBELIRER.

## BILL ON SECOND CONSIDERATION

**HB 1342 (Pr. No. 2209)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending the "County Pension Law," approved August 31, 1971 (P. L. 398, No. 96), further defining "county employee"; and providing that counties may make pickup contributions to the county employees' retirement system on behalf of county employees.

Considered the second time and agreed to,

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

## BILL OVER IN ORDER

**HB 1438** — Without objection, the bill was passed over in its order at the request of Senator JUBELIRER.

SENATE CONCURRENT RESOLUTION  
NO. 83, CALLED UP

Senator JUBELIRER, without objection, called up from page 10 of the Calendar, **Senate Concurrent Resolution No. 83**, entitled:

Urging the Congress of the United States to establish military bases for combat divisions in the northern section of the United States.

On the question,

Will the Senate adopt the resolution?

Senator JUBELIRER offered the following amendment:

Amend title, page 1, line 2, by striking out "northern section" and inserting: northeastern region

Amend Second Whereas Clause, page 1, line 7, by striking out "north central and"

Amend Second Whereas Clause, page 1, line 7, by striking out "regions" and inserting: region

Amend Second Whereas Clause, page 1, line 8, by striking out "have" and inserting: has

On the question,

Will the Senate agree to the amendment?

It was agreed to.

On the question,

Will the Senate adopt the resolution, as amended?

SENATE CONCURRENT RESOLUTION NO. 83,  
ADOPTED, AS AMENDED

Senator JUBELIRER. Mr. President, I move that the Senate do adopt Senate Concurrent Resolution No. 83.

The motion was agreed to and the resolution, as amended, was adopted.

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

## SB 707 TAKEN FROM THE TABLE

Senator JUBELIRER. Mr. President, I move that Senate Bill No. 707, Printer's No. 1010, be taken from the table and placed on the Calendar.

The motion was agreed to.

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

UNFINISHED BUSINESS  
REPORTS FROM COMMITTEES

Senator HOPPER, from the Committee on Aging and Youth, reported the following bill:

**SB 629 (Pr. No. 1560) (Amended)**

An Act establishing the Senior Center Grant Program; providing for grants to senior centers; imposing powers and duties on the Department of Aging; and making an appropriation.

Senator WILT, from the Committee on Public Health and Welfare, reported the following bills:

**SB 414 (Pr. No. 1574) (Amended)**

An Act creating the Pennsylvania Adoption Cooperative Exchange; prescribing responsibilities; requiring certain agencies to cooperate with the exchange; and providing for regulations and staff.

**SB 677 (Pr. No. 761)**

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), entitled "The Administrative Code of 1929," establishing a State advisory council within the Department of Public Welfare for services to persons with impaired hearing; and providing for membership on the board.

**SB 678 (Pr. No. 1575) (Amended)**

An Act establishing and imposing powers and duties on the Office for the Deaf and Hearing Impaired in the Department of Public Welfare; providing powers and duties for the Advisory Council for the Deaf and Hearing Impaired; and making an appropriation.

Senator FISHER, from the Committee on Environmental Resources and Energy, reported the following bills:

**SB 38 (Pr. No. 1563) (Amended)**

An Act amending Title 32 (Forests, Waters and State Parks) of the Pennsylvania Consolidated Statutes, further providing for the apportionment and allocation of funds.

**SB 1078 (Pr. No. 1564) (Amended)**

An Act amending the act of May 31, 1945 (P. L. 1198, No. 418), entitled, as amended, "Surface Mining Conservation and Reclamation Act," providing for a separation of requirements for license issuance and permit issuance; affecting the license application requirement of liability insurance for water supply restoration or replacement; establishing content requirements of landowner consent forms; providing for public hearings and publication of notice; providing for conservation of reclaimed land; requiring advertisement for bids for reclamation of bond forfeiture areas; creating a Reclamation Advisory Board and establishing its duties; prohibiting certain contracts; requiring contractors to pay workers at a particular rate; and requiring publication of contracts awarded.

**HB 559 (Pr. No. 1593)**

An Act amending the act of May 17, 1929 (P. L. 1798, No. 591), referred to as the Forest Reserves Municipal Financial Relief Law, increasing the amount paid by the Commonwealth.

**HB 1229 (Pr. No. 2295) (Amended)**

An Act amending the Surface Mining Conservation and Reclamation Act, approved May 31, 1945 (P. L. 1198, No. 418), exempting municipalities from the bond requirement relating to the operation of gravel pits; providing for self-insurance; and changing the effective date of application of certain provisions to noncoal mining activities.

**RESOLUTION REPORTED FROM COMMITTEE**

Senator FISHER, from the Committee on Environmental Resources and Energy, reported the following resolution:

**SR 79 (Pr. No. 1565) (Amended)**

Urging the Department of Environmental Resources and the United States Environmental Protection Agency to conduct a survey of potential groundwater contamination, in conjunction with the Department of Defense, at military installations.

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

**COMMUNICATIONS FROM THE GOVERNOR  
TAKEN FROM THE TABLE**

Senator LOEPER called from the table communications from His Excellency, the Governor of the Commonwealth, recalling the following nominations, which were read by the Clerk as follows:

**MEMBER OF THE COUNCIL OF TRUSTEES OF  
CLARION UNIVERSITY OF PENNSYLVANIA  
OF THE STATE SYSTEM OF  
HIGHER EDUCATION**

December 2, 1983.

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 August 1, 1983 for the appointment of J. David Griffin, Ph.D., 519 Holly Road, Monroeville 15146, Allegheny County, Forty-fourth Senatorial District, as a member of the Council of Trustees of Clarion University of Pennsylvania of the State System of Higher Education, to serve until the third Tuesday of January, 1989, and until his successor is appointed and qualified, vice Mary C. O'Toole, Tionesta, whose term expired.

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

DICK THORNBURGH.

**MEMBER OF THE COUNCIL OF TRUSTEES OF  
CLARION UNIVERSITY OF PENNSYLVANIA  
OF THE STATE SYSTEM OF  
HIGHER EDUCATION**

December 2, 1983.

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 August 1, 1983 for the appointment of Paul A.

Weaver, 1072 Sunset Drive, Clarion 16214, Clarion County, Forty-first Senatorial District, as a member of the Council of Trustees of Clarion University of Pennsylvania of the State System of Higher Education, to serve until the third Tuesday of January, 1989, and until his successor is appointed and qualified, vice William E. Sheridan, Clarion, whose term expired.

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

DICK THORNBURGH.

**MEMBER OF THE COMMONWEALTH OF  
PENNSYLVANIA COUNCIL ON THE ARTS**

December 2, 1983.

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 July 29, 1983 for the appointment of C. William Lafe, 423 Winton Street, Pittsburgh 15211, Allegheny County, Forty-second Senatorial District, as a member of the Commonwealth of Pennsylvania Council on the Arts, to serve until July 1, 1986, and until his successor has been appointed and qualified, Henry S. McNeil, Plymouth Meeting, deceased.

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

DICK THORNBURGH.

**MEMBER OF THE STATE BOARD  
OF LANDSCAPE ARCHITECTS**

December 2, 1983.

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 August 29, 1983 for the appointment of Bernice Craig (Public Member), 210 North Houcks Road, Harrisburg 17109, Dauphin County, Fifteenth Senatorial District, as a member of the State Board of Landscape Architects, to serve for a term of three years and until her successor is appointed and qualified, but not longer than six months beyond that period, to fill a new position.

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

DICK THORNBURGH.

**MEMBER OF THE STATE BOARD OF  
PUBLIC WELFARE**

December 2, 1983.

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 August 17, 1983 for the appointment of Beryl Brown, 135 Laurel Lane, Camp Hill 17011, Cumberland County, Thirty-first Senatorial District, as a member of the State Board of Public Welfare, to serve until June 7, 1988, and until her successor is appointed and qualified, vice the Honorable Joseph V. Zord, Jr., Pittsburgh, whose term expired.

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

DICK THORNBURGH.

**TREASURER, IN AND FOR THE COUNTY  
OF WESTMORELAND**

December 2, 1983.

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 July 25, 1983 for the appointment of Philip E. Davis, R. D. 6, Box 1516, Mount Pleasant 15666, Westmoreland County, Thirty-ninth Senatorial District, as Treasurer, in and for the County of Westmoreland, to serve until the first Monday of January, 1984, vice Andrew N. Kritsky, resigned. vice

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

DICK THORNBURGH.

**MEMBER OF THE CARBON COUNTY  
BOARD OF ASSISTANCE**

December 2, 1983.

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated September 19, 1983 for the appointment of James F. Walker (Republican), 200 Centre Avenue, Jim Thorpe 18229, Carbon County, Twenty-ninth Senatorial District, as a member of the Carbon County Board of Assistance, to serve until December 31, 1985, and until his successor is duly appointed and qualified, vice Beatrice Zimmerman, Summitt Hills, resigned.

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

DICK THORNBURGH.

**MEMBER OF THE CLARION COUNTY  
BOARD OF ASSISTANCE**

December 2, 1983.

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated September 19, 1983 for the appointment of J. Donald Lynch (Republican), P. O. Box 152, St. Petersburg 16054, Clarion County, Twenty-fifth Senatorial District, as a member of the Clarion County Board of Assistance, to serve until December 31, 1985, and until his successor is duly appointed and qualified, vice F. Duane Hartle, Marble, resigned.

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

DICK THORNBURGH.

**MEMBER OF THE HUNTINGDON COUNTY  
BOARD OF ASSISTANCE**

December 2, 1983.

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated September 19, 1983 for the appointment of Violet M. Snyder (Democrat), P. O. Box 225, Petersburg 16669, Huntingdon County, Thirtieth Senatorial District, as a member of the Huntingdon County Board of Assistance, to serve until

December 31, 1984, and until her successor is duly appointed and qualified, vice Michael Raymond Miller, Huntingdon, resigned

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

DICK THORNBURGH.

**MEMBER OF THE JUNIATA COUNTY  
BOARD OF ASSISTANCE**

December 2, 1983.

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated September 19, 1983 for the appointment of Otto C. Brubaker (Republican), R. D. 1, Richfield 17086, Juniata County, Thirty-fourth Senatorial District, as a member of the Juniata County Board of Assistance, to serve until December 31, 1983, and until his successor is duly appointed and qualified, vice Horace R. Bacon, Port Royal, resigned.

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

DICK THORNBURGH.

**MEMBER OF THE MCKEAN COUNTY  
BOARD OF ASSISTANCE**

December 2, 1983.

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated September 19, 1983 for the appointment of Kenneth Jadlowiec (Republican), 51 Constitution Avenue, Bradford 16701, McKean County, Twenty-fifth Senatorial District, as a member of the McKean County Board of Assistance, to serve until December 31, 1984, and until his successor is duly appointed and qualified, vice Gary A. Hardes, Port Allegheny, resigned.

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

DICK THORNBURGH.

**MEMBER OF THE MCKEAN COUNTY  
BOARD OF ASSISTANCE**

December 2, 1983.

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated September 19, 1983 for the appointment of Patrick G. Shields (Republican), 240 Congress Street, Bradford 16701, McKean County, Twenty-fifth Senatorial District, as a member of the McKean County Board of Assistance, to serve until December 31, 1983, and until his successor is duly appointed and qualified, vice Elizabeth A. Enos, Bradford, resigned.

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

DICK THORNBURGH.

**MEMBER OF THE SCHUYLKILL COUNTY  
BOARD OF ASSISTANCE**

December 2, 1983.



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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated September 19, 1983 for the appointment of Jane C. Diebert (Republican), 8 Centre Avenue, Schuylkill Haven 17972, Schuylkill County, Twenty-ninth Senatorial District, as a member of the Schuylkill County Board of Assistance, to serve until December 31, 1985, and until her successor is duly appointed and qualified, to fill a new position.

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

DICK THORNBURGH.

MEMBER OF THE WESTMORELAND COUNTY  
BOARD OF ASSISTANCE

December 2, 1983.

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated September 19, 1983 for the appointment of John J. Durco (Republican), Forbes Road, P. O. Box 22, Greensburg 15601, Westmoreland County, Thirty-ninth Senatorial District, as a member of the Westmoreland County Board of Assistance, to serve until December 31, 1985, and until his successor is duly appointed and qualified, vice Dr. Robert A. Dannels, North Huntingdon, deceased.

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

DICK THORNBURGH.

#### NOMINATIONS RETURNED TO THE GOVERNOR

Senator LOEPER. Mr. President, I move that the nominations just read by the Clerk be returned to His Excellency, the Governor.

The motion was agreed to.

The PRESIDENT pro tempore. The nominations will be returned to the Governor.

#### CONGRATULATORY RESOLUTIONS

The PRESIDENT pro tempore laid before the Senate the following resolutions, which were read, considered and adopted:

Congratulations of the Senate were extended to Mr. and Mrs. George B. Morton and to Mr. and Mrs. Gordon E. Klock by Senator Corman.

Congratulations of the Senate were extended to Mr. and Mrs. Paul Walters by Senator Jubelirer.

Congratulations of the Senate were extended to Dr. Max Rossman by Senator Kratzer.

Congratulations of the Senate were extended to Mrs. Mary (Babe) Green Devlin Cooper by Senator Lloyd.

Congratulations of the Senate were extended to Andrew R. Smith by Senator Loeper.

Congratulations of the Senate were extended to Mr. and Mrs. Joseph W. Brozyno, Mr. and Mrs. Anthony Koles, Mr. and Mrs. Andrew Kotch, Mr. and Mrs. Francis S. Laubach, Mr. and Mrs. Anthony Lisbinski, Mr. and Mrs. George

Morgan and to Mr. and Mrs. Roland Price, Sr. by Senator Rhoades.

Congratulations of the Senate were extended to Mr. and Mrs. Leo Lockitski by Senator Stapleton.

Congratulations of the Senate were extended to Mrs. Jean I. Strenske by Senator Zemprelli.

#### BILLS ON FIRST CONSIDERATION

Senator LEWIS. Mr. President, I move that the Senate do now proceed to consideration of all bills reported from committees for the first time at today's Session.

The motion was agreed to.

The bills were as follows:

**SB 38, 414, 629, 677, 678, 1078, HB 350, 559 and 1229.**

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

#### PETITIONS AND REMONSTRANCES

Senator LEWIS. Mr. President, these comments will be brief.

This morning my office was able to confirm that the State Board of Medical Education and Licensure will, indeed, review next week the action it had taken in the disciplinary case against Dr. Panayotis Apostolidis. I certainly welcome that development and I welcome the diligent involvement of the gentleman from Delaware, Senator Bell, and his committee in this matter.

My views on this case were made known to all in my statement on November 15th. They have not changed in the interim. The Board should understand that. The members should also understand my vigilance in this matter will not lessen until the grave allegations in this case are thoroughly resolved in a public forum. Nothing less is going to satisfy the public interest fully.

One final observation, Mr. President. While I am encouraged by this development, I still have deep concern over the ability of the chairman of this board to participate objectively in the proceedings. The prejudicial statements that have been attributed to him, and to my knowledge are undenied by him, make him unqualified to sit in further judgment of this case. His resignation is still very much in order. At the very least, he should and he must recuse himself from next week's deliberations.

#### HOUSE MESSAGES

##### HOUSE BILLS FOR CONCURRENCE

The Clerk of the House of Representatives presented to the Senate the following bills for concurrence, which were referred to the committees indicated:

December 6, 1983

**HB 132** — Committee on Consumer Protection and Professional Licensure.

**HB 542** — Committee on Transportation.

**HOUSE CONCURS IN SENATE  
CONCURRENT RESOLUTION**

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

Weekly Adjournment.

**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:

December 5, 1983

Senators MOORE, REIBMAN, HELFRICK, WENGER, CORMAN, KRATZER and BRIGHTBILL presented to the Chair **SB 1170**, entitled:

An Act authorizing the determination of a weekly day of rest and recreation by owners or managers of commercial enterprises; and providing penalties.

Which was committed to the Committee on COMMUNITY AND ECONOMIC DEVELOPMENT, December 5, 1983.

December 6, 1983

Senators ANDREZESKI, HELFRICK, STAPLETON, BODACK, HESS, SHAFFER, O'CONNELL, SINGEL and O'PAKE presented to the Chair **SB 1171**, entitled:

An Act to encourage the use of Pennsylvania natural gas.

Which was committed to the Committee on ENVIRONMENTAL RESOURCES AND ENERGY, December 6, 1983.

Senators HELFRICK, STAUFFER, SNYDER, SHAFFER, ANDREZESKI and BRIGHTBILL presented to the Chair **SB 1172**, entitled:

An Act amending the act of July 19, 1979 (P. L. 130, No. 48), entitled "Health Care Facilities Act," permitting health care facilities to board an animal in certain cases.

Which was committed to the Committee on PUBLIC HEALTH AND WELFARE, December 6, 1983.

Senators BRIGHTBILL, SNYDER, REIBMAN, HELFRICK and O'CONNELL presented to the Chair **SB 1173**, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, limiting the bail-setting jurisdiction of district justices.

Which was committed to the Committee on JUDICIARY, December 6, 1983.

Senators BRIGHTBILL, SNYDER, REIBMAN, KELLEY and ANDREZESKI presented to the Chair **SB 1174**, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, authorizing service of process for misdemeanors on Sunday.

Which was committed to the Committee on JUDICIARY, December 6, 1983.

**ANNOUNCEMENTS BY THE SECRETARY**

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

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

WEDNESDAY, DECEMBER 7, 1983

10:30 A.M.	TRANSPORTATION (to consider House Bill No. 1454)	Room 459, 4th Floor Conference Rm., North Wing
12:00 Noon	STATE GOVERNMENT (to consider House Bills No. 35 and 1391)	Room 461, 4th Floor Conference Rm., North Wing
1:00 P.M.	CONSUMER PROTECTION AND PROFESSIONAL LICENSURE (Public Hearing on Senate Bill No. 1081)	Senate Majority Caucus Room
off the floor	RULES AND EXECUTIVE NOMINATIONS (to consider certain Executive Nominations)	Rules Committee Conference Room

TUESDAY, DECEMBER 13, 1983

9:00 A.M.	Legislative Budget and Finance Committee (to release sunset audit reports on the following agencies and boards: 1. DER Citizens Advisory Council 2. Environmental Quality Board 3. Labor Relations Board 4. State Board of Private Trade Schools 5. Pennsylvania Securities Commission)	Room 461, 4th Floor Conference Rm., North Wing
-----------	--	---

WEDNESDAY, DECEMBER 14, 1983

11:00 A.M.	Public Employee Retirement Study Commission	Room 459, 4th Floor Conference Rm., North Wing
------------	---	---

## THURSDAY, DECEMBER 15, 1983

2:30 P.M. Independent Regulatory Heritage Rm. A,  
Review Commission 333 Market St.

## THURSDAY, JANUARY 5, 1984

2:30 P.M. Independent Regulatory Heritage Rm. A,  
Review Commission 333 Market St.

## THURSDAY, JANUARY 19, 1984

2:30 P.M. Independent Regulatory Heritage Rm. A,  
Review Commission 333 Market St.

**ADJOURNMENT**

Senator JUBELIRER. Mr. President, I move that the Senate do now adjourn until Wednesday, December 7, 1983, at 11:00 a.m., Eastern Standard Time.

The motion was agreed to.

The Senate adjourned at 7:23 p.m., Eastern Standard Time.