

COMMONWEALTH OF PENNSYLVANIA

Legislative Journal

TUESDAY, OCTOBER 2, 1984

SESSION OF 1984

168TH OF THE GENERAL ASSEMBLY

No. 59

SENATE

TUESDAY, October 2, 1984.

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

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

PRAYER

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

Our Heavenly Father, we pause at this hour to give thanks for all Thy blessings.

We pray for Divine guidance for our Governor and our Lieutenant Governor. Grant to the Senators of this great Commonwealth wisdom and knowledge for the work and the business at hand. 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 October 1, 1984.

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

SPECIAL ORDER OF BUSINESS

ANNOUNCEMENTS BY THE SECRETARY

The SECRETARY. The Majority and Minority Leaders have given their permission for the Committee on Aging and Youth to meet off the floor today to consider Senate Resolution No. 147, as well as the Committee on Transportation to meet to consider House Bill No. 2195.

LEGISLATIVE LEAVE

Senator WILT. Mr. President, I would ask for a temporary Capitol leave for Senator Shaffer.

The PRESIDENT pro tempore. Is there objection to the granting of a temporary Capitol leave for Senator Shaffer? The Chair hears none and that leave will be granted.

LEAVES OF ABSENCE

Senator WILT asked and obtained leave of absence for Senator HELFRICK, for today's Session, for personal reasons.

Senator SCANLON asked and obtained leaves of absence for Senator HANKINS and Senator LYNCH, for today's Session, for personal reasons.

COMMUNICATION FROM THE GOVERNOR

NOMINATION BY THE GOVERNOR REFERRED TO COMMITTEE

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

COMMONWEALTH TRUSTEE OF LINCOLN UNIVERSITY—OF THE COMMONWEALTH SYSTEM OF HIGHER EDUCATION

October 2, 1984.

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 Lenetta R. Lee, Box 72, R. D. 1, Ye Olde Lions Inn, Lincoln University 19352, Chester County, Thirty-sixth Senatorial District, for reappointment as a Commonwealth Trustee of Lincoln University—of the Commonwealth System of Higher Education, to serve until August 31, 1988, and until her successor is appointed and qualified.

DICK THORNBURGH.

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:

October 2, 1984

Senator O'CONNELL presented to the Chair **SB 1566**, entitled:

An Act amending the act of May 20, 1937 (P. L. 728, No. 193), entitled, as amended, "Board of Claims Act," extending the powers of the Board of Claims.

Which was committed to the Committee on STATE GOVERNMENT, October 2, 1984.

Senator HOLL presented to the Chair **SB 1567**, entitled:

An Act establishing an allocation formula for private activity bonds subject to the State ceiling for the calendar year ending December 31, 1984.

Which was committed to the Committee on COMMUNITY AND ECONOMIC DEVELOPMENT, October 2, 1984.

Senators GREENLEAF, STAUFFER, KELLEY, WENGER, HOPPER, STAPLETON, ANDREZESKI, PECORA and O'CONNELL presented to the Chair **SB 1568**, entitled:

An act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for the possession and dissemination of photographs and films and visual reproductions of prohibited sexual acts of a child under the age of 16 years.

Which was committed to the Committee on JUDICIARY, October 2, 1984.

Senator STAPLETON presented to the Chair **SB 1569**, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for instituting summary proceedings for traffic offenses by private complaint.

Which was committed to the Committee on JUDICIARY, October 2, 1984.

Senator STAPLETON presented to the Chair **SB 1570**, entitled:

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), entitled "Tax Reform Code of 1971," further providing for exemptions from the realty transfer tax.

Which was committed to the Committee on FINANCE, October 2, 1984.

Senator STAPLETON presented to the Chair **SB 1571**, entitled:

An Act amending the act of December 31, 1965 (P. L. 1257, No. 511), entitled "The Local Tax Enabling Act," excluding from the authority to levy realty transfer taxes transfers to certain nonprofit associations or corporations organized for purposes of holding title to property and collecting income therefrom.

Which was committed to the Committee on FINANCE, October 2, 1984.

Senator STAPLETON presented to the Chair **SB 1572**, entitled:

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), entitled "Tax Reform Code of 1971" further defining the term "document" for realty transfer tax purposes.

Which was committed to the Committee on FINANCE, October 2, 1984.

COMMITTEE OF CONFERENCE APPOINTED ON HB 1921

The PRESIDENT pro tempore. The Chair announces the appointment of Senators KUSSE, FISHER and LINCOLN as a Committee of Conference on the part of the Senate to confer with a similar committee of the House (already appointed) to consider the differences existing between the two houses in relation to House Bill No. 1921.

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

BILLS SIGNED

The PRESIDENT pro tempore (Henry G. Hager) in the presence of the Senate signed the following bills:

SB 1079, 1154 and 1155.

REPORT OF COMMITTEE OF CONFERENCE SUBMITTED

Senator WILT submitted the Report of Committee of Conference on **SB 11**, which was placed on the Calendar.

REPORT OF COMMITTEE OF CONFERENCE SUBMITTED AND LAID ON THE TABLE

Senator GREENLEAF submitted the Report of Committee of Conference on **HB 224**, which was laid on the table.

CALENDAR

SPECIAL ORDER OF BUSINESS

HB 1235 CALLED UP OUT OF ORDER

HB 1235 (Pr. No. 2124) — Without objection, the bill was called up out of order, from page 4 of the Third Consideration Calendar, by Senator JUBELIRER, as a Special Order of Business.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 1235 (Pr. No. 2124) — The Senate proceeded to consideration of the bill, entitled:

An Act authorizing the Department of General Services, with the approval of the Governor and the Secretary of Public Welfare, to convey a tract of land in South Heidelberg Township, Berks County, Pennsylvania.

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—45

Andrezeski	Hopper	Moore	Shaffer
Bell	Howard	Musto	Shumaker
Bodack	Jubelirer	O'Connell	Singel
Brightbill	Kelley	O'Pake	Snyder
Corman	Kratzer	Pecora	Stapleton
Early	Kusse	Reibman	Stauffer
Fisher	Lewis	Rhoades	Stout
Fumo	Lincoln	Rocks	Street
Greenleaf	Lloyd	Romanelli	Tilghman
Hager	Loeper	Ross	Wenger
Hess	Mellow	Scanlon	Wilt
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 return said bill to the House of Representatives with information that the Senate has passed the same without amendments.

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT pro tempore. The Chair recognizes the presence of Senator Shaffer who is on the floor and his leave is cancelled.

GUESTS OF SENATOR H. CRAIG LEWIS PRESENTED TO SENATE

Senator LEWIS. Mr. President, I see that some of the group I would like to introduce are getting ready to leave. I would like to ask them to stay for just a moment and ask you and my colleagues in the Senate to welcome the Veterans For A Delaware Valley Hospital, many of whom are from Bucks County, together with a strong contingent of veterans from the City of Philadelphia who also are lending their support in asking the Governor for the construction of a new veterans' home at the Byberry property in northeast Philadelphia. The veterans present are representative of the various veterans groups in northeast Philadelphia and Lower Bucks County. I would like to ask you to extend the usual warm welcome of the Senate to these people.

The PRESIDENT pro tempore. If these guests of Senator Lewis in the balcony will please rise, the Members of the Senate would like to welcome you to the Senate Chamber.

(Applause.)

GUEST OF SENATOR F. JOSEPH LOEPER PRESENTED TO SENATE

Senator LOEPER. Mr. President, I am pleased to have as my guest today Major Joseph P. Kirlin III of Lansdowne in Delaware County who addressed the Senate Committee on Military and Veterans Affairs today relative to the Grenada invasion of which he was a part. I would ask the Senate if they would recognize Major Kirlin and extend their usual warm welcome to him.

The PRESIDENT pro tempore. Major Kirlin, if you will please stand, the Members of the Senate would like to welcome you to the Senate Chamber.

(Applause.)

COMMITTEE OF CONFERENCE APPOINTED ON SB 1324

The PRESIDENT pro tempore. The Chair announces the appointment of Senators WILT, MOORE and WILLIAMS as a Committee of Conference on the part of the Senate to confer with a similar committee of the House (if the House shall appoint such committee) to consider the differences existing between the two houses in relation to Senate Bill No. 1324.

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

MEETING OF COMMITTEE OF CONFERENCE ON SB 1324

The PRESIDENT pro tempore. The Majority and Minority Leaders have agreed to a meeting of the Committee of Conference on Senate Bill No. 1324 off the floor which will take place some time during today's Session.

MEETING OF COMMITTEE ON TRANSPORTATION

The PRESIDENT pro tempore. The Chair wishes to announce the Committee on Transportation will meet off the floor of the Senate. That meeting will take place immediately in the Rules Committee room at the rear of the Senate Chamber. All Members of the Committee on Transportation please go immediately to the Rules Committee room.

CONSIDERATION OF CALENDAR RESUMED

HB 1235 CALLED UP

HB 1235 (Pr. No. 2124) — Without objection, the bill, which had previously been passed finally, was called up, from page 4 of the Third Consideration Calendar, by Senator JUBELIRER.

RECONSIDERATION OF HB 1235

BILL OVER IN ORDER TEMPORARILY ON FINAL PASSAGE

HB 1235 (Pr. No. 2124) — The Senate proceeded to consideration of the bill, entitled:

An Act authorizing the Department of General Services, with the approval of the Governor and the Secretary of Public Welfare, to convey a tract of land in South Heidelberg Township, Berks County, Pennsylvania.

Senator JUBELIRER. Mr. President, I move that the Senate do now reconsider the vote by which House Bill No. 1235, Printer's No. 2124, just passed finally.

The motion was agreed to.

And the question recurring,
Shall the bill pass finally?

Senator JUBELIRER. Mr. President, I request House Bill No. 1235 go over temporarily in its order so we may discuss an amendment which the gentleman from Allegheny, Senator Early, wishes to offer subsequent to us having discussed it in caucus.

The PRESIDENT pro tempore. Without objection, House Bill No. 1235 will go over in its order temporarily.

SPECIAL ORDER OF BUSINESS

HB 1175 CALLED UP OUT OF ORDER

HB 1175 (Pr. No. 3583) — Without objection, the bill was called up out of order, from page 4 of the Third Consideration Calendar, by Senator JUBELIRER, as a Special Order of Business.

BILL ON THIRD CONSIDERATION AMENDED

HB 1175 (Pr. No. 3583) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the "Home Rule Charter and Optional Plans Law," approved April 13, 1972 (P. L. 184, No. 62), clarifying the taxing authority of home rule municipalities.

Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

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

Amend Sec. 2 (Sec. 302), page 7, lines 7 through 9, by striking out "NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ACT OR" in line 7, all of line 8 and "CONTRARY" in line 9 and inserting: Unless prohibited by the Constitution of Pennsylvania, the provisions of any other act of the General Assembly, the provisions of this act or its home rule charter

Amend Sec. 2 (Sec. 302), page 7, line 10, by striking out "WITHOUT LIMITATION,"

Amend Sec. 2 (Sec. 302), page 7, line 15, by inserting a period after "BODY"

Amend Sec. 2 (Sec. 302), page 7, lines 15 and 16, by striking out "UNLESS PROHIBITED BY THE CONSTITUTION OF PENNSYLVANIA, ITS" in line 15, and all of line 16 and inserting: No home rule municipality shall establish or levy a rate of taxation upon nonresidents which is greater than the rate which such municipality would have been authorized to levy on nonresidents but for the adoption of a home rule charter.

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 CORMAN.

REQUEST FOR RECESS

Senator JUBELIRER. Mr. President, I now ask that the Senate recess and that the Republican Members of the Senate report to the first floor caucus room promptly at 3:00 p.m. Hopefully we will return to the floor at approximately 4:30 p.m.

Senator SCANLON. Mr. President, I request the Members of the Democratic caucus report to the caucus room at 3:00 p.m. By that time I hope to have a marked Calendar so we can discuss it.

MEETING OF COMMITTEE ON TRANSPORTATION

Senator KUSSE. Mr. President, would you put out another call please to the Members of the Committee on Transportation? We would like to meet in the Rules Committee room. We will only be two minutes.

The PRESIDENT pro tempore. Will the Members of the Committee on Transportation of the Senate please report immediately to the Rules Committee room at the rear of the Senate.

RECESS

The PRESIDENT pro tempore. For purposes of that meeting and for purposes of caucuses to take place beginning at 3:00 p.m., the Senate stands in recess.

AFTER RECESS

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

SENATE CONCURRENT RESOLUTION

RECESS ADJOURNMENT

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

In the Senate, October 2, 1984.

RESOLVED, (the House of Representatives concurring), That when the Senate adjourns this week it reconvene on Monday, November 19, 1984 unless sooner recalled by the President Pro Tempore, and when the House of Representatives adjourns this week it reconvene on Monday, November 19, 1984 unless sooner recalled by the Speaker.

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

SUPPLEMENTAL CALENDAR NO. 1

THIRD CONSIDERATION CALENDAR

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 1175 (Pr. No. 3646) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the "Home Rule Charter and Optional Plans Law," approved April 13, 1972 (P. L. 184, No. 62), clarifying the taxing authority of home rule municipalities.

Considered the third time and agreed to,

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

On the question,
Shall the bill pass finally?

Senator KELLEY. Mr. President, I think the contents of the bill before us, House Bill No. 1175, is a very, very dangerous piece of legislation. What it amounts to, Mr. President, is that we are attempting by this bill to change and alter the vote of the electors in the home rule municipalities of this Commonwealth. After their vote for home rule, which was done under the proviso that the laws that apply throughout this Commonwealth to municipalities would be applicable to them in home rule municipalities, we are now saying the tax limitations that were there whenever they made the vote will no longer apply.

I would have no objection to this process if, indeed, what we were doing would be giving the electors in the home rule municipalities a right of referendum again for their charter knowing it was no longer subject to any limitation as it had been previously. I think when we look at the history of Pennsylvania and the very motivation we had in the revolution about taxation, the sensitivity the people in this Commonwealth and this country have had and maintained to this very day of fiscal responsibility, particularly in the ability of the sovereign to issue and raise taxes, I think it is wrong, I think it is dangerous and I urge a negative vote.

Senator CORMAN. Mr. President, I rise to support House Bill No. 1175 for exactly the same reasons the gentleman from Westmoreland, Senator Kelley, just mentioned. I believe when the residents of the home rule communities voted, they, no doubt, all voted knowing they would be relieving themselves of the shackles of the tax limitations that were available to them in their other forms of government. That is, in fact, probably a major reason why they voted to have a home rule municipality.

I would like to point out to my colleagues that, in fact, this was a great argument in 1972 when they were considering home rule legislation in which Mr. Sam Morris at that time was arguing—and I would like to read from the record at that time—“Finally I would like to point out to this House that this unlimited taxing power is a danger which may well prevent the adoption of any home rule charter. The voters are not going to vote for a home rule charter if they know it is going to mean the raising of their taxes. We are actually destroying the purpose of a home rule if we let this bill stand the way it is.” His amendment at that time was trying to put the same limitation on home rule charters that were on all other forms of local government structures. His amendment failed at that time.

I would like to point out that based on this legislative intent the Department of Community Affairs has been advising the municipalities seeking to adopt home rule charters that the tax rate limitation found in the Local Tax Enabling Act did not apply to taxes levied upon residents of a home rule municipality. I would also like to state that in the same manner the Local Government Commission, a commission of the House

and the Senate, has been advising people seeking home rule charters the same ever since 1972. I think the information has been available. I think at that time when the voters made their decision, they knew it. They had the right to limit that taxation if they so chose when they drafted their home rule charters. If they did not, they did that as a definite statement that they did not want to limit the taxation on the unit of government they were creating.

I support this legislation because, in fact, it puts back into place exactly what we put into place in 1972 when the home rule government charter was drafted.

Senator KELLEY. Mr. President, very briefly, if the gentleman from Centre is correct, then there would be no need for the legislation. It is precisely the very need of this legislation that makes my point of saying there was a limitation based on the statutory application of limitation of taxing powers because it applied to all municipalities in the Commonwealth. I still urge a negative vote.

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—45

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

NAYS—1

Kelley

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

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

CONSIDERATION OF CALENDAR RESUMED

PREFERRED APPROPRIATION BILL ON CONCURRENCE IN HOUSE AMENDMENTS

BILL OVER IN ORDER

SB 1044 (Pr. No. 2309) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Department of Public Welfare for legal services.

Considered the third time,

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

Senator JUBELIRER. Mr. President, I request Senate Bill No. 1044 go over in its order.

Senator SCANLON. Mr. President, I object to Senate Bill No. 1044 going over in its order.

Senator JUBELIRER. Mr. President, I move that Senate Bill No. 1044 go over in its order.

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

Senator SCANLON. Mr. President, I would like to remind our caucus that when we met previously in the caucus room on this bill, we were under the impression there was going to be a motion to concur and we had agreed with that, but now the motion is to take the bill over, and I am asking the Members in our caucus to oppose the motion to take the bill over.

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

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

Senator EARLY. 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 JUBELIRER and were as follows, viz:

YEAS—24

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

NAYS—23

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

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

The PRESIDENT pro tempore. Senate Bill No. 1044 will go over in its order.

**BILLS ON CONCURRENCE IN
HOUSE AMENDMENTS
BILL OVER IN ORDER**

SB 387 — Without objection, the bill was passed over in its order at the request of Senator JUBELIRER.

SENATE NONCONCURS IN HOUSE AMENDMENTS

SB 402 (Pr. No. 2361) — 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 land-owners; 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.

Senator JUBELIRER. Mr. President, I move that the Senate do nonconcur in the amendments made by the House to Senate Bill No. 402, 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.

SENATE CONCURS IN HOUSE AMENDMENTS

SB 1085 (Pr. No. 2180) — 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.

Senator JUBELIRER. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 1085.

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—47

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

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.

SENATE NONCONCURS IN HOUSE AMENDMENTS

SB 1385 (Pr. No. 2372) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 1, 1933 (P. L. 103, No. 69), entitled "The Second Class Township Code," further providing for the compensation of supervisors and the purchase of insurance.

Senator JUBELIRER. Mr. President, I move that the Senate do nonconcur in the amendments made by the House to Senate Bill No. 1385, and that a Committee of Conference on the part of the Senate be appointed.

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

Senator SINGEL. Mr. President, on the motion, this bill passed the Senate unanimously but has since come under a good deal of scrutiny over in the House. In fact, they have added an amendment to it that I think improves the bill significantly. Therefore, I would ask for a negative vote on the non-concurrence. The effective course would be that I am asking my colleagues to concur in the amendments placed by the House, so I ask for a "no" vote on the motion to nonconcur.

Senator CORMAN. Mr. President, I would ask for a positive vote on nonconcurrence on Senate Bill No. 1385. The bill when it passed the Senate was far different than in its current position. I think it needs some additional work. I would like to see us nonconcur in it and have it go to a Committee of Conference so that we can satisfy the needs of all of those who wish to have input on this subject. We are talking about a subject of eligibility for certain people to have group insurance benefits. I would urge nonconcurrence so we can go to a Committee of Conference and straighten it out for all of our concerns.

Senator LINCOLN. Mr. President, I would join with my colleague, the gentleman from Cambria, Senator Singel, in asking that we concur in the amendments placed in Senate Bill No. 1385. The history of this is one that is rather interesting. This problem arose from an Ethics Commission decision and a court case that threatened to take away from legitimate employees of townships, who were also elected supervisors, benefits that had gone back thirty-five years in some cases. We, in our effort here in the Senate to correct that problem, came up with Senate Bill No. 1385.

Unfortunately, as it happens at times, there were misrepresentations placed before this Body by a representative or representatives of the Township Supervisors Association statewide. It became, as one newspaper in the west described it, a grab. On second reading of the bill and taking a closer look at it, that is precisely what it was. Fortunately, we had the opportunity, as we do so often in the General Assembly, to have one Body take a closer look at something than the other, and the House, in their wisdom, amended this bill into the correct and proper shape. Senate Bill No. 1385, as it stands right now, very precisely corrects the problem that came about because of the decisions on a quasi-judicial level and a more serious level in the Court of Common Pleas.

I think we would be doing a disservice to the many good employees of our smaller townships throughout Pennsylvania who also happen to be elected supervisors. All we are doing is giving them the right to have the benefits that they deserve,

giving them the right to have insurance coverage and giving them the right to have pensions. I think we can clear this problem up by concurring and I would ask you to do that.

The PRESIDING OFFICER (Richard A. Snyder) in the Chair.

Senator CORMAN. Mr. President, I would like to make one additional comment on Senate Bill No. 1385. I think there is still a great amount of misunderstanding as to what was intended and what we hoped to accomplish in Senate Bill No. 1385. I think passing it in its current position would create additional problems. So I am saying, let us go back almost to where we started, and if we nonconcur and go to a Committee of Conference, we will have an opportunity to take another look at what I think would correct some problems in the township government. We are talking about a situation where in a township law, a local government law led many township supervisors to believe they had the right to purchase group insurance on the part of many members of the township. We had the insurance law that also indicated elected officials are employees of townships and may be considered for insurance purposes.

I do not really want to debate tonight the appropriateness of passing Senate Bill No. 1385 the way it passed the Senate, but I would like to see it go to a Committee of Conference so we can re-address the issue and make sure we are, in fact, dealing appropriately with this level of local government officials who, I think, will have many problems facing them if we pass Senate Bill No. 1385 in its current position.

LEGISLATIVE LEAVE

Senator ZEMPRELLI. Mr. President, I would like to request a legislative leave on behalf of Senator Scanlon who had to leave the floor for a period of time.

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

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

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

YEAS—25

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

NAYS—21

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

A majority of 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.

THIRD CONSIDERATION CALENDAR

BILL OVER IN ORDER TEMPORARILY

HB 133 — Without objection, the bill was passed over in its order temporarily at the request of Senator JUBELIRER.

PARLIAMENTARY INQUIRY

Senator LINCOLN. Mr. President, I rise to a question of parliamentary inquiry.

The PRESIDING OFFICER. The gentleman from Fayette, Senator Lincoln, will state it.

Senator LINCOLN. Mr. President, on the previous vote on Senate Bill No. 1385, the Majority Leader made a motion to nonconcur in the amendments placed in the bill by the House of Representatives. The Chair indicated a "yes" vote would support that motion offered by the Majority Leader. Am I correct to this point?

The PRESIDING OFFICER. That is correct.

Senator LINCOLN. Mr. President, the vote total was 25-21. Is there any rule or constitutional prohibition against the carrying of such vote without it being a twenty-six constitutional majority?

The PRESIDING OFFICER. No, on a vote on nonconurrence a simple majority is sufficient. On a vote on concurrence a constitutional majority would be necessary.

THIRD CONSIDERATION CALENDAR RESUMED

BILL ON THIRD CONSIDERATION AMENDED

HB 281 (Pr. No. 3503) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, changing provisions relating to theft of services.

Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

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

Amend Title, page 1, line 1, by striking out "Title 18 (Crimes and Offenses)" and inserting: Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure)

Amend Title, page 1, line 3, by removing the period after "services" and inserting: ; and providing for the offense of cruelty to animals and disposition of certain fines.

Amend Bill, page 5, line 8, by striking out all of said line and inserting:

Section 2. Section 5511 of Title 18 is amended to read:
§ 5511. Cruelty to animals.

(a) Killing, maiming or poisoning domestic animals or zoo animals, etc.—

(1) A person commits a misdemeanor of the second degree if he willfully and maliciously kills, maims or disfigures any domestic animal of another person or any zoo animal in captivity, or willfully and maliciously, administers poison to any such domestic or zoo animal, or exposes any poisonous

substance, with intent that the same shall be taken or swallowed by animals, fowl or birds.

(2) This subsection shall not apply to the killing of any animal taken or found in the act of actually destroying any domestic animal or domestic fowl nor to such reasonable activity as may be undertaken in connection with vermin control or pest control.

(3) As used in this subsection, the following terms shall have the meanings given to them in this paragraph:

"Domestic animal." Any dog, cat, equine animal, bovine animal, sheep, goat or porcine animal.

"Domestic fowl." Any avian raised for food, hobby or sport.

"Zoo animal." Any member of the class of mammalia, aves, amphibia or reptilia which is kept in a confined area by a public body or private individual for purposes of observation by the general public.]

(2) This subsection shall not apply to:

(i) the killing of any animal taken or found in the act of actually destroying any domestic animal or domestic fowl;

(ii) the killing of any animal pursuant to section 717 or 718 of the act of June 3, 1937 (P.L.1225, No.316), known as The Game Law; or

(iii) such reasonable activity as may be undertaken in connection with vermin control or pest control.

(b) Regulating certain actions concerning fowl or rabbits.—A person commits a summary offense if he sells, offers for sale, barter, or gives away baby chickens, ducklings, or other fowl, under one month of age, or rabbits under two months of age, as pets, toys, premiums or novelties or [to color, dye, stain or] if he colors, dyes, stains or otherwise [change] changes the natural color of baby chickens, ducklings or other fowl, or rabbits or [to bring or transport] if he brings or transports the same into this Commonwealth: Provided, That this] . This section shall not be construed to prohibit the sale or display of such baby chickens, ducklings, or other fowl, or such rabbits, in proper facilities by persons engaged in the business of selling them for purposes of commercial breeding and raising.

(c) Cruelty to animals.—A person commits a summary offense if he wantonly or cruelly illtreats, overloads, beats [or] , otherwise abuses any animal, or neglects any animal as to which he has a duty of care, whether belonging to himself or otherwise, or abandons any animal, or deprives any animal of necessary sustenance, drink, shelter or veterinary care, or access to clean and sanitary shelter which will protect the animal against inclement weather and preserve the animal's body heat and keep it dry, or keeps or uses, or in any way is connected with, or interested in the management of, or receives money for the admission of any person to any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock or other creature, or encourages, aids or assists therein, or permits or suffers any place to be so kept or used. This subsection shall not apply to activity undertaken in normal agricultural operation.

(d) Selling or using disabled horse.—A person commits a summary offense if he offers for sale or sells any horse, which by reason of debility, disease or lameness, or for other cause, could not be worked or used without violating the laws against cruelty to animals, or leads, rides [or] , drives or transports any such horse for any purpose, except that of conveying the [animal to a proper place] horse to the nearest available appropriate facility for its humane keeping or [killing] destruction or for medical or surgical treatment.

(e) Transporting animals in cruel manner.—A person commits a summary offense if he carries, or causes, or allows to be carried in or upon any cart, or other vehicle whatsoever, any animal in a cruel or [inhuman] inhumane manner. The person taking him into custody may take charge of the animal and of any

such vehicle and its contents, and deposit the same in some safe place of custody, and any necessary expenses which may be incurred for taking charge of and keeping the same, and sustaining any such animal, shall be a lien thereon, to be paid before the same can lawfully be recovered, or the said expenses or any part thereof remaining unpaid may be recovered by the person incurring the same [of] from the owner of said creature in any action therefor.

For the purposes of this section, it shall not be deemed cruel or [inhuman] inhumane to transport live poultry in crates so long as not more than 15 pounds of live poultry are allocated to each cubic foot of space in the crate.

(f) Hours of labor of animals.—A person commits a summary offense if he leads, drives, rides or works or causes or permits any other person to lead, drive, ride or work any horse, mare, mule, ox, or any other animal, whether belonging to himself or in his possession or control, for more than 15 hours in any 24 hour period, or more than 90 hours in any one week.

Nothing in this subsection contained shall be construed to warrant any persons leading, driving, riding or walking any animal a less period than 15 hours, when so doing shall in any way violate the laws against cruelty to animals.

(g) Cruelty to cow to enhance appearance of udder.—A person commits a summary offense if he kneads or beats or pads the udder of any cow, or willfully allows it to go unmilked for a period of 24 hours or more, for the purpose of enhancing the appearance or size of the udder of said cow, or by a muzzle or any other device prevents its calf, if less than six weeks old, from obtaining nourishment, and thereby relieving the udder of said cow, for a period of 24 hours.

(h) Cropping ears of dog; prima facie evidence of violation.—A person commits a summary offense if he crops or cuts off, or causes or procures to be cropped or cut off, the whole, or part of the ear or ears of a dog or shows or exhibits or procures the showing or exhibition of any dog whose ear is or ears are cropped or cut off, in whole or in part, unless the person showing such dog has in his possession either a certificate of veterinarian stating that such cropping was done by the veterinarian or a certificate of registration from a county treasurer, showing that such dog was cut or cropped before this section became effective.

The provisions of this section shall not prevent a veterinarian from cutting or cropping the whole or part of the ear or ears of a dog when such dog is anesthetized, and shall not prevent any person from causing or procuring such cutting or cropping of a dog's ear or ears by a veterinarian.

The possession by any person of a dog with an ear or ears cut off or cropped and with the wound resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this subsection by such person except as provided for in this subsection.

The owner of any dog whose ear or ears have been cut off or cropped before this section became effective may, if a resident of this Commonwealth, register such dog with the treasurer of the county where he resides, and if a nonresident of this Commonwealth, with the treasurer of any county of this Commonwealth, by certifying, under oath, that the ear or ears of such dog were cut or cropped before this section became effective, and the payment of a fee of \$1 into the county treasury. The said treasurer shall thereupon issue to such person a certificate showing such dog to be a lawfully cropped dog.

(i) Power to [make arrests] initiate criminal proceedings.—[Any policeman or any agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth, shall, upon his own view of any offense under this section, make an arrest, and bring before a justice of the peace the offender found violating said provisions, and any

policeman or any agent of any society, as aforesaid, shall also make arrests of such offenders on warrants duly issued according to law, when such offense is not committed in view of said officer, or agent and in addition to such powers, such policeman or agent is authorized and shall have standing to request any court of competent jurisdiction to enjoin any violation of this section.] If an agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of the Commonwealth, views a violation of this section, he shall have the same powers to initiate criminal proceedings provided for police officers by the Pennsylvania Rules of Criminal Procedure. If an agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of the Commonwealth, does not view but receives information concerning a violation of this section which constitutes a summary offense, he may institute criminal proceedings by filing a citation with the appropriate issuing authority. The agent shall not issue a summary citation to a defendant unless the violation is viewed by the agent.

(j) Seizure of animals kept for baiting or fighting.—Any agent of a society or association for the prevention of cruelty to animals incorporated under the laws of this Commonwealth, shall have power to seize any bull, bear, dog, cock, or other creature, kept, used, or intended to be used for the purpose of fighting or baiting, and to sell the same. The proceeds therefrom shall be paid to the treasurer of the municipality in which such offense occurred. When the seizure is made, the animal or animals so seized shall not be deemed absolutely forfeited, but shall be held by the officer seizing the same until a conviction of some person is first obtained for keeping or using, or being connected with or interested in the management of any place used for fighting or baiting animals, and the animal or creature seized shall have been found on the premises which are the subject of the complaint. The agent making such seizure shall make due return to the justice of the peace before whom the complaint is heard, of the number and kind of animals or creatures so seized by him, and it shall be the duty of the justice of the peace hearing the complaint, in case of a conviction, to make the forfeiture of such animals or creatures seized a part of the sentence.

(k) Killing homing pigeons.—A person commits a summary offense if he shoots, maims or kills any antwerp or homing pigeon, either while on flight or at rest, or detains or entraps any such pigeon which carries the name of its owner.

(l) Search warrants.—[Any justice of the peace, on proof of demand and oath of any policeman or any agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth on his belief based on probable cause, that an act of cruelty to animals is being committed in any building, barn or enclosure, is authorized to issue a search warrant to any of the said officers to make search of the said premise, and to forthwith arrest offenders found committing acts of cruelty, and bring them before said justice of the peace for trial; providing for the care of animals so found to be neglected and starving and if necessary to remove them from the premises for that purpose, and for the humane destruction of any animal disabled, diseased or injured beyond reasonable hope of recovery, the costs thereof to be paid by the owner; authorizing a lien on said animals for expenses or keep and care, or action against the owner to cover the same: Provided, That no search warrant shall be issued under the provisions of this section which shall authorize any policeman, or agent or other person to enter upon or search premises where scientific research work is being conducted by, or under the supervision of, graduates of duly accredited scientific schools or where biological products are being produced for the care or prevention of disease.] Where a violation of this section is alleged, any issuing authority may, in compliance with the applicable provisions of the Pennsylvania Rules of Criminal Procedure, issue to any police officer or any agent of any

society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth a search warrant authorizing the search of any building or any enclosure in which any violation of this section is occurring or has occurred, and authorizing the seizure of evidence of the violation including, but not limited to, the animals which were the subject of the violation. Where an animal thus seized is found to be neglected or starving, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. The cost of the keeping, care and destruction of the animal shall be paid by the owner thereof and claims for the costs shall constitute a lien upon the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may require that the owner pay the cost of the keeping, care and destruction of the animal. No search warrant shall be issued based upon an alleged violation of this section which authorizes any police officer or agent or other person to enter upon or search premises where scientific research work is being conducted by, or under the supervision of, graduates of duly accredited scientific schools or where biological products are being produced for the care or prevention of disease.

(m) Forfeiture.—In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth.

(n) Skinning of and selling or buying pelts of dogs and cats.—A person commits a summary offense if he skins a dog or cat or offers for sale or exchange or offers to buy or exchange the pelt or pelts of any dog or cat.

(o) Representation of humane society by attorney.—Upon prior authorization and approval by the district attorney of the county in which the proceeding is held, an association or agent may be represented in any proceeding under this section by any attorney admitted to practice before the Supreme Court of Pennsylvania and in good standing. Attorney's fees shall be borne by the humane society or association which is represented.

(p) Applicability of section.—This section shall not apply to, interfere with or hinder any activity which is authorized or permitted pursuant to The Game Law.

(q) Definitions.—As used in this section the following words and phrases have the meanings given to them in this subsection.

"Domestic animal." Any dog, cat, equine animal, bovine animal, sheep, goat or porcine animal.

"Domestic fowl." Any avian raised for food, hobby or sport.

"Normal agricultural operation." Normal activities, practices and procedures that farmers adopt, use or engage in year after year in the production and preparation for market of poultry, livestock and their products in the production and harvesting of agricultural, agronomic, horticultural, silvicultural and aquicultural crops and commodities.

"Zoo animal." Any member of the class of mammalia, aves, amphibia or reptilia which is kept in a confined area by a public body or private individual for purposes of observation by the general public.

Section 3. Section 3573(c) of Title 42 is amended to read:
§ 3573. Municipal corporation portion of fines, etc.

(c) Summary offenses.—Fines forfeited, recognizances and other forfeitures imposed, lost or forfeited under the following provisions of law shall, when any such offense is committed in a municipal corporation, be payable to such municipal corporation:

(1) Under the following provisions of Title 18 (relating to crimes and offenses):

Section 2709 (relating to harassment).

Section 3304 (relating to criminal mischief).

Section 3503 (relating to criminal trespass).

Section 3929 (relating to retail theft).

Section 4105 (relating to bad checks).

Section 5503 (relating to disorderly conduct).

Section 5505 (relating to public drunkenness).

Section 5511[(c), (d) and (f)] (relating to cruelty to animals).

Section 6308 (relating to purchase, consumption, possession or transportation of intoxicating beverages).

Section 6501 (relating to scattering rubbish).

(2) Section 13, act of January 24, 1966 (1965 P.L.1535, No.537), known as the "Pennsylvania Sewage Facilities Act."

Section 4. (a) Section 1 shall take effect immediately.

(b) The remainder of this act shall take effect in 60 days.

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 third consideration, as amended?

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

Amend Sec. 1 (Sec. 3926), page 2, lines 16 through 18, by striking out all of said lines and inserting: The word "unauthorized" shall mean that payment of full compensation for service has been avoided, or has been sought to be avoided, without the consent of the supplier of the service.

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 third consideration, as amended?

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

The PRESIDING OFFICER. The Senate will be at ease.

(The Senate was at ease.)

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

Senator ZEMPRELLI. Mr. President, I am a little concerned about the state of the record because the roll call was called before I could get recognized by the Chair. At the time the Chair was dealing with amendments to the bill in question. The amendments had just been delivered to us and we had not caucused on them. They were the amendments of the gentleman from Bucks, Senator Howard.

The PRESIDENT pro tempore. Senator, we are dealing with Senator Jubelirer's amendment. It has been agreed to. If you would like that reconsidered, we can do it.

Senator ZEMPRELLI. I am sorry, Mr. President. I had understood we were dealing with Senator Howard's amendment. I just wanted to be sure the Members of my caucus understood we were not dealing with an amendment upon which we had not caucused.

The PRESIDENT pro tempore. Senator, the Chair is informed that the Howard amendment was accepted prior to the Jubelirer amendment.

Senator ZEMPRELLI. Mr. President, I have no problem reconsidering the action. I do feel I have an obligation to advise the caucus that we had not caucused on these amendments. However, the amendments are identical to a previous bill we had agreed to, and that is just as a matter of information. I would caution the Chair because of these difficult moments, if things are happening and flying around here, we at least should have the opportunity to express ourselves before they become enacted.

The PRESIDENT pro tempore. Senator, it is the practice of the Chair to look to the Majority and Minority Leader's desks to be aware of what is happening so that someone can signal to the Chair if they wish to be at ease, to wait, or make up their minds about a particular amendment. We shall continue to do so, and it is the Chair's hope the two leaders will also continue to do so.

House Bill No. 281 will go over in its order, as amended.

Senator ZEMPRELLI. I have no objection, Mr. President.

LEGISLATIVE LEAVE

Senator ZEMPRELLI. Mr. President, I would request a temporary Capitol leave on behalf of Senator Lincoln.

The PRESIDENT pro tempore. Is there objection to the granting of a temporary Capitol leave for Senator Lincoln? The Chair sees none and without objection that leave will be granted.

THIRD CONSIDERATION CALENDAR RESUMED

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 419 (Pr. No. 458) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 24, 1976 (P. L. 424, No. 101), entitled, as amended, "Emergency and Law Enforcement Personnel Death Benefits Act," further providing for coverage of qualified persons.

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—47

Table listing names of Senators who voted 'Yeas' for SB 419, including Andrezeski, Hopper, Musto, Singel, Bell, Howard, O'Connell, Snyder, Bodack, Jubelirer, O'Pake, Stapleton, Brightbill, Kelley, Pecora, Stauffer, Corman, Kratzer, Reibman, Stout, Early, Kusse, Rhoades, Street, Fisher, Lewis, Rocks, Tilghman, Fumo, Lincoln, Romanelli, Wenger.

Table listing names of Senators who voted 'Nays' for SB 419: Greenleaf, Lloyd, Ross, Williams, Hager, Loeper, Scanlon, Wilt, Hess, Mellow, Shaffer, Zemprelli, Holl, Moore, Shumaker.

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.

BILL OVER IN ORDER

SB 461 — Without objection, the bill was passed over in its order at the request of Senator JUBELIRER.

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 615 (Pr. No. 3631) — The Senate proceeded to consideration of the bill, entitled:

An Act amending "The Administrative Code of 1929," approved April 9, 1929 (P. L. 177, No. 175), directing the Department of Environmental Resources to devise and implement a State park and forest development plan to employ Pennsylvania citizens; and authorizing the department to franchise hydroelectric generation activity.

Considered the third time and agreed to,

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

On the question, Shall the bill pass finally?

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

YEAS—46

Table listing names of Senators who voted 'Yeas' for HB 615: Bell, Howard, O'Connell, Singel, Bodack, Jubelirer, O'Pake, Snyder, Brightbill, Kelley, Pecora, Stapleton, Corman, Kratzer, Reibman, Stauffer, Early, Kusse, Rhoades, Stout, Fisher, Lewis, Rocks, Street, Fumo, Lincoln, Romanelli, Tilghman, Greenleaf, Lloyd, Ross, Wenger, Hager, Loeper, Scanlon, Williams, Hess, Mellow, Shaffer, Wilt, Holl, Moore, Shumaker, Zemprelli, Hopper, Musto.

NAYS—1

Andrezeski

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

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

SB 677 (Pr. No. 2383) — The Senate proceeded to consideration of the bill, entitled:

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.

Considered the third time and agreed to,
And the amendments made thereto having been printed as required by the Constitution,

On the question,
Shall the bill pass finally?

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

YEAS—47

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

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.

BILL LAID ON THE TABLE

SB 678 (Pr. No. 2287) — The Senate proceeded to consideration of the bill, entitled:

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.

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

Senator JUBELIRER. I move that Senate Bill No. 678 be laid on the table.

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

Senator WILLIAMS. Mr. President, I wish to amend the motion to include the moving of House Bill No. 49 from the table at the time we table Senate Bill No. 678.

The PRESIDENT pro tempore. The Senate will be at ease. (The Senate was at ease.)

Senator WILLIAMS. Mr. President, I wish to withdraw my amendment to the motion.

And the question recurring,
Will the Senate agree to the motion to lay Senate Bill No. 678 on the table?

Senator WILLIAMS. Mr. President, I would like a roll call vote on that motion.

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

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

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

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

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

YEAS—25

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

NAYS—22

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

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

The PRESIDENT pro tempore. Senate Bill No. 678 will be laid on the table.

CONSIDERATION OF HB 539

Senator WILLIAMS. Mr. President, at this time I would like to move that House Bill No. 539, having to do with the Welfare Code, be removed from the table, and I request that it be supported by all the Members of the Senate for due and proper reasons.

The PRESIDENT pro tempore. Senator Williams moves House Bill No. 539 be removed from the table. The motion is not debatable.

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

Senator JUBELIRER. For due and proper reasons, Mr. President, I would ask for a "no" vote. I would ask the gentleman if he would accept the same roll call as the previous vote?

Senator WILLIAMS. Mr. President, I thank the gentleman for allowing me a couple more seconds to debate the undebatable motion. I believe each and every person should vote his own conscience on this motion.

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

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

Senator STREET. 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 WILLIAMS and were as follows, viz:

YEAS—21

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

NAYS—26

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

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

LEGISLATIVE LEAVE

Senator ZEMPRELLI. Mr. President, I request a temporary Capitol leave for Senator Ross.

The PRESIDENT pro tempore. Is there objection to temporary Capitol leave for Senator Ross? The Chair hears none and that leave will be granted.

SUPPLEMENTAL CALENDAR NO. 2

REPORT OF COMMITTEE OF CONFERENCE

BILL OVER IN ORDER TEMPORARILY

SB 11 — Without objection, the bill was passed over in its order temporarily at the request of Senator JUBELIRER.

CONSIDERATION OF CALENDAR RESUMED

THIRD CONSIDERATION CALENDAR

BILL OVER IN ORDER

SB 1041 — Without objection, the bill was passed over in its order at the request of Senator JUBELIRER.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1057 (Pr. No. 1341) — The Senate proceeded to consideration of the bill, entitled:

An Act establishing the Pennsylvania International Trade Council; granting powers and duties; and making an appropriation.

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—47

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

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.

BILL OVER IN ORDER TEMPORARILY

HB 1137 — Without objection, the bill was passed over in its order temporarily at the request of Senator JUBELIRER.

BILL OVER IN ORDER

SB 1168 — Without objection, the bill was passed over in its order at the request of Senator JUBELIRER.

HB 1235 CALLED UP

HB 1235 (Pr. No. 2124) — Without objection, the bill, which previously went over in its order temporarily, on final passage, was called up, from page 4 of the Third Consideration Calendar, by Senator JUBELIRER.

BILL ON FINAL PASSAGE

HB 1235 (Pr. No. 2124) — The Senate proceeded to consideration of the bill, entitled:

An Act authorizing the Department of General Services, with the approval of the Governor and the Secretary of Public Welfare, to convey a tract of land in South Heidelberg Township, Berks County, Pennsylvania.

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—47

Andrezeski	Hopper	Musto	Singel
Bell	Howard	O'Connell	Snyder
Bodack	Jubelirer	O'Pake	Stapleton
Brightbill	Kelley	Pecora	Stauffer
Corman	Kratzer	Reibman	Stout
Early	Kusse	Rhoades	Street
Fisher	Lewis	Rocks	Tilghman
Fumo	Lincoln	Romanelli	Wenger

Greenleaf	Lloyd	Ross	Williams
Hager	Loeper	Scanlon	Wilt
Hess	Mellow	Shaffer	Zemprelli
Holl	Moore	Shumaker	

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 return said bill to the House of Representatives with information that the Senate has passed the same without amendments.

BILL OVER IN ORDER

SB 1382 — Without objection, the bill was passed over in its order at the request of Senator JUBELIRER.

BILL LAID ON THE TABLE

SB 1455 (Pr. No. 2347) — The Senate proceeded to consideration of the bill, entitled:

An Act prohibiting the use of K-9 dogs by police departments in a city of the first class; and imposing a penalty.

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

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1472 (Pr. No. 2226) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 7, 1961 (P. L. 257, No. 151), entitled “An act providing for the construction, erection and maintenance of roadside rests adjacent to State highway routes;....,” removing the maximum limitation upon the cost of roadside rests; and making editorial changes.

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—47

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

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.

SB 1481 (Pr. No. 2246) — The Senate proceeded to consideration of the bill, entitled:

An Act designating a certain interchange in Mercer County as the Gordon Ward Interchange.

Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

Senator ZEMPRELLI. Mr. President, on such a momentous occasion as the passage of a bill in commemoration of a human being who must have been of some significance, can somebody tell us who Gordon Ward is or was? Am I to believe this is the Gordon Ward of Batman fame?

The PRESIDENT pro tempore. Senator Wilt appears willing to respond to your interrogation, Senator.

Senator WILT. Mr. President, Gordon Ward was long known as Mr. Highways of Mercer County and was one of the original supporters, proponents and laborers in the field for the interstate system in Mercer County.

Senator ZEMPRELLI. Mr. President, I feel more comfortable voting affirmatively on Senate Bill No. 1481.

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—47

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

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.

SB 1523 (Pr. No. 2297) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of July 19, 1979 (P. L. 130, No. 48), entitled “Health Care Facilities Act,” requiring the reporting of incidents of possible professional misconduct.

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—47

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

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.

BILL OVER IN ORDER

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

BILL OVER IN ORDER TEMPORARILY

HB 1534 — Without objection, the bill was passed over in its order temporarily at the request of Senator JUBELIRER.

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 1630 (Pr. No. 3632)— The Senate proceeded to consideration of the bill, entitled:

An Act providing for the adoption of capital projects to be financed from the current revenues of the Motor License Fund.

Considered the third time and agreed to,

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

On the question,

Shall the bill pass finally?

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

YEAS—47

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

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

HB 1631 (Pr. No. 3633) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the "Highway-Railroad and Highway Bridge Capital Budget Act for 1982-1983," approved December 8, 1982 (P. L. 848, No. 235), adding or amending various State and local bridge projects in various counties of the Commonwealth.

Considered the third time and agreed to,

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

On the question,

Shall the bill pass finally?

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

YEAS—47

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

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

HB 1745 (Pr. No. 3584) — The Senate proceeded to consideration of the bill, entitled:

An Act establishing a system for the collection of municipal liens and tax claims in cities of the second class through the sale of real property encumbered by such liens and claims; abolishing the office of solicitor for liens for delinquent taxes, rates, claims and charges in cities of the second class; authorizing the treasurer to conduct treasurer's sales and granting the treasurer certain powers in connection therewith; providing a structure for the conduct of the sale; setting up a system whereby the properties at treasurer's sale are acquired, administered, maintained and resold for the benefit of cojurisdictional taxing bodies; providing for the redemption of the property within 90 days of sale; providing a means for establishing title to real property taken at treasurer's sale; providing for cooperation among cojurisdictional taxing bodies; and preserving rights not specifically repealed.

Considered the third time and agreed to,

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

On the question,

Shall the bill pass finally?

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

YEAS—47

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

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

BILL OVER IN ORDER TEMPORARILY

HB 1856 — Without objection, the bill was passed over in its order temporarily at the request of Senator JUBELIRER.

BILL ON THIRD CONSIDERATION AMENDED

HB 1872 (Pr. No. 3635) — The Senate proceeded to consideration of the bill, entitled:

An Act amending "The Local Tax Enabling Act," approved December 31, 1965 (P. L. 1257, No. 511), further providing for taxes on admissions prices to ski facilities; providing restrictions on mercantile and business gross receipts taxes; and excluding from the authority to levy realty transfer taxes transfers between brothers and sisters or their spouses.

Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

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

Amend Title, page 1, line 24, by striking out "AND"

Amend Title, page 1, line 26, by removing the period after "SPOUSES" and inserting: ; and providing for when transfers within a family from a sole proprietor family member to a family farm corporation shall be subject to realty transfer tax.

Amend Sec. 1 (Sec. 2), page 4, line 23, by inserting after "DEBT," : or a transfer within a family from a sole proprietor family member to a family farm corporation,

Amend Bill, page 8, by inserting after line 30:

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

Section 2.1. Recapture of Tax.—(a) Notwithstanding the provisions of section 2(1) of this act, if any stock of a family farm corporation is transferred to a person who is not a family member within ten years from the date of the conveyance from a sole proprietor family member to a family farm corporation, the tax imposed by this article shall become immediately due and payable.

(b) As used in this act:

"Family farm corporation" means a Pennsylvania corporation at least seventy-five percent of the assets of which are devoted to the business of agriculture, which business, for the purposes of this definition, shall not be deemed to include (i) recreational

activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing; (ii) the raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities; (iii) fur farming; (iv) stockyard and slaughterhouse operations; or (v) manufacturing or processing operations of any kind: Provided, however, That at least seventy-five percent of all of the stock of the corporation must be owned by members of the same family.

"Members of the same family" means an individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants of any of the foregoing and a spouse of any of the foregoing. Individuals related by the half blood or by legal adoption shall be treated as if they were related by the whole blood.

Amend Sec. 2, page 9, line 1, by striking out "2" and inserting: 3

Amend Sec. 3, page 12, line 2, by striking out "3" and inserting: 4

On the question,

Will the Senate agree to the amendment?

It was agreed to.

On the question,

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

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

Amend Title, page 1, line 24, by inserting after "TAXES": and for taxes on admissions prices to golf courses

Amend Sec. 2 (Sec. 8), page 10, by inserting between lines 7 and 8:

(10) On admissions to golf courses, ten percent. The tax base upon which the tax shall be levied shall not exceed forty percent of the greens fee. The greens fee shall include all costs of admissions to the golf course.

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 PECORA.

SECOND CONSIDERATION CALENDAR

BILL REREPORTED FROM COMMITTEE AS AMENDED OVER IN ORDER

HB 353 — Without objection, the bill was passed over in its order at the request of Senator JUBELIRER.

NONPREFERRED APPROPRIATION BILL OVER IN ORDER

HB 265 — Without objection, the bill was passed over in its order at the request of Senator JUBELIRER.

BILLS OVER IN ORDER

HB 164 and 291 — Without objection, the bills were passed over in their order at the request of Senator JUBELIRER.

HB 552 (Pr. No. 619) — The Senate proceeded to consideration of the bill, entitled:

An Act amending "The Administrative Code of 1929," approved April 9, 1929 (P.L. 177, No. 175), further providing for the salaries of the chairman and members of the Environmental Hearing Board.

The bill was considered.

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

Senator JUBELIRER. Mr. President, I request that House Bill No. 552 go over in its order.

Senator ROMANELLI. Mr. President, I object to House Bill No. 552 going over.

Senator JUBELIRER. Mr. President, I move that House Bill No. 552 go over in its order.

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

Senator ROMANELLI. Mr. President, I request a roll call vote.

Senator KUSSE. Mr. President, on the move to put it over, is it debatable?

The PRESIDENT pro tempore. Only as to the issue of postponement, not on the merits of the bill, Senator.

Senator KUSSE. Mr. President, I do, indeed, urge my colleagues to vote against putting it over.

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

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

YEAS—25

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

NAYS—22

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

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

The PRESIDENT pro tempore. House Bill No. 552 will go over in its order.

LEGISLATIVE LEAVE

Senator ZEMPRELLI. Mr. President, I request temporary Capitol leave for Senator Lewis.

The PRESIDENT pro tempore. Is there objection to temporary Capitol leave for Senator Lewis? The Chair sees none and that leave will be granted.

SECOND CONSIDERATION CALENDAR RESUMED

BILLS OVER IN ORDER

SB 598, 622, 814, HB 981, 982, SB 1002, HB 1119 and 1317 — Without objection, the bills were passed over in their order at the request of Senator JUBELIRER.

BILL ON SECOND CONSIDERATION

SB 1369 (Pr. No. 2320) — The Senate proceeded to consideration of the bill, entitled:

An Act requiring police departments to immediately initiate an investigation upon receipt of a report of a missing minor; providing for a Statewide register for missing children; and imposing powers and duties on the State Police and local law enforcement agencies.

Considered the second time and agreed to,
Ordered, To be printed on the Calendar for third consideration.

BILLS OVER IN ORDER

SB 1501, 1521, HB 1661, 1822, 1863, 2095, 2100 and 2196 — Without objection, the bills were passed over in their order at the request of Senator JUBELIRER.

BILL ON SECOND CONSIDERATION

HB 2281 (Pr. No. 3186) — The Senate proceeded to consideration of the bill, entitled:

An Act designating a dam in Allentown, Lehigh County, as the Samuel W. Frank Memorial Dam.

Considered the second time and agreed to,
Ordered, To be printed on the Calendar for third consideration.

POINT OF INFORMATION

Senator LLOYD. Mr. President, I rise to a point of information.

The PRESIDENT pro tempore. The gentleman from Philadelphia, Senator Lloyd, will state it.

Senator LLOYD. Mr. President, when we went over a large series of bills a few moments ago, did we also intend to go over House Bill No. 2281 on page 10?

The PRESIDENT pro tempore. Senator, that bill was moved up. It was considered on second consideration.

RECESS

Senator JUBELIRER. Mr. President, if the Members will indulge, this is a very difficult evening with a lot of things we are facing here, and I am trying to keep some semblance of organization. At this time, Mr. President, I would ask for a recess of the Senate. First, Mr. President, I would ask the Members of the Committee on Rules and Executive Nominations report to the Rules Committee room at the rear of the Senate Chamber for a very brief meeting of that committee. Immediately following that, Mr. President, at the request of Senator Hopper, the Chairman of the Committee on Aging and Youth, I would ask the Members of that committee report to the same Rules Committee room for a very brief meeting of that committee. Then, Mr. President, immediately thereafter on behalf of Senator Wilt, who is Chairman of the Committee of Conference on Senate Bill No. 1324, I would ask the Members to report to the Rules Committee room for the purpose of a meeting of the Committee of Conference.

It is my understanding, Mr. President, there is food being brought in and it will be available momentarily. I am also advised by Senator Fisher, the Chairman of the Committee on Environmental Resources and Energy, that he wishes to call a recessed meeting of that committee, so that would be one of now four meetings which would take place in the Rules Committee room. I would think at that point, Mr. President, hopefully the food will be here and we could continue our recess. I would also ask the Republican Members of the Senate, immediately after our meal, to report to what hopefully will be a brief caucus in the first floor caucus room, post dinner. We should return to the floor as soon as the meeting is concluded.

The PRESIDENT pro tempore. For the purpose of a meeting of the Committee on Rules and Executive Nominations to take place immediately in the Rules Committee room, for the purpose of a meeting of the Committee on Aging and Youth to take place immediately following the meeting of the Committee on Rules and Executive Nominations in the same room, for the purpose of a meeting of the Committee on Environmental Resources and Energy to take place immediately following the meeting of the Committee on Aging and Youth in the same room, for the purpose of a meeting of the Committee of Conference on Senate Bill No. 1324 to take place immediately following the meeting of the Committee on Environmental Resources and Energy in the Rules Committee room and for the purpose of a caucus for either or both caucuses which will be announced, the Senate is in recess.

AFTER RECESS

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

HOUSE MESSAGES

HOUSE INSISTS UPON ITS NONCONCURRENCE IN SENATE AMENDMENTS TO HOUSE AMENDMENTS TO SB 705, AND APPOINTS COMMITTEE OF CONFERENCE

The Clerk of the House of Representatives informed the Senate that the House insists upon its nonconcurrence in Senate amendments to House amendments to **SB 705**, and has appointed Messrs. FRYER, SWEET and FREIND as a Committee of Conference to confer with a similar committee of the Senate (if the Senate shall appoint such committee) to consider the differences existing between the two houses in relation to said bill.

HOUSE INSISTS UPON ITS AMENDMENTS NONCONCURRED IN BY THE SENATE TO SB 1324, AND APPOINTS COMMITTEE OF CONFERENCE

The Clerk of the House of Representatives informed the Senate that the House insists upon its amendments nonconcurring in by the Senate to **SB 1324**, and has appointed Messrs.

WACHOB, KUKOVICH and McCLATCHY as a Committee of Conference to confer with a similar committee of the Senate (already appointed) to consider the differences existing between the two houses in relation to said bill.

SENATE BILL RETURNED WITH AMENDMENTS

The Clerk of the House of Representatives returned to the Senate **SB 1379**, with the information that the House has passed the same with amendments in which the concurrence of the Senate is requested.

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

HOUSE CONCURS IN SENATE AMENDMENTS TO HOUSE BILLS

The Clerk of the House of Representatives informed the Senate that the House has concurred in amendments made by the Senate to **HB 163, 1236 and 1579**.

HOUSE CONCURS IN SENATE BILLS

The Clerk of the House of Representatives returned to the Senate **SB 794, 1371, 1445 and 1487**, with the information that the House has passed the same without amendments.

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:

Recess Adjournment.

RESOLUTIONS REPORTED FROM COMMITTEES

Senator HOPPER, by unanimous consent, from the Committee on Aging and Youth, reported the following resolution:

SR 147 (Pr. No. 2404) (Amended)

Memorializing the Governor to appoint a committee of certain persons to study and make recommendations on the several problems associated with Alzheimer's dementia.

Senator JUBELIRER, by unanimous consent, from the Committee on Rules and Executive Nominations, reported the following resolution:

HR 32 (Pr. No. 3652) (Amended)

Memorializing the Congress of the United States to initiate an amendment to the Constitution of the United States to provide the President with the authority to veto individual line items in appropriations bills.

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

**REPORT OF COMMITTEE OF CONFERENCE
SUBMITTED**

Senator WILT, by unanimous consent, submitted the Report of Committee of Conference on **SB 1324**, which was placed on the Calendar.

REPORT FROM COMMITTEE

Senator KUSSE, by unanimous consent, from the Committee on Transportation, reported the following bill:

HB 2195 (Pr. No. 3033)

An Act designating a section of Route 225 in Northumberland County as the "Corporal David William Witmer Memorial Highway."

SUPPLEMENTAL CALENDAR NO. 5

**REPORT OF COMMITTEE OF CONFERENCE
REPORT ADOPTED**

SB 1324 (Pr. No. 2405) — The Senate proceeded to consideration of the bill, entitled:

An Act making supplemental appropriations from the General Fund and Federal funds to the Department of Public Welfare for the fiscal year July 1, 1984 to June 30, 1985, for certain additional cash assistance payments, medical assistance payments, homeless grants and screening costs incurred by the Department of Public Welfare.

Senator JUBELIRER. Mr. President, I move that the Senate adopt the Report of Committee of Conference on Senate Bill No. 1324.

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

LEGISLATIVE LEAVES CANCELLED

The PRESIDENT pro tempore. Are there any Members currently on the floor who have been on leave who would like to have their leaves cancelled? The Chair notes that Senator Scanlon is present, Senator Lincoln is present and Senator Lewis is present.

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

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

YEAS—47

Andrezeski	Hopper	Musto	Singel
Bell	Howard	O'Connell	Snyder
Bodack	Jubelirer	O'Pake	Stapleton
Brightbill	Kelley	Pecora	Stauffer
Corman	Kratzer	Reibman	Stout
Early	Kusse	Rhoades	Street
Fisher	Lewis	Rocks	Tilghman
Fumo	Lincoln	Romanelli	Wenger

Greenleaf	Lloyd	Ross	Williams
Hager	Loeper	Scanlon	Wilt
Hess	Mellow	Shaffer	Zemprelli
Holl	Moore	Shumaker	

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.

SUPPLEMENTAL CALENDAR NO. 3

THIRD CONSIDERATION CALENDAR

**BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE**

HB 1872 (Pr. No. 3651) — The Senate proceeded to consideration of the bill, entitled:

An Act amending "The Local Tax Enabling Act," approved December 31, 1965 (P. L. 1257, No. 511), further providing for taxes on admissions prices to ski facilities; providing restrictions on mercantile and business gross receipts taxes and for taxes on admissions prices to golf courses; excluding from the authority to levy realty transfer taxes transfers between brothers and sisters or their spouses; and providing for when transfers within a family from a sole proprietor family member to a family farm corporation shall be subject to realty transfer tax.

Considered the third time and agreed to,

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

On the question,
Shall the bill pass finally?

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

YEAS—47

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

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

SUPPLEMENTAL CALENDAR NO. 2**SPECIAL ORDER OF BUSINESS****CONSIDERATION OF SB 11**

Senator ZEMPRELLI. Mr. President, I move that Supplemental Calendar No. 2, dealing with Senate Bill No. 11, Printer's No. 2391, be called up for immediate consideration, as a Special Order of Business.

On the question,

Will the Senate agree to the motion?

POINT OF ORDER

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

The PRESIDENT pro tempore. The gentleman from Blair, Senator Jubelirer, will state it.

Senator JUBELIRER. Mr. President, can the gentleman call up a bill that is not in print yet and is not ready?

Senator ZEMPRELLI. Mr. President, the Calendar is printed, it is on my desk and it is marked Supplemental Calendar No. 2.

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

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

(The Senate was at ease.)

The PRESIDENT pro tempore. What was your point of order, Senator?

Senator JUBELIRER. Mr. President, I was under the impression the bill was not in print yet. It is our intention to call the bill up in the order that we have set, not what Senator Zemprelli's order is. I would object to his motion at this point, Mr. President.

The PRESIDENT pro tempore. The motion is on the floor to call it up.

Senator ZEMPRELLI. Roll call please, Mr. President.

The PRESIDENT pro tempore. I am sorry, Senator, I was speaking. I did not hear what you had to say. What is it you would like to say?

Senator ZEMPRELLI. Mr. President, I was asking for a roll call vote.

The PRESIDENT pro tempore. All Members of the Senate: This evening is going to get later and later. I would suggest as a common courtesy that each of us allows whoever has the floor, including the Chair, to complete whatever sentence he is attempting to complete before preempting him.

Senator Zemprelli has called up as a special order of business and has moved that the Senate do now consider Supplemental Calendar No. 2 dealing with Senate Bill No. 11.

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—23

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

NAYS—24

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

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

SUPPLEMENTAL CALENDAR NO. 4**SENATE RESOLUTION NO. 147,
CALLED UP OUT OF ORDER**

Senator JUBELIRER, without objection, called up out of order from page 1 of Supplemental Calendar No. 4, **Senate Resolution No. 147**, entitled:

Memorializing the Governor to appoint a committee of certain persons to study and make recommendations on the several problems associated with Alzheimer's dementia.

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

On the question,

Will the Senate adopt the resolution?

SENATE RESOLUTION NO. 147, ADOPTED

Senator JUBELIRER. Mr. President, I move that the Senate do adopt Senate Resolution No. 147.

On the question,

Will the Senate agree to the motion?

RECESS

Senator ZEMPRELLI. Mr. President, I hope this does not set the theme for tonight's occasion. We have never seen this issue before. It has not been caucused on, and I ask for a recess of the Senate for the purpose of a Democratic caucus.

The PRESIDENT pro tempore. For the purpose of a Democratic caucus, the Senate is now 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 Resolution No. 147.

And the question recurring,

Will the Senate agree to the motion to adopt the resolution?

Senator KELLEY. Mr. President, I have a great deal of difficulty having any sympathy with the contents of Senate Resolution No. 147 because it is a self-indictment of this Body. I

would respectfully suggest that each and every one of us ought to have some degree of sentiment and opinion about the responsibilities of each of us and collectively of the Senate. We have broken ourselves down into various numbers of committees, and it seems now the amendment that was made we took off the joint resolution of the other Body being on it. It is now, in the present form, a single resolution of this Body suggesting to the Governor an appointment of a committee to investigate a condition of illness in the Commonwealth.

We have a Committee on Aging and Youth in this Body that seems to have the clear jurisdiction of such a responsibility. In fact, I would trust that this committee of this Body would be more than able and more able and competent, with all the resources we have on a continuing basis of appropriations, to examine and investigate this particular problem as well as others. I think anyone who votes and supports this resolution is tacitly embracing the idea that another committee appointed by the Governor duplicating and making government more inefficient to investigate a particular problem. Even though I am probably going to join in because of the nature of the problem, I want to call attention to all of those who subscribe in the affirmative that it is a self-indictment on us individually and collectively.

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

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

YEAS—47

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

NAYS—0

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

**HOUSE CONCURRENT RESOLUTION
NO. 32, CALLED UP OUT OF ORDER**

Senator JUBELIRER, without objection, called up out of order from page 1 of Supplemental Calendar No. 4, **House Concurrent Resolution No. 32**, entitled:

Memorializing the Congress of the United States to initiate an amendment to the Constitution of the United States to provide the President with the authority to veto individual line items in appropriations bills.

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

On the question,
Will the Senate concur in the resolution?

**HOUSE CONCURRENT RESOLUTION NO. 32,
LAID ON THE TABLE**

Senator JUBELIRER. Mr. President, I move that the Senate do concur in House Concurrent Resolution No. 32.

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

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

Senator LINCOLN. Mr. President, I would like to move that we revert to the prior printer's number on House Resolution No. 32, Printer's No. 3652. I would like to see us revert to Printer's No. 325 and I so move.

The PRESIDENT pro tempore. Senator Lincoln moves that the Senate do revert House Resolution No. 32 from Printer's No. 3652 to the prior printer's number which is Printer's No. 325.

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

The PRESIDENT pro tempore. Senator Lincoln, do you wish a roll call vote?

Senator LINCOLN. Mr. President, I would like to speak on the motion. I think what we have in front of us may seem rather insignificant to the Members of the other side of this Body, the far side, as we seem to be getting into these types of issues tonight. I think if you read what was stricken from House Resolution No. 32, you will be able to get a clear definition of what is taking place in this country at this particular time. You will get a clear definition of the insensitivity of the Republican Party from the President down to issues that we have to deal with in Pennsylvania. The Republican Party, the Majority party in this Senate, at 11:00 o'clock at night, at a midnight hour of a Session, is trying to sneak through something that says we should have a line item veto for a President who has had four years to display where his priorities are. Never once has he offered a balanced budget. This year he has the largest deficit of any President in the history of this country, and you want to say to him and the people of this Commonwealth that we are more interested in a line item veto for President Reagan so he can say to the people in this Commonwealth that we are not interested in education, we are not interested in retarded children and adults, we are not interested in anything but building big guns and big business and giving tax breaks to the rich. That is what we are interested in. We are not interested in what this resolution said when it came to the Senate. I see people on that side of the aisle that have as serious economic problems as I have in my district. Unemployment is just as high, but they chose to strike out what dealt with unemployment and how we were going to try and plead with an insensitive President to try to help us with the serious economic problems we have. No, let us go to a big issue. A line item veto is what our President should have. The right to strike—what does it say—frivolous, wasteful spend-

ing. What is frivolous, wasteful spending? Folks, is that food stamps for the poor in rural Schuylkill County, Blair County, Bedford County or Fayette County? Is that something we think is foolish, wasteful spending? Is that what we want to give him, the right to have on his own to decide? I do not want to do that. I have a hard time believing that some of the people I have known over there for the twelve years I have served in this Legislature want to do that either. I cannot believe you would put in partisan politics. I do not even know why you would think this would be good for you in this state, one of the hardest hit states in the country by Reaganomics. No, let us give him an opportunity. Go ahead, pass it. It does not mean a darn thing. But this is the expression of the Republican Party of Pennsylvania. Why do we want to face real issues when we can play games and say to the people, "If the Democrats would give Reagan the ability for a line item veto, we would not have a \$200 billion deficit."

Tell us how this is going to stop it. Tell me what he is going to cut. Read the rest of the resolution and what you replaced it with.

Senator JUBELIRER. Mr. President, if I could have the attention of the Members, I will try to be as brief as possible. This resolution was taken care of by the UC compromise of last year. Frankly, it is not a resolution that would be needed in this particular Session.

Furthermore, Mr. President, what this resolution does, the current printer's number, would be merely to memorialize Congress to initiate a constitutional amendment. If that were to happen, it would have to come back and be passed by three-fourths of the states. In that instance, it would get full discussion by the state Legislatures all over the country. It certainly does not deal with one president only. It would be a constitutional amendment that would be utilized by all presidents from here on in as they would see fit in order to have a balanced budget if that be the case. Mr. President, I think we are a long way away. We are not passing the legislation for that right now. All this does is memorialize Congress to do it, if that be the case, and that is a long process. That is really all it does, and I think it would be highly appropriate at this time, Mr. President. We could sit here and debate who is responsible for deficits all night long. I do not think that is really our function. I think that is the function of the Congress and, in the ultimate, November 6th will be the function of the people of this nation to say whether they believe this President has done a good job or not. I have confidence they will express themselves in a way that, perhaps, may not be the way the gentleman from Fayette, Senator Lincoln, wants them to, but, I think it is the way the people are going to vote. In this instance, Mr. President, I think it is appropriate that we at least go on record one way or the other as to deciding whether the line item veto which the Governor of this state and in most other states in this nation has, should also be given to the person who has the highest authority in this nation, the President of the United States.

Senator ANDREZESKI. Mr. President, perhaps the real issue of House Resolution No. 32 can best be expressed in the

real intent of House Resolution No. 32. Yes, the resolution itself would call for a constitutional amendment which would have to go through a process state by state. Perhaps what is really needed in this country is a central American policy that includes central American states such as Ohio, Michigan and Pennsylvania which certainly need some recourse to being the basis of an industrial revolution which, except for the fact of some political realities of the day, has declined, which except for the fact that even General Motors owns a piece of Toyota, has brought our basic industrial production into a decline. Perhaps we should look at House Resolution No. 32 asking that the federal government give us the money back in the same manner as the people of this Commonwealth and other central American states support Central American states on the continent right below us. The same people who are asking for a 50 percent forgiveness or reduction of the original resolution of House Resolution No. 32 are the same people who in some way in the electing of their public officials on the federal level have allowed them to finance the banks in this country that lent between 150 percent and 210 percent of their assets to the banks in South America and this country came running, through the World Bank, to the rescue.

I see nothing peculiar in asking that we provide the same benefits for areas in Venango County, for areas in Crawford County, for areas in Erie County and Mercer County in which, due to the fact that we have unrelented imports, due to the fact it is cheaper for American industries to go overseas and buy into the companies that are importing into America than to renew their own factories, because it is cheaper or it is almost impossible to compete with the regulated banking system in Japan that guarantees a 6 percent capital expansion loan versus whatever the market bears, 13 percent or 14 percent in the United States.

I think it is most appropriate, Mr. President, that we here tonight revert to the prior printer's number on House Resolution No. 32 and send a message as one of the central American states that we would like a central American policy that affects us here in central America. But, the fact is, Mr. President, what we are being affected with now is a negative flow of money, money flowing out of Pennsylvania, money flowing if not to the other Central America south of the border and it is flowing south into the Sunbelt states.

To detail several of my colleagues' points and several of my colleagues' issues in saying why we should not do that, why we should not ask for a 50 percent forgiveness, I think it is only appropriate at the same time we have reduced some educational and nutritional programs to children by 21 percent. At the same time we have reduced aid to the elderly in all forms in Pennsylvania at a rate of about \$1 billion over the last four years and at the same time we tell people, "Well, we have to take responsibility for our own actions." We ask as we have taken responsibility for the actions overseas in supporting bankrupt countries, as we have taken responsibility for saying we are a free trade society no matter what country has a subsidized import into this country, that we ask our government to react and our federal officials to react in a positive

manner in a central American policy that will benefit us. At the same time we can be the strongest nation on earth. I think we can also be the most compassionate nation on earth and react to a fact and react to a system that has not only served as a support system for people who have been laid off from factories in this country, but also serve as a support system for business and industry which did not want their workers to migrate over the years or wanted some assurance that individuals would be on hand when business picked up. For this reason, Mr. President, I think, as my colleague has asked, we should stand here and support House Resolution No. 32.

Senator FUMO. Mr. President, I rise first to correct the Majority Leader. The provisions that are expressed in House Resolution No. 32 were not resolved in the recent compromise on the Unemployment Compensation Fund. If the Majority Leader would read the resolution, he would clearly see that in this original resolution we in Pennsylvania are going to the federal government hat in hand begging that they cease the imposition of interest we owe on the federal unemployment trust fund and also that they forgive us 50 percent of what we owe. We did not resolve that.

That is what this resolution says. This was not resolved in the unemployment compensation arrangement we made before. We never received the help from the federal government that we wanted. Our debt was not decreased by 50 percent. The interest was not abated. It continues to rise. That is what we threw away in that committee meeting. What did we replace it with, we in Pennsylvania with 550,000 unemployed people? We replaced that plea to the federal government with words that are absolutely the height of arrogance when we say that if we enacted this, we would allow the President the ability of not rejecting an entire bill because of "wasteful and extravagant spending items." What are we talking about when we say that, Mr. President? Are we talking about aid to education? Are we talking about school lunch programs? Are we talking about aid to the poor? This is the President's wife who loves children at the same time we cut school lunches. Are they the kinds of extravagant spending we want the President to line veto because they may be attached to bills that increase the nuclear arsenal? Sure, that may be what the Republican Party wants, starve children so we can build more nuclear weapons, but that is not what this Senate should want. When we talk about this being for good government, I submit to you that is the height of hypocrisy. If it were not for the present situation in the Constitution of the United States, there would be more people starving in this country.

Mr. President, I ask that we revert to the prior printer's number so the people of this nation do not think the Senate of Pennsylvania is absolutely mad. Quite frankly, if Ronald Reagan needs this type of a resolution to win in Pennsylvania, he is in a lot worse shape than I thought he was.

Let us get some sense about us. Let us get back to trying to put some people back to work. Let us get back to asking the federal government for some forgiveness of the debt we owe them on the Unemployment Compensation Fund instead of

worrying about building more nuclear arms and starving children. This is a disgrace to be doing this tonight or at any time.

Senator PECORA. Mr. President, I keep hearing comments here pertaining to a resolution that are immaterial to that resolution. I would like to bring to the attention of the gentlemen on the other side of the aisle, especially the one who is brainwashed by his own political party, to overlook the status of our country four years ago.

Four years ago we had high inflation, high interest rates, more people out of jobs and plants closing. Pennsylvania was in a near depression. We had hostages in foreign countries. They shut their eyes to what the improvements were in the previous four years. Interest rates are down and working people can buy an automobile today. They could not buy an automobile four years ago. Automobile dealers went out of business; savings and loan firms went bankrupt; the needy were unable to pay their food bills. Were they sleeping somewhere for four years? Do they not recall the reality of four years ago? If they want to talk politics, get out and tell the people of Pennsylvania the truth. Do not say the tax breaks were for the rich. Everyone in Pennsylvania got a tax break. You do not know how to count. Do you not know your mathematics? You cannot even figure out your income tax. You probably have to hire accountants. Your problems are in your own minds and the true facts are that we have a great President who is bringing us out of the depression we had four years ago. We do not have hostages in foreign countries. Our country is not disgraced like it was four years ago. So, look up to the reality and speak the truth in our Sessions.

Senator ZEMPRELLI. Mr. President, I am having some difficulty digesting all that has been said so far, particularly with the last speaker.

I was very much shocked at today's meeting of the Committee on Rules and Executive Nominations at which time House Resolution No. 32 was amended and reported to the Floor. I searched my memory and understanding to try to wonder why we would be dealing with this particular resolution at this time, and why we would be using a vehicle that memorializes Congress to cease the interest rates, and then when I heard the Majority Leader speak about the problem being resolved, I wish to assure you the problem is far from resolution. I would also suggest to you that the remarks made by the gentleman from Philadelphia, Senator Fumo, are right on point with respect to that ongoing difficulty, that agony, that cancer, which has affected the economy of the State of Pennsylvania and will continue to do so. What a relief it would be for both business and the individuals and the economy of this state if we could have gotten the United States government to forgive a major portion of the interest.

Independent of that, Mr. President, the crassness and the disregard for the fact that unemployment continues to be one of the most important problems in this Commonwealth, and I am pleased to hear the gentleman from Allegheny, Senator Pecora, say that in the adjoining district of Penn Hills there is no problem, that there is a great economy; because the people of my Senatorial district have never been so bad off, never.

But to suggest the subject matter of a memorialization of Congress—and I have been here for twenty-one years and I have never seen the Congress impressed with our memorializing them—never once in all the resolutions passed with that request has there been an affirmative action on the part of the federal government and that information is not simply privy to me. The older Members of this Chamber also know that it has never happened. So I have to ask my question, why would this resolution come at this time? Is there a real spirit for the intent of this thing, or perhaps is it public relations in the effort that it will have some significant carryover to the people of Pennsylvania in making them believe that allowing the President of these United States to line item the budget will have some positive effect upon the economy of the State of Pennsylvania? Therefore, I test the recesses of my most recent memory, and think that without an experience factor projected, we would have to look at what has been the record. The first thing President Reagan did was to come through with a program of accelerated depreciation, an absolute abominable failure, the result of which was intended to improve the business community.

POINT OF ORDER

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

The PRESIDENT pro tempore. The gentleman from Blair, Senator Jubelirer, will state it.

Senator JUBELIRER. Mr. President, I suggest the gentleman is out of order on what we are talking about. This is a motion by the gentleman from Fayette, Senator Lincoln, to revert to a prior printer's number on House Resolution No. 32. I do not think President Reagan's proposal for accelerated depreciation has anything to do with it.

The PRESIDENT pro tempore. The Senate will be at ease. (The Senate was at ease.)

The PRESIDENT pro tempore. The Chair is informed by the Parliamentarian—and the Chair is inclined to think he is correct—that the only real matter or subject for debate would be the content of the original printer's number which has to do with unemployment compensation. The Chair has been extremely lenient. All other matters are really extraneous.

Senator ZEMPRELLI. Mr. President, I wish to—

The PRESIDENT pro tempore. I asked earlier if those who were speaking would be given the opportunity to complete their thoughts, and you assured me that would be the case. It seems to the Chair that everybody who speaks on this issue from this point forward ought to attempt to adhere fairly close to that line, and that would be the ruling of the Chair.

Senator ZEMPRELLI. Mr. President, I agree with the Chair 100 percent. I assure you that if I were permitted to make my remarks, they would come right to the heart and core of the resolution of allowing the President to use the line method of veto on appropriations. I just need to develop the theme. I was hoping, Mr. President, that my thesis would be understood by this Chamber and agreed to as I would hope to prevail upon the thinking of this Body as to what has happened and why the line veto method would not be to the

benefit of this state. I need to develop it a little bit. I am not filibustering. I am going to draw a panorama of what I believe to be the history of what has happened to the economy and the impact of the President of the United States upon that history.

The PRESIDENT pro tempore. It would be the ruling, Senator, if you were to continue to develop along the many tributaries that you were following, the gentleman's point of order would be well taken. It would be the suggestion of the Chair that the motion to revert is really akin to a motion to amend, and it would be the amendment which is really germane and that would be the subject matter of the prior printer's number.

Senator ZEMPRELLI. Mr. President, if the Chair would indulge me the opportunity to proceed, I am sure you will be impressed with the germaneness of this discussion.

The PRESIDENT pro tempore. The Chair certainly hopes so, Senator. You may continue.

Senator ZEMPRELLI. Mr. President, the point I was about to make is, with the failure of the accelerated depreciation, this Commonwealth suffered. Then when you went to the elimination of the many programs, when President Reagan said to the people of this Commonwealth and this nation, "We're going to return government to the people," and we all stood and we all clapped, but we were not aware, Mr. President, what the President was saying was that he was not going to give us the money.

The PRESIDENT pro tempore. The Chair has asked you to stay with the subject matter of the amendment of the original printer's number which was unemployment compensation. It seems to me the Chair has been exceedingly lenient. He will not be from this point on.

Senator ZEMPRELLI. Mr. President, I am leading to the very proposition of the debt, the impact and what the President of the United States has done. It would make it dangerous—

The PRESIDENT pro tempore. If the Senator will deal with those matters and not the other extraneous ones, the Chair will refrain from interrupting you.

Senator ZEMPRELLI. Mr. President, I disagree with you. However, I will try to restrict my remarks as carefully as I can.

The PRESIDENT pro tempore. Senator, anytime you wish to, you may appeal the ruling of the Chair.

Senator ZEMPRELLI. Mr. President, when we received this information that the programs were going to be cut off—

The PRESIDENT pro tempore. The Senator is out of order. Senator, you are now out of order. You were not speaking about unemployment compensation.

RULING OF THE CHAIR APPEALED

Senator ZEMPRELLI. Mr. President, I appeal the Chair's ruling.

The PRESIDENT pro tempore. The ruling of the Chair has been appealed. The Chair has ruled that a motion to revert to the prior printer's number limits the debate to the subject matter of the prior printer's number which, in this case, was

unemployment compensation, and has further ruled that departures from that subject matter are out of order. That ruling has been appealed by Senator Zemprelli. On that matter, those voting "aye" would sustain the Chair. Those voting "no" would vote to sustain Senator Zemprelli's position. Senator Zemprelli, do you wish recognition?

Senator ZEMPRELLI. Mr. President, I wish to advise the Chair that the Chair has not allowed me to make the connection as to the precise meaning of this resolution. I feel it is a very sorry day for this Commonwealth when you shut down the debate on items that are directly involved with endeavoring to give the President of the United States a power which I think would be detrimental to the State of Pennsylvania. I have articulated and would continue to articulate all the reasons why I believe this resolution is improper. Mr. President, I have never seen this happen in twenty-one years, and I regret very much that the Chair would not hear me out. I would hope it would never happen to anybody else in this Chamber anytime in the history of this Commonwealth.

The PRESIDENT pro tempore. The Senate will be at ease. (The Senate was at ease.)

The PRESIDENT pro tempore. After discussion with counsel, it appears that the ruling of the Chair, and the Parliamentarian agrees, is too restrictive in the sense that the debate should not be limited only to the prior printer's number but to that which the gentleman wishes to strike out, which would be the content of the current resolution. It would be the ruling of the Chair, however, that the last speaker was nowhere near either issue. If the gentleman would adhere to those two issues, the Chair could allow the debate to continue.

APPEAL WITHDRAWN

Senator ZEMPRELLI. Mr. President, in view of the last statement by the Chair, I am prepared to withdraw my appeal of the Chair's ruling.

The PRESIDENT pro tempore. The Chair thanks the gentleman and the gentleman may proceed.

Senator ZEMPRELLI. Mr. President, perhaps I should state my purpose first in my remarks as to the conclusion. I assign what I have said to being the prime reasons for the unemployment rate in Pennsylvania: Advanced depreciation program, taking away of programs that were financed in part by block grants from the United States government to the state which we have had to pick up or otherwise discontinue which is on an ongoing basis. Most of all, Mr. President, because of this impact of the removal of these funds back, we have had higher unemployment. We have had to confront situations where we have had interest of unmeasured quantities in this particular area. I wonder, Mr. President, given a situation where the President of these United States by his prior actions has demonstrated where he would cut and the kinds of programs that he would do away with, what additional havoc would be played with the budget of Pennsylvania? I think I can state unequivocally that this state, the State of Pennsylvania, has suffered more than any other state in the United States as a result of the attitude of the federal government towards the State of Pennsylvania in the withdrawal of its

support. Why should I now believe that given the line item ability to affect an appropriation that there will not be deeper cuts, more programs removed, less monies that are returned to the State of Pennsylvania from tax revenues that have been garnered from this state from its industries and from its people? Mr. President, the line item veto, as we well know, is a dangerous instrumentality in the hands of any person. We do not always have a benevolent Governor. We do not always have a benevolent President. I believe this resolution is in extremely bad taste and also a very dangerous instrumentality to afford any one person and, certainly, the President of the United States who has demonstrated what his attitude is towards the State of Pennsylvania. For that reason, Mr. President, I ask for an affirmative vote on the reversion to the prior printer's number so that once again we can call attention to, what the rest of the United States is saying they are in a recovery, that as we still squalor in the doldrums of the worst recession we have ever had in the history of this great state. That is what this resolution is all about.

MOTION TO RECOMMIT

Senator REIBMAN. Mr. President, I think we learned from tonight's debate that this is a very serious discussion on the issue of unemployment compensation versus the line item veto. As I read this resolution, I do not think we can equate the governors of forty-seven or fifty states with the powers of a President of the United States. This resolution deserves a great deal of study and a lot more debate than what has been given here tonight. To report this resolution out at almost midnight on the last day of the Session is a very patent, political, non-issue issue. For this reason I move that House Resolution No. 32 be recommitted to the Committee on Rules and Executive Nominations for further study by both sides of the aisle.

The PRESIDENT pro tempore. It has been moved by Senator Reibman that House Resolution No. 32 be recommitted to the Committee on Rules and Executive Nominations.

Is there an objection to a voice vote on this motion?

All in favor say "aye," opposed say "no." The Chair is unclear as to the voice vote and would ask the Clerk to call the roll.

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

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

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

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

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

YEAS—23

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

NAYS—23

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

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 motion to revert to the prior printer's number?

Senator JUBELIRER. Mr. President, may we take House Resolution No. 32 over temporarily?

MOTION TO LIMIT DEBATE

Senator FUMO. Mr. President, I move to limit debate on this motion to twelve hours, which is a preferential motion to the motion to go over.

The PRESIDENT pro tempore. The motion by Senator Fumo is that the debate on this matter be limited to twelve hours.

The PRESIDING OFFICER (John D. Hopper) in the Chair.

On the question,

Will the Senate agree to the motion?

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

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

The PRESIDING OFFICER. The gentleman will be so recorded.

The Chair wishes to change his vote from "aye" to "no."

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

YEAS—20

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

NAYS—26

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

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

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

And the question recurring,

Will the Senate agree to the motion to revert to the prior printer's number?

MOTION TO LAY RESOLUTION ON THE TABLE

Senator JUBELIRER. Mr. President, I move that House Resolution No. 32 be laid on the table.

The motion was agreed to.

The PRESIDENT pro tempore. House Resolution No. 32 will be laid on the table.

CONSIDERATION OF CALENDAR RESUMED

HB 1137 CALLED UP

HB 1137 (Pr. No. 2343) — Without objection, the bill, which previously went over in its order temporarily, was called up, from page 4 of the Third Consideration Calendar, by Senator JUBELIRER.

CONSIDERATION OF HB 1137

HB 1137 (Pr. No. 2343) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, adding an offense and providing a penalty.

Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

MOTION TO ADJOURN

Senator EARLY. Mr. President, I move that the Senate do now adjourn until November 19, 1984, at 2:00 p.m.

The PRESIDENT pro tempore. Senator Early moves that the Senate do now adjourn until Monday, November 19, 1984, at 2:00 p.m., Eastern Standard Time. This motion is not debatable.

On the question,

Will the Senate agree to the motion?

Senator ZEMPRELLI. Mr. President, I request a roll call vote.

The PRESIDENT pro tempore. Will the Senator please approach the desk. Senator Early, it is the request of the Chair that you would withdraw your motion temporarily. The Chair has some constitutional duties which it must perform and should the motion carry, the Chair would be precluded from doing that. With the idea that you will be recognized as soon as I go to clearing the desk, I shall be right back to you.

MOTION WITHDRAWN

Senator EARLY. I withdraw my motion, Mr. President.

BILLS SIGNED

The PRESIDENT pro tempore (Henry G. Hager) in the presence of the Senate signed the following bills:

SB 794, 1085, 1371, 1445, 1487, HB 163, 1236 and 1579.

DISCHARGE RESOLUTION

The PRESIDENT pro tempore laid before the Senate the following communication, which was read by the Clerk as follows:

In the Senate, October 2, 1984.

We, the Senators whose signatures are affixed hereto respectfully request that the Honorable William W. Scranton, III, as presiding officer of the Senate of the Commonwealth of Pennsylvania, place the nomination hereafter set forth before the Senate for a vote pursuant to the provisions of Article IV, Section 8(b) of the Constitution of the Commonwealth of Pennsylvania which provides in part "... The Senate shall act on each executive nomination within 25 legislative days of its submission. If the Senate has not voted upon a nomination within 15 legislative days following such submission, any five members of the Senate may, in writing, request the presiding officer of the Senate to place the nomination before the entire Senate body whereby the nomination must be voted upon prior to the expiration of five legislative days or 25 legislative days following submission by the Governor, whichever occurs first..."

We respectfully set forth the following facts relative to the nomination hereinafter set forth:

- 1. The nomination was presented to the Senate on June 6, 1984; and
2. The nomination has been before the Senate for a period of time in excess of 15 legislative days.

The nominee in the position is as follows:

Mrs. Judith H. Pizzica Member State Board of Accountancy
Edward P. Zemprelli
Eugene F. Scanlon
Robert J. Mellow
Francis J. Lynch
James E. Ross

MOTION TO ADJOURN

Senator EARLY. Mr. President, I move that the Senate do now adjourn until Monday, November 19, 1984 at 2:00 p.m., Eastern Standard Time.

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

Senator JUBELIRER. Mr. President, I request a roll call vote.

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

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

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

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

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

YEAS—19

Andrezeski Holl O'Pake Scanlon
Bell Kusse Pecora Stapleton
Bodack Lincoln Rhoades Wilt
Early Mellow Rocks Zemprelli

Fumo O'Connell Ross
NAYS—28
Brightbill Howard Moore Snyder
Corman Jubelirer Musto Stauffer
Fisher Kelley Reibman Stout
Greenleaf Kratzer Romanelli Street
Hager Lewis Shaffer Tilghman
Hess Lloyd Shumaker Wenger
Hopper Loeper Singel Williams

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

The PRESIDENT pro tempore. The Senate has before it House Bill No. 1137, Printer's No. 2343.

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

MOTION TO ADJOURN

Senator WILLIAMS. Mr. President, due to the lateness of the hour and the weightiness of the issues we have to consider, I would move to adjourn until tomorrow, October 3, 1984, at 11:00 a.m.

The PRESIDENT pro tempore. Senator, if I may amend your motion, it is that you move that we adjourn the Senate until today, October 3, 1984, at 11:00 a.m.

Senator WILLIAMS. Mr. President, do you mean we did two days work in one?

The PRESIDENT pro tempore. As a matter of fact, it will be today on the clock but tomorrow on the calendar if the Senator's motion is to carry.

Senator WILLIAMS. It is so moved, Mr. President. Thank you.

The PRESIDENT pro tempore. The motion is that we adjourn until Wednesday, the 3rd day of October, at 11:00 a.m., Eastern Daylight Saving Time.

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

Senator JUBELIRER. Mr. President, I request a roll call.

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

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

YEAS—13

Andrezeski Lincoln Scanlon Stout
Bodack Rocks Shaffer Williams
Kelley Ross Singel Zemprelli
Lewis

NAYS—34

Bell Holl Moore Shumaker
Brightbill Hopper Musto Snyder
Corman Howard O'Connell Stapleton
Early Jubelirer O'Pake Stauffer
Fisher Kratzer Pecora Street
Fumo Kusse Reibman Tilghman
Greenleaf Lloyd Rhoades Wenger
Hager Loeper Romanelli Wilt
Hess Mellow

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 third consideration?

PERSONAL PRIVILEGE

Senator LINCOLN. Mr. President, I rise to a point of personal privilege.

The PRESIDENT pro tempore. The gentleman from Fayette, Senator Lincoln, will state it.

Senator LINCOLN. Mr. President, there seems to be a considerable amount of confusion which is not particularly unusual I guess in the legislative process, but just so I have some idea of what I personally am going to be dealing with the remainder of this evening, night or morning, or whatever you want to call it, is there a possibility that the Majority Leader could inform me and the other Members of the Senate what we are going to be dealing with the rest of the night and in what order?

The PRESIDENT pro tempore. The Parliamentarian informs me that is not a point of personal privilege, but if the Majority Leader would like to answer you, certainly the Chair would not stop him.

Senator JUBELIRER. Mr. President, we intend to deal with the spousal assault bill. We have a matter to recommit Senate Bill No. 11 to the Committee of Conference and bring it right back out for a vote. We want to deal with the small communities bill, Senate Bill No. 1379, and House Bill No. 133, the amendments to the Liquor Code and the amendments thereto. There may be a couple of others that seem to be of interest to the Members, bills we have gone over, nominations, toll roads, who knows. You know it promises to be an exciting evening—morning, I stand corrected.

Senator LINCOLN. Mr. President, as the Majority Leader was gracious enough to consent to that interrogation, I wonder if that is the order in which we are going to be progressing through this wonderful evening?

Senator JUBELIRER. Roughly, yes, Mr. President.

Senator LINCOLN. Mr. President, I have a feeling it is going to be roughly.

AMENDMENT OFFERED

Senator SHUMAKER. Mr. President, I request unanimous consent to offer the following amendment to House Bill No. 1137.

Senator JUBELIRER. Mr. President, would it be in order to call up Senate Supplemental Calendar No. 2, in order to make a motion to recommit the bill on that Calendar? If Senator Shumaker would withdraw his amendment at this point, so that I might make that, I am trying to save the Members time and that is all.

The PRESIDENT pro tempore. Senator Shumaker, will you withdraw your amendment?

AMENDMENT WITHDRAWN

Senator SHUMAKER. Mr. President, I will withdraw my amendment for that purpose.

The PRESIDENT pro tempore. The Chair reverses its ruling by which it brought up House Bill No. 1137, Printer's No. 2343, for third consideration.

SUPPLEMENTAL CALENDAR NO. 2

REPORT OF COMMITTEE OF CONFERENCE

BILL RECOMMITTED TO COMMITTEE OF CONFERENCE

SB 11 (Pr. No. 2391) — The Senate proceeded to consideration of the bill, entitled:

An Act providing for the retail sale of gasoline; regulating certain relationships between retail gasoline dealers and manufacturers, refiners, suppliers and distributors; and providing for the recovery of damages in certain cases.

MOTION TO RECOMMIT

Senator JUBELIRER. Mr. President, I move that Senate Bill No. 11, Printer's No. 2391, be recommitted to the Committee of Conference.

On the question,

Will the Senate agree to the motion?

POINT OF ORDER

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

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

Senator KELLEY. Mr. President, as I understand the Rules of the Senate as embraced by the complimentary rules of Parliamentary Procedure in Mason's Manual, the Committees of Conference are discharged upon making a report to the respective Bodies. They having done so, it is a nonexistent Committee of Conference at this time on Senate Bill No. 11, therefore, I say the motion is out of order.

The PRESIDENT pro tempore. The Chair would call to the gentleman's attention that it has been ruled both ways in the Senate of Pennsylvania, but the natural implication of that is that the Senate has done it on numerous occasions, so by precedent in the Senate, the action suggested is not out of order, illegal or against the Rules of the Senate.

Senator KELLEY. Mr. President, I respect the candor with which the Chair makes its ruling on my point of order and tacitly I infer from the Chair's ruling that specifically Mason's Manual does support the point of order made by the gentleman from Westmoreland, but I certainly know where the numbers are.

Senator LINCOLN. Mr. President, I rise, first, to request a slow roll call on the recommittal and, second, for an opportunity to debate the recommittal motion prior to that roll call vote.

PARLIAMENTARY INQUIRY

Senator ZEMPRELLI. Mr. President, I rise to a question of parliamentary inquiry.

The PRESIDENT pro tempore. The gentleman from Allegheny, Senator Zemprelli, will state it.

Senator ZEMPRELLI. Mr. President, in raising the question of parliamentary procedure, I want to also call attention to the Chair the lateness of the hour, that somebody's memory may have escaped them. I am not impugning any motivations, but it seems to me there was a motion that had not been disposed of by the Chair prior to moving to recommend.

The PRESIDENT pro tempore. What was the motion, Senator? I need not be reminded of the lateness of the hour but I do not remember the motion.

Senator ZEMPRELLI. Mr. President, if you will recall, an amendment had been withdrawn and the bill was before us on motion.

The PRESIDENT pro tempore. No, the Chair reversed its ruling by which it was being considered for the third time.

Senator ZEMPRELLI. Mr. President, with respect to the recommittal to the Committee of Conference with respect to Senate Bill No. 11, I wish to advise my caucus that the proposed consideration for that committee has now been done in such a fashion that it is not objectionable.

The PRESIDENT pro tempore. The Chair thanks the gentleman. Does Senator Lincoln request a roll call? Those in favor of the recommittal of the bill to the Committee of Conference please say "aye," those opposed, "no." In the opinion of the Chair, the "ayes" have it.

Senate Bill No. 11 is recommitted to the Committee of Conference.

HB 1137 CALLED UP

HB 1137 (Pr. No. 2343) — Without objection, the bill, which previously went over in its order temporarily, was called up, from page 4 of the Third Consideration Calendar, by Senator JUBELIRER.

BILL ON THIRD CONSIDERATION AMENDED

HB 1137 (Pr. No. 2343) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, adding an offense and providing a penalty.

Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

SHUMAKER AMENDMENT

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

Amend Title, page 1, line 3, by removing the period after "penalty" and inserting: ; further providing for defenses relating to spousal relationships; and providing for the offense of spousal sexual assault.

Amend Sec. 1, page 1, lines 6 and 7, by striking out both of said lines and inserting:

Section 1. Sections 3101, 3103, 3121 and 3123 of Title 18 of the Pennsylvania Consolidated Statutes are amended to read: § 3101. Definitions.

Subject to additional definitions contained in subsequent provisions of this chapter which are applicable to specific provisions

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

"Deviate sexual intercourse." Sexual intercourse per os or per anus between human beings [who are not husband and wife], and any form of sexual intercourse with an animal.

"Indecent contact." Any touching of the sexual or other intimate parts of the person for the purpose of arousing or gratifying sexual desire, in either person.

"Sexual intercourse." In addition to its ordinary meaning, includes intercourse per os or per anus, with some penetration however slight; emission is not required.

§ 3103. Spouse relationships.

[Whenever in this chapter the definition of an offense excludes conduct with a spouse, the exclusion shall be deemed to extend to persons living as man and wife, regardless of the legal status of their relationship: Provided, however, That the exclusion shall be inoperative as respects spouses living in separate residences, or in the same residence but under terms of a written separation agreement or an order of a court of record.] Spousal relationships, including persons living as husband and wife, regardless of the legal status of their relationship, shall not bar any prosecution under sections 3123 (relating to involuntary deviate sexual intercourse) and 3128 (relating to spousal sexual assault).

Where the definition of an offense excludes conduct with a spouse, this shall not preclude conviction of a spouse as accomplice in a sexual act which he or she causes another person, not within the exclusion, to perform.

§ 3121. Rape.

A person commits a felony of the first degree when he engages in sexual intercourse with another person not his spouse:

(1) by forcible compulsion;

(2) by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;

(3) who is unconscious; or

(4) who is so mentally deranged or deficient that such person is incapable of consent.

Whenever the term "rape" is used in this title or any other title, it is deemed to include spousal sexual assault as further defined in section 3128 (relating to spousal sexual assault).

§ 3123. Involuntary deviate sexual intercourse.

A person commits a felony of the first degree when he engages in deviate sexual intercourse with another person:

(1) by forcible compulsion;

(2) by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;

(3) who is unconscious;

(4) who is so mentally deranged or deficient that such person is incapable of consent; or

(5) who is less than 16 years of age and not the spouse of the actor.

Section 2. Title 18 is amended by adding sections to read:

§ 3128. Spousal sexual assault.

A person commits a felony of the first degree when he engages in sexual intercourse with his spouse as further defined in section 3103 (relating to spouse relationships):

(1) by forcible compulsion;

(2) by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;

(3) who is unconscious; or

(4) who is so mentally deranged or deficient that such person is incapable of consent.

Amend Sec. 2, page 4, line 14, by striking out "2" and inserting: 3

On the question,

Will the Senate agree to the amendment?

Senator SHUMAKER. Mr. President, after thirteen motions I would like to give the reasons for this amendment. Equal protection under the law, a concept deeply imbedded in American jurisprudence, a concept not always consistently followed however, but one challenged, and when there are inequities we seem to rise to the challenge and change the law. This amendment is directed against an inequity.

Equal protection under the law is now requested to protect women and wives from spousal rape or spousal sexual assault. The common law has long provided an immunity from prosecution for rape by one spouse against the other. As a matter of fact, history will show that many husbands considered wives as chattels and, therefore, thought this immunity would last forever. This has caused women to live in terror, in fear for their lives, often receiving brutal physical abuse, being subjected to cruel and devious sex acts which without the immunity would be a clear violation of the law.

This morning we are here to correct this inequity, to say to all women of this Commonwealth that you as a woman, as a wife, will be entitled to the same protection as any other person against rape or sexual abuse. This amendment is intended to correct this inequity by providing for the crime of spousal sexual assault. The definition is the same as that of rape. By using the same definition, we eliminate the problems of developing a new system of case law interpreting an entirely new crime. The elements of proof are the same as those existing from common law times and currently set forth in our criminal code: Sexual intercourse imposed by force or threat of force involving threats of death or serious bodily harm; penetration against the victim's will, however slight; and lack of consent to sexual contact or intercourse. As with proof of the elements of rape, all three must be proven under this new proposed addition to the Criminal Code. They must be proven beyond a reasonable doubt and, of course, are subject, as all prosecutions are, to the right of cross-examination. The offense is also subject to all the current rules as to pre-trial discovery and to the same rules of evidence as any other criminal matter involving credibility and reliability of a witness, including in particular the victim who most often is the only witness. I might add that the district attorneys of this state in an appearance before a committee on this subject have supported this concept and this wording. It is a tool they feel they need.

I say to the Members and I read from an article which appeared in The Philadelphia Daily News called, "Calling Rape 'A Husband's Right' Is Wrong" by Monsignor S. J. Adamo.

It says, "The time has come for the Keystone State as well as thirty-four other states to enact laws that will liberate women from the cruel bondage that permits husbands to rape them without fear of legal reprisal. True justice demands no less." I would request approval of this amendment.

Senator PECORA. Mr. President, I desire to interrogate the gentleman from Dauphin, Senator Shumaker.

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

Senator SHUMAKER. I will, Mr. President.

Senator PECORA. Mr. President—

The PRESIDENT pro tempore. Will the gentleman yield? Senator Williams, do you seek recognition?

POINT OF ORDER

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

The PRESIDENT pro tempore. The gentleman from Philadelphia, Senator Williams, will state it.

Senator WILLIAMS. Mr. President, I am wondering which is in order. If amendments to this amendment are sought to be offered, would that take place before a discussion or debate on the amendment? I do not want to be out of line is what I am saying.

The PRESIDENT pro tempore. Senator, it would not necessarily be so, but on the other hand it might move things along more expeditiously. Is that what the gentleman wishes to do?

Senator WILLIAMS. Mr. President, I wish to do that, but as long as I am not prejudiced, I will do it any way that is best for the Chair.

The PRESIDENT pro tempore. The best for the Chair is to get this whole thing over as soon as possible, Senator. In the hope that it might be more expeditious this way, the Chair recognizes Senator Williams for purposes of offering an amendment to the amendment.

Senator WILLIAMS. Mr. President, I do have four amendments to this amendment, depending on what passes and what does not pass. I know there are at least one or two other amendments to be offered, and at this time I seek to offer my amendment to the amendment.

WILLIAMS AMENDMENT I TO SHUMAKER AMENDMENT

Senator WILLIAMS, by unanimous consent, offered the following amendment to the amendment:

Amend Amendments, page 1, line 4, by removing the semicolon after "relationships" and inserting a period

Amend Amendments, page 1, lines 4 and 5, by striking out "and providing for the offense of spousal sexual assault."

Amend Amendments, page 1, line 7, by striking out "Sections 3101, 3103, 3121 and 3123" and inserting: Sections 3103 and 3121

Amend Amendments, page 1, lines 9 through 23, by striking out all of said lines

Amend Amendments, page 1, line 34, by inserting after "sections": 3121 (relating to rape) and

Amend Amendments, page 1, line 35, by inserting a period after "intercourse"

Amend Amendments, page 1, lines 35 and 36, by striking out "and 3128 (relating to spousal sexual assault)."

Amend Amendments, page 2, line 2, by inserting brackets before and after "not his spouse"

Amend Amendments, page 2, lines 9 through 33, by striking out all of said lines

Amend Amendments, page 2, line 36, by striking out "4" and inserting: 3

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

POINT OF INFORMATION

Senator PECORA. Mr. President, I rise to a point of information.

The PRESIDENT pro tempore. The gentleman from Allegheny, Senator Pecora, will state it.

Senator PECORA. Mr. President, the point of information is that you are having additional amendments and I have not had my questions on the first amendment, so I want the opportunity to question Senator Williams on his amendment.

The PRESIDENT pro tempore. The question will recur, Senator. You will have the opportunity to question both gentlemen.

Senator WILLIAMS. Mr. President, the gentleman from Allegheny, Senator Pecora, does make a point. This amendment makes rape rape. In other words, the amendment which is being offered by the gentleman from Dauphin, Senator Shumaker, calls it spousal sexual abuse and yet the penalty is precisely the same penalty for rape and prescribes everything else as rape. It seems to me that husbands or wives should not be discriminated against simply because someone wants to hide what it is. If a man goes to jail for twenty years, he is not going to come out and say, "I was in jail for spousal abuse." A woman is not going to say, "My husband spousally abused me." Why not call it rape? If we are going to say in this Commonwealth that husband and wife in coverture can be guilty of the equal crime as a stranger in the alley, then call it rape. Anything less would be dishonest. Why the coverup? This amendment calls it what it is so we can deal with whatever it is. Quite frankly, the folks who offered this radical change in our law, a departure into enlightenment, want to call it that. Some political strategists covered it up and called it spousal abuse because it would be softer. Well, let us face that question here and now. The amendment to the amendment does just that. I would ask your support.

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

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

Senator WILLIAMS. I will, Mr. President.

Senator PECORA. Mr. President, is this the spousal rape bill that is being introduced by either one of my fellow Senators?

Senator WILLIAMS. Mr. President, I am not sure I heard the gentleman.

The PRESIDENT pro tempore. The question was, is this the spousal rape bill which is being introduced by either one of my colleagues?

Senator WILLIAMS. Mr. President, I do not seek to introduce this bill. I seek to improve what I consider a bad piece of legislation by being straight up and honest about the question with this particular amendment. I cannot speak for the other gentleman.

Senator PECORA. Mr. President, does the amendment by the gentleman from Philadelphia, Senator Williams, require any proof of rape by either spouse?

Senator WILLIAMS. Mr. President, my amendment merely adds one thing to the amendment already offered and that is it seeks to call spousal abuse rape, as it ought to be called. It suggests that it not be covered up in some other language since the penalties and the requirements of law are precisely the same as that for rape.

The PRESIDENT pro tempore. Senator Williams, the question, if the Chair may rephrase it, is does your amendment go to the required elements of proof of the abuse?

Senator WILLIAMS. I am sorry, Mr. President. My amendment does not do anything about the elements of proof or anything other than making it rape rather than spousal abuse. It does not touch anything else.

The PRESIDENT pro tempore. It is the understanding of the Chair, Senator, that the amendment merely changes the term "sexual spousal abuse" to "rape."

Senator WILLIAMS. Mr. President, I could add this to another amendment. However, what it seeks to amend on the question of proof makes the question of proof precisely the same as it already is in a question of ordinary rape.

Senator PECORA. Mr. President, then I should be interrogating the gentleman from Dauphin, Senator Shumaker, instead.

Mr. President, I desire to interrogate the gentleman from Dauphin, Senator Shumaker.

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

Senator SHUMAKER. I will, Mr. President.

Senator PECORA. Mr. President, what is the burden of proof, I assume you refer to it as a criminal act, to be presented in court on the charges? Is there any proof or is it one word against the other?

Senator SHUMAKER. Mr. President, if I understand the question, he said, "Mr. President, is this going to require the same proof as rape?" Is that the question as I understand it?

Senator PECORA. Mr. President, I do not know all the legal technology pertaining to rape, but I feel that if someone is raped there has to be some evidence of that act.

The PRESIDENT pro tempore. Is the gentleman's question, is there a need for proof—

Senator PECORA. Mr. President, is there any evidence of the act of spousal rape required before—

The PRESIDENT pro tempore. Senator Pecora, is it your question that there be proof other than the statement of the alleged victim? That is the question, Senator.

Senator SHUMAKER. Yes, Mr. President. Incidentally, to correct the record, the word is "spousal sexual assault," not "abuse," just to correct the gentleman from Philadelphia, Senator Williams, on the use of the term. The same proof is required in a rape case, which is all three elements of rape which I have already mentioned. The same right of cross-examination and all the same rights that apply now would

apply to this because all that has happened is that to Section 3121 of the Criminal Code a new section was added, 3128, which actually repeats exactly what is set forth in 3121 except it is called spousal sexual assault and it is the same as the crime of rape. I think as Bobby Burns said, "Rape is rape for all that and all that" or paraphrasing. It is the same thing, same proof.

Senator PECORA. Mr. President, will the gentleman please explain that proof? I am not familiar with section so and so and so and so. I am not an attorney and I would like more knowledge on it.

Senator SHUMAKER. Mr. President, does he want to know what the sections are?

Senator PECORA. Mr. President, that is correct.

Senator SHUMAKER. All right, Mr. President. Section 3121 of the Criminal Code sets forth the definition of the crime of rape. It says what the four components are and also, of course, that includes the common law definition of proof. Section 3128, which is a brand new section of the Criminal Code, is the offense of spousal sexual assault. It says as it does in the first, they are exactly the same words except it says when he engages in sexual intercourse with his spouse as further defined in Section 3103. In the beginning of Section 3103 it says spousal relationships, spousal relationships including persons living as husband and wife regardless of the legal status of the relationship shall not bar any prosecution under Sections 3123, which is involuntary deviate sexual intercourse and 3128, which is a new section relating to spousal sexual assault.

Senator PECORA. Mr. President, those sections did not answer the first question that I requested. What proof of evidence or what evidence must there be of rape, any physical evidence or what, before any charge can be constituted against one spouse or the other? What he read to me was that he referred to the spouse as "he." I noticed there was a case in Philadelphia where the spouse was a "she," so I want to know what the crime is and what the evidence must be of physical rape?

Senator SHUMAKER. Mr. President, the physical evidence does not always have to be a beaten person because sometimes rape is accomplished through the means of threat by a knife, gun or coercion. It many times depends on the witness, on the testimony of one witness, and that would be the other spouse. However, our rules of evidence are set up to be such that it is very difficult proof at the very least because you must show all the three elements of common law rape. You must fit within the definition of rape or spousal sexual assault as set forth in the Criminal Code. You must be subject to cross-examination. You must establish beyond a reasonable doubt and also that person's history can come into play.

The PRESIDENT pro tempore. If both gentlemen would yield, the Chair is really in error to allow this interrogation on the main amendment at this point and, with apologies to the Body, would ask that the interrogation and the debate be limited solely on the amendment to the amendment which changes the designation of the crime from spousal sexual

assault to rape. I believe then, Senator, we would give you the opportunity to interrogate and speak on the main amendment following the action of the Body on the amendment to the amendment. Is there further interrogation on the amendment to the amendment or is there further debate on the amendment to the amendment? If not, the Clerk will call the roll.

Senator REIBMAN. Mr. President, I might say that in the various states that have such a statute as this, which defines the violent act as we are defining it here in accordance with rape, some states call it rape, some states call it spousal sexual assault and some states call it spousal sexual assault and battery. I do not think it makes that much difference what you call it. The fact is this amendment calls it spousal sexual assault, and I think we ought to leave the title as it is in the Shumaker amendment.

Senator WILLIAMS. Mr. President, the question is not what the lady from Northampton, Senator Reibman, thinks it ought to be called or whether she thinks it does not make a difference. It is a very serious matter on all sides. We have a responsibility to men because it seems as though this statute only applies to bestial men. Be that as it may, what other states do or do not do, however sloppy, I suggest that the Commonwealth of Pennsylvania, whatever we do, and we have that responsibility, that it be clearly thought out, specified and in the open. I am saying if the men of Pennsylvania can be charged with a crime where they get the penalty for rape where the bill itself says spousal abuse, we really mean rape and not abuse. Spousal sexual assault, that is nicer. Why are we going to hide from what is direct and what is straight up? We are entitled to have it called rape if it is rape, so everyone will know we are dealing with rape, if it applies or if it does not apply. I would urge that we be direct and honest about what we are dealing with and it does make a difference. It proves we did give this matter some thought, and that we did not try to cover it up one way or the other in our deliberations on this very serious question.

Senator KELLEY. Mr. President, I have listened to the debate and, like all of my colleagues, I am quite concerned about the primary amendment here. The amendment to the amendment offered by the gentleman from Philadelphia has an awful lot of good common sense to support a vote in the affirmative.

I will tell you my reaction. I would like to share it with you. If you call something rape that has been traditionally and historically identifiable by certain acts and actions and try to say the same act or action is going to be called marital sexual assault between married persons or people living together as husband and wife, assault has a word of art meaning in our jurisprudence that is certainly much less in standard of tests and evidence. We know even today that husbands and wives, spouses, bring assault charges against each other, very readily and easily. It seems to me if we are going to keep the protection and minimize the charges being brought, absolutely we should affirm the amendment to the amendment offered by the gentleman from Philadelphia. Otherwise, we are going to have a tendency because of our historical nature of the word

assault in our law and in our jurisprudence, we will probably have more people bringing it more readily if we use the term spousal sexual assault. Therefore, the term we should use is what it really is, historically and legally. I urge an affirmative vote on the amendment to the amendment offered by the gentleman from Philadelphia.

Senator SHUMAKER. Mr. President, I would like to say one last word. In Section 3121, under the definition of the old definition of rape, a new sentence has been added. It says, "Whenever the term 'rape' is used in this title or any other title, it is deemed to include spousal sexual assault as further defined in Section 3128."

And the question recurring,

Will the Senate agree to the amendment to the amendment?

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

Senator HOPPER. 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 WILLIAMS and were as follows, viz:

YEAS—17

Bodack	Kusse	Musto	Scanlon
Fumo	Lewis	Pecora	Stapleton
Greenleaf	Lincoln	Rocks	Stout
Hager	Mellow	Romanelli	Williams
Kelley			

NAYS—29

Bell	Howard	O'Pake	Snyder
Brightbill	Jubelirer	Reibman	Stauffer
Corman	Kratzer	Rhoades	Street
Early	Lloyd	Ross	Tilghman
Fisher	Loeper	Shaffer	Wenger
Hess	Moore	Shumaker	Wilt
Holl	O'Connell	Singel	Zemprelli
Hopper			

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 amendment offered by Senator Shumaker?

WILLIAMS AMENDMENT II TO SHUMAKER AMENDMENT

Senator WILLIAMS, by unanimous consent, offered the following amendment to the amendment:

Amend Amendments, page 2, line 27, by striking out "first" and inserting: second

On the question,

Will the Senate agree to the amendment to the amendment?

Senator WILLIAMS. Mr. President, I will be very brief so everybody can be clear on what we are voting. The amendment offered by the gentleman from Dauphin, Senator Shumaker, which would add to the code and make a crime of rape for a husband and wife, also provides the same penalty.

That is to say it is an F-1 penalty which means it is up to twenty years. That is to say a rapist in an alley, on a street or wherever a stranger might snatch a lady and do that violent crime gets up to twenty years, but it also means that the husband in this case who may be charged also gets up to twenty years. I offer an amendment which would make the maximum penalty an F-2 which would make it a limit of up to ten years. Why do I do that? Well, I have heard all of the reasons about being raped and so be it. We must recognize that embedded and rooted in our law is a fundamental institution created by God and law called marriage, and that access called marriage creates a very special relationship and opportunity, whoever is right and whoever is wrong and all of that. It is family and we recognize that. I say that relationship and anything that might happen in it, a rape, is quite different than a rape in an alley, and therefore should be recognized in penalty as different. Ten years is no small amount of time. I say to what I anticipate my colleague would be saying—and I have heard a thousand times—that we have ample precedents in the law where we give different degrees for the same result: killings, first degree, second degree, manslaughter, passion and a number of other categories. I do not know any public policy situation that we promote like marriage in which something like a sexual crime would occur. That is not letting anybody off. You are saying those set of circumstances are quite different from the violent crime in an alley, and I suggest strongly that we must recognize in penalty a discrimination from an alley rapist and a misguided husband in a bedroom with a wife. I would urge support for this amendment.

Senator REIBMAN. Mr. President, it seems to me that if this amendment was adopted, we would minimize the seriousness of this crime. What is the definition of this crime? The definition of this crime is a person commits a felony of the first degree when there is engagement in sexual intercourse with the spouse as further defined in Section 3103 relating to spousal relationships.

"(1) by forcible compulsion;

"(2) by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;

"(3) who is unconscious; or

"(4) who is so mentally deranged or deficient that such person is incapable of consent." That is the definition of this crime.

Now, to equate this kind of a crime to make it a second degree felony, what are the classes of second degree felony? Forging checks. Would you equate this kind of a crime with the forging of a check, or for arson? Endangering property, not even life? Aggravated assault? Criminal trespass? Breaking into a building? Would you equate that crime, which is a second degree felony, with the crime of sexual spousal assault as I defined what the crime is? Other class second degree felonies are robbery, inflicting an injury, which could be just a nick on the wrist, or wrecklessly causing catastrophe. How can anyone possibly equate the horrendous crime of rape or sexual spousal assault upon a person who is

so mentally deranged or deficient that such person is incapable of consent or who is unconscious or by forcible compulsion or by threat of forcible compulsion whether it is by gunpoint, at knife point or holding up an infant child and threatening to choke that child unless the wife consents? How can anyone equate this kind of a crime with forging checks?

Now the penalty in a second degree felony is a maximum of ten years. It does not mean they get ten years. In the first degree felony, the maximum is twenty years. It does not mean they get twenty years. In more cases than not, they do not get even half of that sentence. It seems to me we have to send out a signal to those would-be rapists, whoever they are, that raping their wife is a lot more serious than forging a check.

Senator SNYDER. Mr. President, I think there is a great deal of merit in the amendment of the gentleman from Philadelphia, Senator Williams, if only for the reason there is a difference between the girl who is raped by a stranger or the girl who is gang raped and the wife who at least selected her husband and who is sexually assaulted by her husband. I think the distinction exists in some of the other states. That is not guiding us as the gentleman from Philadelphia, Senator Williams, said. Nevertheless, there are gradations in murder cases, there are gradations in felonies, and I think a second degree felony carrying a ten year sentence would be appropriate in this case. The amendment, as drawn by the gentleman from Dauphin, Senator Shumaker, would permit a first degree felony merely for threat of forcible compulsion. It seems to me that that is to be distinguished very much from this. I would urge adoption of the Williams' amendment.

Senator BELL. Mr. President, rape of a stranger, rape of a girlfriend or rape of a wife is wicked.

Senator SHUMAKER. Mr. President, I listened to the comments of my colleague, the gentleman from Philadelphia, Senator Williams, and I would like to point out that a marriage license is not a license to rape. I think it is a violation of the sanctity of a marriage. What you are saying is that you are telling a wife that she has suffered less of a rape than rape by a stranger. In many cases they are more abusive, they are more brutal because the wife is in fear of reporting or knowing she has no remedy under the law. A rape is a rape and should be treated the same whether it is a stranger or a husband.

Senator WILLIAMS. Mr. President, I cannot stand here as a man and hear without response that a stranger rapist is better than a husband rapist. How dare ideas to be that low? For whatever crazy reason the husband may do that, I do not approve of that and, sure, it is wicked if that happens, but, as the gentleman from Lancaster, Senator Snyder, said, she selected that man. A lady on the street does not know that stranger. The invasion of privacy is what I have always heard as the most heinous aspect of the dastardly crime of rape. That is certainly neutralized by the cohabitation by consent, responsibility blessed by God and law of two people, and if that man breeches that, I do not know but I think the possibilities of that lady wife extracting are a lot better than somebody's relative on the street from some pervert. As a man I am insulted to think that a husband rapist is worse than a

street rapist. If we have gone that far, I would suggest we pause and reflect as we pass this political matter. I merely offered a logical, stable, fair, humane and appropriate distinction between those two people which forever will remain. The overpowering rush for a new idea may blind you to the fact that men, husbands too, are human beings in a relationship called marriage. What negative or bad comes out of that, including a rape, ought to be wickedly placed where it belongs. I say an F-1 is for the guy in the alley, an F-2 in this relationship that we have promoted. That may turn out bad, and mind you there are a number that are turning out bad, and it seems to me we are encouraging that. I urge adoption of the amendment because there is already in our law basis for discrimination in punishment. I say there is nothing more appropriate when it comes to punishment than this distinction. That does not gainsay the seriousness of the question of rape. It does not do, as the lady from Northampton, Senator Reibman, says, underplay it. The sponsors of this legislation underplayed it when they refused to call it rape. They say spousal abuse. They already minimized it. They already made it sexy.

I do not think men should be discriminated against simply because women are abused sexually. There should be appropriate action but we should not go overboard. The man in the alley is just different from the man in the house. They both may be bad but the one in the alley, I suggest, we want to deter that a lot stronger. That is the basis of my amendment which I hope would be adopted.

Senator STREET. Mr. President, I am listening very closely to what the gentleman from Philadelphia, Senator Williams, is saying. The information I have been able to get on this subject dictates to me that when the abuse comes in the mind of the spouse, the husband is in her mind no different than the man in the alley because most of the time she wanted to get rid of him anyhow but he will not leave. It is a fact that everybody that goes to the altar and everything is lovey-dovey does not always stay that way. Things change and many times they change in very nasty, hateful attitudes and love turns to hate and that hate manifests itself a lot of times through spousal abuse or rape. I submit that when the spousal rape and the abuse takes place, the marriage has deteriorated to the point where if the woman was physically as strong as the man, maybe he would be the one getting abused and raped, because there is not much left normally between the two at the time that I believe we are talking about here takes place.

I do not believe that men just come into the house and rape their wives because they are in the mood for some goodies. I do not believe that. I believe there is a lot of hate involved. I believe that when it gets to the point, based on the information that I have been able to believe, where they have to go to the courts and there have to be charges brought, there is not much left between those two people, very little left, if anything. Therefore, I believe that woman suffers the same pain, the same humiliation, she feels the same violation of her body that she would feel if the dude came in from the alley, I believe the terminology was. I do not believe that she feels less

violated because she went to the altar with some person she at one point loved.

Just two or three weeks ago in the City of Philadelphia, a young lady was killed jumping out of the back of a wagon when she tried to get rid of the dude who was at one point her husband. Whether it was marriage or a common law marriage, I am not sure. She tried to get rid of him. He used to come to the house and would not leave. He dragged her out of the house at 2:00 o'clock in the morning, stuck her in the back of the wagon and the neighbors called the cops and they were off chasing the husband you might say. She tried to escape and a police car hit her and killed her. There was not anything left between those two. She was trying to get rid of the dude. I think we can go on and on. I think what we are talking about in this piece of legislation is those situations where two people got married, the marriage deteriorated beyond control or beyond repair, and the abuse takes place and it boils into a sexual thing. For that reason I have to oppose the amendment. I believe that if the judge would give him twenty years, the crime would probably be worthy of twenty years. But in many cases you are going to find the judge will give him five to ten years or three to eight years. I believe, if I understood the definition right, a felony of the first class means up to twenty years. Is that correct? So the discretion is up to the judge. If I am correct, what we would be doing by the amendment is just lessening the discretion of the judge who would sit. I urge a "no" vote on the amendment.

The PRESIDING OFFICER (Tim Shaffer) in the Chair.

Senator SINGEL. Mr. President, I, too, rise to oppose the amendment. I find myself agreeing with everything the previous speaker has just said. A man does not rape for sex any more than an alcoholic drinks because he is thirsty. Rape is not an aggressive expression of sexuality. It is a sexual expression of aggression. I wish I could take credit for that bit of wisdom but in actuality it comes from Dr. Nicholas Groth who is the Director of the Sex Offender Program in Connecticut's Department of Corrections. He wrote a book called, "Men Who Rape," that is considered one of the foremost works on the subject and he came to this conclusion:

The fact of the matter is that we are talking about motivation. Rape among husbands and wives is just like rape among strangers in terms of motivations. The same psychology motivates a rapist whether he happens to be a husband or not. For that reason, I have to agree with the previous speakers and tell you that rape is rape. It is a serious crime and it deserves Felony 1.

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

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

Senator WILLIAMS. I will, Mr. President.

Senator PECORA. Mr. President, first, I have some knowledge of a common law marriage. I always assumed as I was growing up that there was no such thing as a common law marriage. It is just two people living together. Am I correct, Senator Williams?

Senator WILLIAMS. Mr. President, there always has been such a thing as a common law marriage in Pennsylvania.

Senator PECORA. Are they married by a magistrate, a priest or a reverend?

Senator WILLIAMS. No, Mr. President, it just requires living together and holding yourselves—

The PRESIDING OFFICER. Senator, excuse me. Would you please direct all questions through the Chair.

Senator PECORA. Yes, Mr. President. I would like an explanation of a common law marriage. It was stated by the previous speaker, the gentleman from Philadelphia, Senator Street. Is that a marriage by a magistrate, a reverend or a priest?

Senator WILLIAMS. Mr. President, a common law marriage simply means that a male and a female who live together and hold themselves out as husband and wife over a period of time can be considered married by common law and you do not have to go to a magistrate or anyone else. The other way to get married, of course, is to do it by a priest, a magistrate or a judge. You can get married by living together and holding yourself out as husband and wife.

Senator PECORA. Mr. President, then those persons can change wives and husbands every week, am I correct?

Senator WILLIAMS. Mr. President, it happens quite often. It does happen and it causes a very sticky problem later on in life as to who did have a recognizable legal marriage by common law. It does cause a rather difficult problem and, as the gentleman says, there is a turnover. Yes, it is true.

Senator PECORA. Mr. President, then, as the gentleman from Philadelphia, Senator Street, expounded upon, it was a person who was living with someone else who was trying to leave that person. That gives me the impression that neither of them were too intelligent to begin with, and we are starting to introduce legislation to represent and protect the mentally ill and we do have legislation for that.

Secondly, Mr. President, I hear of violent acts and I hear what the gentleman's amendment is, acts of forgery and so forth. It confused me. I thought there were certain forgeries that did not require a maximum of five years in jail, if you forged someone's name on, say, a note or something. I am also confused with that. Does the gentleman mean if I write a note to someone and sign Senator Loeper's name that I can go to jail for four years, or is it the content or a certain forgery that requires a five year jail sentence?

Senator WILLIAMS. Mr. President, I am a bit confused about whether the gentleman is asking me a question. If he is, I did not understand it, and I cannot answer it.

Senator PECORA. Mr. President, the statement of one of our fellow Senators stated that the crime being committed is compared to a forgery of such a minor offense. If the forgery is five to ten years, is it a specific forgery or what?

Senator WILLIAMS. Mr. President, I think the speaker who spoke in those comparable terms is precisely wrong in her conclusions. I just think she is wrong in her conclusions. I am not arguing with what you say are her examples.

The PRESIDING OFFICER. The Chair admonishes both gentlemen to please keep your questions and answers germane on the amendment to the amendment which is whether or not the crime contemplated here should be a Felony 1 or a Felony 2.

Senator PECORA. Mr. President, being a farm boy not living in the big city, I am not too intelligent pertaining to law statements of felonies of the first or second degree and I am trying to prepare myself to vote upon this.

Senator WILLIAMS. Coming from the city, I am just trying to help answer the country boy's questions.

Senator PECORA. I appreciate that, Mr. President.

The PRESIDING OFFICER. Gentlemen, please direct your remarks to the Chair and please wait until recognized before speaking.

Senator PECORA. Mr. President, I have another something that is pertinent to me. We are making offenses here and setting the degrees of sentencing on such a simple procedure. If love has turned to hate, do they not have the right of moving out and not living with the other spouse?

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

Senator WILLIAMS. Mr. President, I did hear a response indicating they had nowhere to go. I think the comment is very intelligent because I do think there is a real difference in the ability of one to get up and leave as compared to a stranger in the alley subjected to a knife or a gun or some other kind of threat. I do think the victims in the spousal cases have a good deal of ability to leave or report or what have you and, therefore, it is just different in terms of, I think, mutual responsibilities both to avoid a crime such as this. Sometimes it is impossible, but, indeed, I do think there is a difference in terms of the ability to extract oneself from the situation.

Senator PECORA. Mr. President, what we are doing, if I am correct about his amendment, is having a second degree felony where it could be stated by one spouse or the other that the other spouse committed the crime of sexual rape and I heard with violent acts such as knives threatening and so forth. Are there not laws already in effect to protect the persons whose lives are threatened that we are introducing additional laws and amendments?

Senator WILLIAMS. Mr. President, there are laws which would protect one or at least have one charged for knives, weapons and those sorts of things. It is properly pointed out there cannot be a crime that applies to sexual entry, called rape, when it is a husband. Under present law that does not exist. Any other physical attack or threats or weapons are chargeable by other crimes in the Crimes Code, but the sexual entry or penetration part as far as rape is concerned is not covered. I would suppose the present law would cover assault and battery even with a sexual entry by a husband but you would call it something else. You would not call it rape nor would you call it spousal sexual assault nor would it be covered by twenty years of Felony 1 for rape.

Senator PECORA. Mr. President, I want to thank the gentleman from Philadelphia, Senator Williams, for his explana-

tion but I still cannot evaluate why we want to create a criminal charge for something that is already covered by previous laws or we are going into the fantasization of the acts of one person or of mentally disturbed people. It is confusing to me. I feel I cannot support any amendment that comes out with new, fictitious stories and creates laws that are, I feel, an invasion of the privacy of a marriage. Also, each spouse has the opportunity to leave. There is no law that mandates people to stay married. I think we are playing silly games with words here this evening. The amendment is weaker than what the previous bill is, but I still think that everybody here is playing silly games with the law in trying to impress people with their concern of something that is immaterial and will only create court cases. I can see lawyers supporting these types of laws because they will be making financial benefits. I cannot understand educated people with some intelligence even discussing this stupidity, and I want to thank the gentleman from Philadelphia, Senator Williams, for explaining it to me.

And the question recurring,

Will the Senate agree to the amendment to the amendment?

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

YEAS—7

Fumo	Kusse	Scanlon	Williams
Jubelirer	Pecora	Snyder	

NAYS—39

Andrezeski	Hopper	Musto	Singel
Bell	Howard	O'Connell	Stapleton
Bodack	Kelley	O'Pake	Stauffer
Brightbill	Kratzer	Reibman	Stout
Early	Lewis	Rhoades	Street
Fisher	Lincoln	Rocks	Tilghman
Greenleaf	Lloyd	Romanelli	Wenger
Hager	Loeper	Ross	Wilt
Hess	Mellow	Shaffer	Zemprelli
Holl	Moore	Shumaker	

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 amendment offered by Senator Shumaker?

LEGISLATIVE LEAVES

Senator ZEMPRELLI. Mr. President, I request Capitol leaves for Senator Mellow and Senator Lincoln.

The PRESIDENT pro tempore. Is there objection to Capitol leaves for Senator Mellow and Senator Lincoln? The Chair hears none. Those leaves will be granted.

And the question recurring,

Will the Senate agree to the amendment offered by Senator Shumaker?

SNYDER AMENDMENT I
TO SHUMAKER AMENDMENT

Senator SNYDER, by unanimous consent, offered the following amendment to the amendment:

Amend Amendments, page 2, line 27, by inserting before "A":

(a) General rule.—

Amend Amendments, page 2, by inserting between lines 35 and 36:

(b) Crime to be reported.—The crime of spousal sexual assault shall be personally reported by the victim or her agent to a law enforcement agency having the requisite jurisdiction within 90 days of the commission of the offense.

On the question,

Will the Senate agree to the amendment to the amendment?

Senator SNYDER. Mr. President, this amendment would add at the end of the Shumaker amendment and would provide that such "...spousal sexual assault shall be personally reported by the victim or her agent to a law enforcement agency having the requisite jurisdiction within 90 days of the commission of the offense." I feel this is designed to ensure the sincerity of the reputed victim. A prompt reporting will go far to establish that the crime occurred and ninety days is adequate time for the victim to effect this. I am sure the sponsors of this do not want to inspire claims which can be used to force property settlements or custody arrangements. I think this would help to prevent such misuse of the statute, and I ask for adoption of the amendment.

Senator SHUMAKER. Mr. President, first, this really acts as a statute of limitations. Even though it is a reporting period, I think it would preclude later institution of an action. That is not clear. However, this also creates a different standard of treatment for rape of a spouse than any other type of rape and, as far as that goes, any other felony. No felony has such a requirement for prosecution.

I think this would disallow much of the discretion of a district attorney when he chooses to determine whether or not to prosecute a case. Prosecutors do not always decide on the spot whether the evidence exists and whether the crime is provable. It takes time. The statute of limitations, as I understand it, for a first degree felony is five years. I think in a practical sense we should not distinguish here and reduce that period of time. Also, it gives a victim very little time to decide whether to press or report charges or first to escape with her children from a brutally retaliatory spouse. The victim of any serious felony must be given more than sufficient time to decide to proceed. I also think this is an insensitive and unworkable reporting requirement for spousal victims but no one else. No inference could be drawn if the victim does not go to the police station right away this is argued. It certainly can. In Pennsylvania it would also be a serious regression step. The state dropped its reporting requirements for rape in 1977 and this amendment would re-institute it. I do not consider this equal protection under the law. There must be a reasonable time and I think the reasonable time has already been established for felonies of the first degree and there is no need to change what the law has already established when we say rape is rape under any circumstances.

Senator BELL. Mr. President, we have been on this subject for an hour and forty minutes. We have not gone anywhere, but what strikes me is that it is time some of us in this Chamber realize the old law that a wife is a husband's chattel went out the window when the women got the right to vote. I think it is time people should regard women as humans the same as men.

The PRESIDENT pro tempore. That might be generically relevant to the issue.

Senator KELLEY. Mr. President, I do not believe anyone in this Body would suggest that the female gender is chattel at all today. I think everyone in this Body would assert equality with all the genders, especially in all human beings, but I think we are losing a little bit of common sense, a little horse sense. If we do not embrace this amendment, if we adopt what has been suggested by the gentleman from Dauphin, we are really saying there is no difference at all between a rape occurring between husband and wife and anyone else. I believe common sense would dictate, if all the background as was pointed out by the gentleman from Philadelphia in one of his prior amendments to the amendment, there is something sacred about it. People go to the altar. It is part of our jurisprudence and our law that two people are one in law. If we are going to try to say that this relationship has the same vulnerability as strangers, then we have lost our common sense.

I believe the amendment offered by the gentleman from Lancaster is very wise. It does not say the prosecution must be commenced in ninety days, it says only that the reporting must take place within ninety days. That is a protection against the unreasonable charge being brought or the unsubstantiated charge, the one that is brought about because of the hatred that was suggested by the gentleman from Philadelphia, Senator Street, in earlier remarks. You see, it is true it does reduce itself to hatred at times in a relationship, but the important thing is that we still maintain a recognition of the relationship between man and woman as husband and wife as different than strangers. I suggest an affirmative vote for the gentleman's amendment.

Senator REIBMAN. Mr. President, I think the gentleman from Lancaster, Senator Snyder, expressed a concern that there might be frivolous cases and this might be used, perhaps if I could use the word, to blackmail in divorce cases or custody cases.

I took the liberty, after the Committee on Judiciary had a public hearing on the subject and we heard the testimony, and I wrote to the Attorneys General of nineteen states which have this kind of a statute and asked them the question, "Has there been a substantial number of frivolous spousal rape charges in your state? Have you experienced the use of the spousal rape law as a means of coercion by which a favorable divorce settlement can be claimed? Are there any claims of documented cases of the spousal rape law being used for other forms of blackmail?" All of those who responded by letter, and one was by telephone, indicated these fears are not founded and the statute in their states, similar to what we are trying to enact here, has not resulted in any of this. As a matter of fact,

in New Jersey after a study was made, Professor Nemeth concluded that, "instead of creating legal turbulence, it appears the statute is being accepted and tested without significant controversy." The only way we can find out for sure is by experience and I have taken the experience of those states which have enacted this kind of a law since 1974 and 1979. If there are people in our Chamber who feel this will result in legal turbulence, then there is no basis in fact for them to say that because there is no evidence to support or to substantiate their feeling on this matter. That is why I wrote to the other states to find out what their experience is, and I believe our experience will not be any different from those in states like Iowa, Kansas, New Jersey, Delaware, California, Georgia, Virginia and some of the other states which have adopted such statutes.

Senator MELLOW. Mr. President, I desire to interrogate the gentleman from Lancaster, Senator Snyder.

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

Senator SNYDER. I will, Mr. President.

Senator MELLOW. Mr. President, I just heard in the discussion offered by the lady from Northampton, Senator Reibman, she mentioned the State of California. Can the gentleman indicate to us if there are any states to his knowledge that have a limitation as to a reporting period of time and, if so, does he know what the state may be?

Senator SNYDER. Mr. President, I am told that the period in California, I believe, is one year. I think it was increased from three months. This is hearsay, but I think it arises from the correspondence that came to my office. That is the best I can tell you offhand.

Senator MELLOW. Mr. President, I desire to interrogate the lady from Northampton, Senator Reibman.

The PRESIDENT pro tempore. Will the lady from Northampton, Senator Reibman, permit herself to be interrogated?

Senator REIBMAN. I will, Mr. President.

Senator MELLOW. Mr. President, can the lady indicate to us if any other state does have a time limit as to the reporting?

Senator REIBMAN. Mr. President, California has had a time limit and they still have a time limit. They have increased the time limit during the period that the law has been enacted. They are dissatisfied with the number of months in which this reporting must take place and they are now trying to enact it to remove the time limit.

Senator MELLOW. Mr. President, can the lady tell us if she has factual information that they are trying to increase the time limit and if in fact she does have that information, what length of the time will it be increased to, what is it currently and what it is anticipated the length will be increased to?

Senator REIBMAN. Mr. President, I have the letter from the Attorney General from California. I do not think I have a copy of the statute with me. It is up in my office, but I recall going through it and I think it was 120 days.

Senator MELLOW. Mr. President, is that the answer?

Senator REIBMAN. Mr. President, the letter does not indicate that, but I think the copy of the statute indicates it.

Senator MELLOW. Mr. President, could the lady tell us, did you not indicate to us today that it, in fact, was ninety days, the same thing as the amendment that is being offered today?

Senator REIBMAN. Mr. President, I think it was ninety days and they are increasing it to 120 and are not satisfied with that.

Senator MELLOW. What is it currently as we stand here at 1:45 a.m. on October 3, 1984?

Senator REIBMAN. My colleague tells me it is 120 days.

Senator MELLOW. That is contrary then to what you told us today, that it was ninety days. Is that correct?

The PRESIDENT pro tempore. Would the Members of the Senate please address their questions and responses to the Chair.

Senator MELLOW. Mr. President, it is very hard to when the gentleman from Dauphin, Senator Shumaker, is advising the lady from Northampton, Senator Reibman, who I am trying to interrogate.

The PRESIDENT pro tempore. Senator Reibman is entitled to counsel and if she comes to the Republican side of the aisle, that is understandable, Senator.

Senator MELLOW. Mr. President, sometimes we do things that are very foolish in the wee hours of the morning.

Mr. President, I have just one final thing. Could the lady indicate to us what her source of information is as to the increase, other than the gentleman from Dauphin, Senator Shumaker.

Senator REIBMAN. Mr. President, I shared the information I had with the gentleman from Dauphin, Senator Shumaker. He may recall reading the statute. I do not have the statute before me, only the letter.

The PRESIDENT pro tempore. Senator Snyder indicates he has the information, Senator, if you would like to direct the question to him.

Senator MELLOW. Mr. President, I would like to direct the question to the gentleman from Lancaster, Senator Snyder, and ask if he could answer it.

Senator SNYDER. Mr. President, I would like to correct what I previously said. I have before me a xerox of the Penal Code of California in which the period inquired about is ninety days. I understand that was increased from thirty days sometime in the past.

Senator MELLOW. Mr. President, that is also my understanding, it was thirty days. It was increased to ninety days and there may be another anticipated increase but currently it is ninety days.

Senator REIBMAN. Mr. President, I have just been handed some information from my colleague, the gentleman from Dauphin, Senator Shumaker, which says that California, the only state of twenty to draw up spousal immunity with the specific reporting period, found that thirty days are unworkable. They extended the period to 120 days and are planning to extend it once again. No other state has the requirement.

Senator LLOYD. Mr. President, I rise to oppose the amendment which the gentleman from Lancaster, Senator Snyder, is offering at this time. We do not limit at arbitrarily brief periods of time the reporting periods for other crime victims. I think this is especially important in crimes where we recognize there is a significant amount of mental coercion involved. For example, we do not limit the victims of blackmail to a ninety-day period because it takes a certain amount of time for people, in many instances, who have been mentally coerced, for them to become so distressed by the situation that they feel they must break out of that situation in some way. I think that applies to the type of crime we are talking about here in spousal sexual assault. The victim may simply decide at some point that they simply cannot take what has been transpiring any longer. A victim may, for example, have left the house where they were victimized repeatedly in instances of sexual spousal assault, and it may take a few months to get over the initial trauma of that transition. For these reasons, I urge a "no" vote on the amendment before us because I feel that people who have been victimized by this type of crime need as much latitude as possible to be able to present their case.

Senator LEWIS. Mr. President, when I first heard of the amendment that is now before us, my reaction was that it possibly had merit. As I have thought about it, however, I have abandoned that initial reaction and, in fact, rise to request a negative vote on the amendment.

It seems to me the issue of the time between the event and when it is reported goes to the credibility of a witness. It is one which can be handled adequately in our advocacy and trial events together with all of the other circumstances that comprise the elements that need to be proved in order for the crime to be established. It seems to me if we listened carefully to what the gentleman from Cambria, Senator Singel, had to say before when he quoted from one who had written the book, it was established that the crime of rape is motivated by the same sets of circumstances whether the perpetrator is a spouse or a non-spouse. I think we gain interesting insight into this situation. If that is accurate—and I believe it to be the case—then it seems to me the issue of whether the reporting individual is married or unmarried has nothing to do with the question of the amount of time that ought to be allowed for that to occur. If we are saying an unmarried person is not to be bound by a time limitation—and we know there is not such a limitation—if we believe the mental state and the cause for the act in the perpetrator is no different in a married or unmarried situation, then why would we possibly consider imposing an artificial limitation upon one woman which we would not consider to be appropriate for another?

As a final observation, as I tried to sit through this and in listening to the arguments that have been made by some that have been intended, I believe, to convince us that somehow there is a difference between a marital situation and another—a difference which I, by the way, categorically reject because I do not believe it to be accurate or appropriate—but if it is something that some choose to accept as a reality, then it

seems to me if there is ever an opportunity for mental coercion, for fear, for threats, for intimidation to be in place such that a woman would hesitate in reporting a rape, it would certainly arise in a marital situation rather than in an event that occurred in an alley between strangers. If anything, under that circumstance if you were then to accept the theory of a differentiation between an alley rape between strangers and a spousal rape, I would think you would want to extend a longer period of time for reporting in the spousal situation than in the other. But notwithstanding all of these potentials or attempts at differentiations, Mr. President, the fundamental fact remains that the question of the amount of time between the event and the report becomes one of the issues of credibility and proof in a trial, and we should not be attempting to determine here statutorily what credence should be given to that evidence as it may be presented. The courts, the jurors, the advocates, the defendants themselves, the people who were involved in this proceeding, can make those determinations and have done so adequately throughout the history of our court system. I do not think we need now to tell them there ought to be a change in some selected situation. I would request a "no" vote on this proposed amendment.

Senator SCANLON. Mr. President, I really think it is extremely unfortunate that we are debating an issue of this magnitude at 2:00 o'clock in the morning when I sense the feeling of this Senate is, "Let's vote and get out of here and let's not think about the centuries of common law that we are about to abrogate." It is unfortunate, but those are the facts and it is here.

I cannot understand, after having been married for thirty-seven years, that people do not think a man and a woman who are married are in a different status than a man and a woman who are not. I cannot believe that anybody, an experienced adult, would say there is no difference between a rape committed in an alley by a deranged stranger and a rape committed in the confines of a home that two people have shared for however many years, changed clothes in front of one another, had many intimate discussions and other things that go with marriage. I just cannot believe that people honestly think there is no difference between those two situations.

The purpose of the Snyder amendment is to not ameliorate a rape. It seems to me if a woman has been raped violently by her husband, under any circumstance, she would be at the magistrate's office the next day or at least within the next week if she were truly outraged and truly raped. And I think she should be. On the other hand, the purpose of any law is to be equitable and there is another interest to be balanced here.

In my thirty years in the practice of law, I have seen many men and many women, as the gentleman from Philadelphia, Senator Street, has so aptly pointed out, that left the altar behind them and truly, sincerely, hated one another. I have seen women, in my experience practicing law, level charges against men which are almost as outrageous as rape. Let us face it, there are women out there predisposed to do this in an effort to obtain a favorable property settlement: the house, the car, the country club membership, the kids. They have the

temperament to do anything to get what they want. I think it is a real danger, after people having lived together for years in an intimate relationship, not to put a cap on the time in which an innocent, outraged spouse should register a complaint. I think you are opening the door to all kinds of marital fraud.

In consideration of my premise that every bit of legislation should be fair and equitable, I think that ninety-day cap is reasonable.

Senator WILLIAMS. Mr. President, I could not agree with the Senator more, nor do I think I could add anything to the weight and depth of his remarks. I am not going to be tempted to go more than a couple of seconds in doing so.

I think the amendment, coupled with the arguments of the gentleman from Allegheny, Senator Scanlon, brings us back to some reality where Pennsylvania is going to do something in this matter, it can do something responsible. All the talk seems to be in a vacuum of why discriminate this and that. I would like to suggest there is something called a marriage that has a place to be promoted and protected in this matter and something called a family that is the most essential unit of public policy in our nation. That is the reason the Senator's reporting thing says, "Well, let's get this matter out of the way and not let it last for five years as a weight over a family unit, a marital relationship which our public policy wants to make healthy." It is not a matter of credibility, I might say to the gentleman from Bucks, Senator Lewis, it is a question of what is the predominating factor. I would say the marriage institution, the family, is of high weight, and the amendment of the gentleman from Lancaster, Senator Snyder, merely says, okay, if these matters are occurring, let us have prompt reporting. There is no reason why it should not be and get it over with.

Finally, there is the suggestion that one should hold back even longer than that of a stranger because of some reasons. I cannot quite fathom that. The reason some rapes outside of the home are reported late are multitude, but one of the things is the embarrassment of someone who might want to get married later on, or going through the courts and all of that thing. It seems to me that in a house kind of situation, if indeed those things keep someone from reporting, then I do not know how later on it arises all of a sudden. It seems to me to promote the family unit, the marriage concept, that we would want to make sure we dispose of these matters as early as possible and not have them hang over the lives of men, women and children in a family.

Senator STREET. Mr. President, I do not want to prolong this argument. It is two minutes after 2:00 o'clock in the morning, but I cannot understand how men who are mostly involved in this argument cannot come out of themselves for a minute and try to look at this situation objectively. You have a situation here where you are saying to a woman who has gotten emotionally involved with a man, this marriage is beginning to deteriorate, make a decision about where the marriage is going and where it is going to go in ninety days. Make the decision in ninety days when in the face of one of these acts there may be a whole lot of apologies because there

is a law, a whole lot of reconciliations. She is going to need more than ninety days to find out if the dude is serious. It does not mean she was not violated. It does not mean the crime never took place. It means there is an emotional trauma that is taking place within the abused that it may take a little more than ninety days for her to work through. You know, when you go to the altar and you marry somebody, there are emotions involved in that. Things are going well and all of a sudden the dude snaps out. The lunatic who rapes her in the alley or the husband who turned lunatic and rapes her in the house, it is a rape. What happens is the abused—and I cannot overemphasize it—is going through an emotional trauma and you are going to say, well in ninety days, what you do is you go through it all, work it all out well inside of yourself, work out the hurt and the disappointment that your husband has raped you, work it out that he could do that abuse. She may be so surprised at what is happening, she thinks to herself, "Is this the man I married? What is happening to him? I have to try to help him. I have to try to work through all of this. I wonder what is on his mind. Is it the pressure of the children and all of these other things?" And you are saying in the face of working out all of that in ninety days, you make a decision to take him to court and just say the marriage is over.

If you studied some of the information in the cases, you would find out that most of these cases are brought in after repeated abuse. During that repeat, there are efforts of reconciliation. Many times they get psychiatric help. They have gone to marriage counselors. There has been an effort to try to save the marriage, but I do not believe that ninety days is long enough. I do not believe that we are going to protect ourselves if those of us here have something to fear. It is not long enough. You know there are cases where there has been extreme abuse and it has been worked out and people live happy together after they have gone through their problems.

I would suggest that you do not help this legislation, you do not protect anybody by putting a cap of ninety days on the time a woman has to report abuse. I think you perpetuate the problem and you make a bad problem worse by passing a law saying to all the abused women out there, "If your husband ever abuses you again, you have ninety days to report it, and if you do not do it in ninety days, then you forget about that one and the next time he does it you have another ninety days." I urge a "no" vote on the amendment.

Senator O'PAKE. Mr. President, this is a very difficult amendment and it is a very close question in my judgment. I am going to vote against the amendment. I was very impressed by the emotional plea of the gentleman from Allegheny, Senator Scanlon, but I suggest to all my colleagues that is the kind of a plea that should be made to a jury. I think that the credibility of the witness is a certain legitimate argument to the jury. I think we must deal in practicalities. This is a very, very difficult experience for a woman to talk about. If we are going to say that automatically after ninety days she is barred, even though she may not know about that ninety-day limit, that is the wrong policy to set as a matter of law. I think this is an argument which is to be made to the jury that does

affect the credibility and will probably make the prosecution of that kind of case even more difficult than it is going to be within the ninety-day rule. I would urge a "no" vote on this amendment.

And the question recurring,

Will the Senate agree to the amendment to the amendment?

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

YEAS—16

Corman	Kelley	Pecora	Stout
Fisher	Kusse	Rhoades	Wenger
Hess	Lincoln	Scanlon	Williams
Hopper	Mellow	Snyder	Zemprelli

NAYS—31

Andrezeski	Holl	Musto	Shumaker
Bell	Howard	O'Connell	Singel
Bodack	Jubelirer	O'Pake	Stapleton
Brightbill	Kratzer	Reibman	Stauffer
Early	Lewis	Rocks	Street
Fumo	Lloyd	Romanelli	Tilghman
Greenleaf	Loeper	Ross	Wilt
Hager	Moore	Shaffer	

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 amendment offered by Senator Shumaker?

SNYDER AMENDMENT II
TO SHUMAKER AMENDMENT

Senator SNYDER, by unanimous consent, offered the following amendment to the amendment:

Amend Amendments, page 2, line 27, by inserting before "A":

(a) General rule.—

Amend Amendments, page 2, by inserting between lines 35 and 36:

(b) Evidence required.—The crime of spousal sexual assault shall be accompanied by evidence of the perpetrator's attempt to cause or the intentional, knowing or reckless causing of bodily injury or serious bodily injury to such person's spouse with or without a deadly weapon, in order to be actionable.

On the question,

Will the Senate agree to the amendment to the amendment?

Senator SNYDER. Mr. President, this relates to the evidence required. "The crime of spousal sexual assault shall be accompanied by evidence of the perpetrator's attempt to cause or the intentional, knowing or reckless causing of bodily injury or serious bodily injury to such person's spouse with or without a deadly weapon, in order to be actionable."

I should say that this is an effort to establish the genuineness of the charge and where we are moving from a situation in which we not have had this crime at all in the history of the Commonwealth to the situation where we can sentence a person to twenty years for committing it. I think safeguards are most desirable and I think this would serve that purpose. I ask for an affirmative vote, Mr. President.

Senator BRIGHTBILL. Mr. President, in considering whether or not we should vote for the legal theory of corroboration, I have done a lot of thinking and, as someone who has actually served as a district attorney who has actually prosecuted these kinds of cases, I am aware of the kinds of corroboration that is available. The problem I see with corroboration, though, is the problem that many of the things that are used to corroborate a traditional rape prosecution are items which really do not lend any evidence one way or the other to rape between spouses.

For example, let us suppose that the victim has been heard to scream. Is that corroboration of rape or is that merely corroboration of assault? Or, let us suppose the victim has bruises on her body. Or, let us suppose the physician combs the pubic hair of the victim and finds the pubic hair of the doer, the actor. Let us suppose there is semen found in her vagina. Frankly, all those things are really not corroborative of marital rape. Those are things that are used in a traditional rape prosecution but they are not corroborative of marital rape. As I sat here and thought about the issue, the only thing I could think of that would corroborate a marital rape, the only factual basis other than someone seeing it, of course, would be bruises within a vagina. I think to so limit a prosecution is to so weaken the law as to make it ineffective. I would suggest, Mr. President, that if we are going to pass this law, if we are going to state as a legal principle that a woman's body is sacred to her whether or not she is married, then I would suggest, Mr. President, that we should pass a law that is a strong law, a viable law and an enforceable law. I would urge a "no" vote.

Senator WILLIAMS. Mr. President, on the issue, I do not really understand what the gentleman from Lebanon, Senator Brightbill, just said as an expert in these matters. The amendment offered by the gentleman from Lancaster, Senator Snyder, is to me a very basic common sense one. It says because a husband and wife are authorized and do sleep together, they are close, they get undressed and all of those things which do not only happen when you have sexual contact which results in rape. In other words, sexual relationships between them would be quite normal, quite encouraged and quite appropriate under all circumstances. Therefore, when there is a charge of forcible rape, the amendment says okay and because it is a marriage situation, so we will not have abuse or anything of that nature, let us see some evidence of that attempt to cause bodily injury or some evidence of that. It seems to me if you have a husband and wife and they are in the room or in the bed or wherever they are together, and the husband says, "Look, I'm going to violate you. I'm going to have sex with you," then she says, "No, you're not. I don't want you to touch me," he says something like, "Well, if you don't, I'm going to beat you up." So he either beats her up or she leaves or something. I do not know what the magic requirements are but the cases tried by the gentleman from Lebanon, Senator Brightbill, are a whole different thing. If you have evidence of semen, it says someone who should not have been with that lady was with that lady,

therefore, this is evidence that she had intercourse, therefore, since he is a stranger it seemed like rape. Here we are talking about a different situation because the people do have sex. Semen is there, often. The amendment really says in this situation let us see some evidence that it was forced. Bruises there are evidence of force. There are a lot of other examples, but that is what it says. Otherwise, he says why can the person not just say, "Bye, I am leaving." If we are talking about people with a mental disability, that is something different. But why can the person not say, "I am not staying in this house, I am leaving tonight," and if she tries to get away, if he trips or hurts her, then there is some evidence. That seems to me to be very clear, very simple common sense to guard against an extreme opportunity for abuse in a most unusual situation where people are encouraged to have sex.

Senator BELL. Mr. President, two and one-half hours have passed and there seems to be a common thread now appearing. Some Senators want to protect the perpetrator—I think that is the right word—others want to protect the victim.

And the question recurring,

Will the Senate agree to the amendment to the amendment?

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

YEAS—10

Holl	Kusse	Scanlon	Wenger
Hopper	Pecora	Snyder	Williams
Kelley	Romanelli		

NAYS—37

Andrezeski	Hess	Moore	Shumaker
Bell	Howard	Musto	Singel
Bodack	Jubelirer	O'Connell	Stapleton
Brightbill	Kratzer	O'Pake	Stauffer
Corman	Lewis	Reibman	Stout
Early	Lincoln	Rhoades	Street
Fisher	Lloyd	Rocks	Tilghman
Fumo	Loeper	Ross	Wilt
Greenleaf	Mellow	Shaffer	Zemprelli
Hager			

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 amendment offered by Senator Shumaker?

Senator SNYDER. Mr. President, just a word on the amendment of the gentleman from Dauphin, Senator Shumaker, as a whole. I have a feeling this is the wrong issue at the wrong time being passed in the wrong way. We are making a very severe change in our law. We are changing from a time when there was no penalty for something to a time when there would be a maximum twenty year penalty. The lady from Northampton, Senator Reibman, was good enough to give me the benefit of the correspondence she had with the Attorneys General of fifteen or sixteen states. A most amazing thing turned up when I examined this correspondence. Most of these states passed such a law as we have before us now just three or four years ago. Five of those states

have not had a single case according to the letters we received. Several of them have had as little as one. Even California, a state twice as big as ours in population, had only one case in Los Angeles County and one case in another of their big counties. Miraculously, in Minnesota they had 190 cases; practically a cottage industry out of the matter of marital rape. What it means to me is that this thing is developing very oddly, very slowly. We do not know where it is going. One of the blessings of the federal system is that we have the benefit of the experience of other states. I think the prudent thing to do for Pennsylvania, rather than rely on the happenstance experienced in barely one dozen states, is to wait a little while and then see where it is headed. This is a crime and yet in the eyes of many people it is not a crime. The average person you would stop in the street would say, "How ridiculous can you be?" I have heard all week all the eloquences of rape is rape, et cetera, et cetera. But the fact remains that the average fellow regards this as something very peculiar. I think we would be wise to wait. I recognize the realities in the roll calls that went and it probably will not happen. I think we would be very smart to defeat this at this time. Take it up and it has, I think, rather severe social problems underneath the whole area that we are involved in here, not only abused wives but abused children and all of that. Society has a real problem there. It is not going to be solved by the statute we are working on tonight. I would urge a "no" vote.

And the question recurring,

Will the Senate agree to the amendment offered by Senator Shumaker?

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

YEAS—43

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

NAYS—4

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

The PRESIDENT pro tempore. House Bill No. 1137 will go over, as amended.

REPORT OF COMMITTEE OF CONFERENCE SUBMITTED

Senator WILT submitted the Report of Committee of Conference on SB 11, which was placed on the Calendar.

SUPPLEMENTAL CALENDAR NO. 7

REPORT OF COMMITTEE OF CONFERENCE

REPORT ADOPTED

SB 11 (Pr. No. 2406) — The Senate proceeded to consideration of the bill, entitled:

An Act providing for the retail sale of gasoline; regulating certain relationships between retail gasoline dealers and manufacturers, refiners, suppliers and distributors; and providing for the recovery of damages in certain cases.

Senator JUBELIRER. Mr. President, I move that the Senate adopt the Report of Committee of Conference on Senate Bill No. 11.

On the question,

Will the Senate agree to the motion?

PARLIAMENTARY INQUIRY

Senator FUMO. Mr. President, I rise to a question of parliamentary inquiry.

The PRESIDENT pro tempore. The gentleman from Philadelphia, Senator Fumo, will state it.

Senator FUMO. Mr. President, I wanted to object to the report of the Committee of Conference and I had some questions concerning that. My first question, Mr. President, is that when we last considered this and somehow referred this back to the Committee of Conference that some of us thought was not even in existence, I believe there was a question concerning the Rules raised by the gentleman from Westmoreland, Senator Kelley, concerning the fact the committee was no longer in existence. As I recall, and I think the Journal will bear me out, during that dialogue between the Chair and the gentleman from Westmoreland, Senator Kelley, Senator Kelley ultimately removed his objection because the Chair said that on other occasions, similar situations were such that the Chair said those committees were in existence, and rather than overrule the Chair, the gentleman from Westmoreland, Senator Kelley, withdrew.

While I have some problem with that, I certainly do not intend to raise that issue now. My question, Mr. President, is that between that time and this time, I have not heard read across the desk any communication from the House concerning the conferees who it has appointed to this Committee of Conference. I recognize that it may be in the province of this Chamber to wave its Rule as to whether or not that committee was in existence, but I know full well that it is not the province of this Chamber to wave any similar Rule in the House for them. Officially, I would like to know whether or not we received any notification from the House because I did not hear it as to who they have appointed as the conferees to this committee.

I also wish to state, Mr. President, as I am sure you are well aware, the House adjourned at 7:00 p.m. on the 2nd of October. The dialogue between the Chair and Senator Kelley occurred after 12:15 a.m. on the 3rd of October, so I would like to know who the House conferees were and by what

authority they sat in that meeting? That is my first question, Mr. President.

The PRESIDENT pro tempore. Senator, in attempting to answer your questions in order, there is only one reference in Mason's Legislative Manual and it does not speak directly to the point. It does say that when for any reason either House refuses to adopt a report of the committee, the committee should be discharged and new Committees of Conference or free conference appointed. That did not happen in either house. If we go from that to Jefferson's Manual, there is a more direct reference which states, "It is in order on motion to recommit a conference report if the other body, by action on the report, have not discharged their managers...." The other Body did not take action on the report and, therefore, had not discharged its managers because this is a Senate bill and they cannot have acted on it until the Senate has acted on it, so the Committee of Conference, as originally constituted, still existed and it was not necessary for the House to reconstitute that committee.

Senator FUMO. Mr. President, I assume by your answer, though, that we did not receive any communication from the House concerning these conferees from the time of the dialogue of the gentleman from Westmoreland, Senator Kelley, with you until the present?

The PRESIDENT pro tempore. No, as a matter of fact, we had received it from them earlier in the day on the appointment and that appointment was never discharged because their Body never took action on the report as Jefferson's Manual points out.

Senator FUMO. Mr. President, but that was the committee that reported out Printer's No. 2391, that Committee of Conference?

The PRESIDENT pro tempore. That is correct. As it is pointed out, it was proper for this Body to recommit to that committee if it, in fact, had not been discharged by the other Body, which it has not because that Body has not taken action which is the way to discharge the committee.

Senator FUMO. Mr. President, reasonable minds will differ and I differ from your interpretation, but you are in the Chair.

The PRESIDENT pro tempore. Senator, let me quote to you from Jefferson's Manual, if I may. "It is in order on motion to recommit a conference report if the other body, by action on the report, have not discharged their managers...." They did not act upon the report. It is a Senate bill and they could not act upon it until after we had.

Senator FUMO. Mr. President, my next question is this: When the Committee of Conference on Senate Bill No. 11 met and reported out Printer's No. 2391, which is the immediately preceding printer's number to the one we have before us which is 2406, when that committee met and made that report, they did adjourn and the report was brought to us. We then recommitted. My question, Mr. President, is, as I recall the Sunshine Law, there must be a twenty-four hour notice and I did not hear the time and place for that meeting announced either by the Clerk of this Body or by anyone anywhere.

The PRESIDENT pro tempore. Senator, the Chair has no reason to assume that that meeting was adjourned. As a matter of fact, the Chair assumes and treats the meeting as a recessed meeting for which additional Sunshine notice was not required.

Senator FUMO. Mr. President, is that your information from the Chairman?

Mr. President, I desire to interrogate the gentleman from Lebanon, Senator Brightbill.

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

Senator BRIGHTBILL. I will, Mr. President.

Senator FUMO. Mr. President, can the gentleman from Lebanon, Senator Brightbill, tell us whether or not that last meeting—the one that reported out Printer's No. 2391—was adjourned or recessed?

Senator BRIGHTBILL. Mr. President, I do not recall the precise language. I was not serving as chairman and I did not pay close enough attention.

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

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

Senator ZEMPRELLI. I will, Mr. President.

Senator FUMO. Mr. President, can the gentleman from Allegheny, Senator Zemprelli, tell us whether or not that meeting was either adjourned or recessed, if he remembers?

Senator ZEMPRELLI. Mr. President, it was my recollection that the meeting had been recessed for the very reason that there may have been a question regarding the bill that was reported.

Senator FUMO. Mr. President, I desire to interrogate the gentleman from Lebanon, Senator Brightbill.

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

Senator BRIGHTBILL. I will, Mr. President.

Senator FUMO. Mr. President, can the gentleman from Lebanon, Senator Brightbill, tell me where the meeting was held which reported out Printer's No. 2406?

Senator BRIGHTBILL. Mr. President, the answer is no.

Senator FUMO. Mr. President, can the Senator tell me if, in fact, he attended that meeting?

Senator BRIGHTBILL. Mr. President, I can tell him whether or not I attended the meeting, yes.

Senator FUMO. Mr. President, will the gentleman tell us, did he attend the meeting?

Senator BRIGHTBILL. No, I did not, Mr. President.

Senator FUMO. Mr. President, but he did sign the Conference report?

Senator BRIGHTBILL. Yes, Mr. President.

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

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

Senator ZEMPRELLI. I will, Mr. President.

Senator FUMO. Mr. President, will the gentleman from Allegheny, Senator Zemprelli, tell us whether or not he attended that meeting?

Senator ZEMPRELLI. Mr. President, it is difficult to define what constitutes a meeting. The fact of the matter is there seems to be a precedent in today's society for meetings to be held by conference calls or subject matter to be discussed by various people at different locations as to the same subject for the same purpose.

Senator FUMO. Mr. President, could the gentleman answer the question?

Senator ZEMPRELLI. In this particular case, Mr. President, what transpired was the chairman of the committee, the gentleman from Mercer, Senator Wilt, advised me that he was having a disoriented meeting, meaning by that—

Senator FUMO. Mr. President, could we have that defined?

Senator ZEMPRELLI. Mr. President, the meeting was that the gentleman from Mercer, Senator Wilt, presented me with a copy of the proposed bill, indicated to me that he and I were having a meeting and we reviewed the bill and I affixed my signature on the basis of that understanding, and further that he was going to confer with the other Members in like fashion because of the expedience of the circumstance. I assume he did that because at the time it was presented to the Chair, it was presented in due order with all signatures thereon. I found no objection to the bill. It was reviewed very carefully and, of course, others apparently felt the same way.

Senator FUMO. Mr. President, I now must say I share the frustration of the Majority in listening to some of my Minority Leader's answers. I would like to know, Mr. President, if the gentleman from Allegheny, Senator Zemprelli, could tell me where that "disoriented meeting" occurred?

Senator ZEMPRELLI. Mr. President, operating on the assumption that a signature to a report of a Committee of Conference need not be at a physical meeting, it was my presumption that a reading of the bill and having an understanding that all other conferees would, in fact, read the bill from an adjourned meeting and a request for my signature would impart the fact that I was in agreement with the contents of the report of the Committee of Conference, in my judgment, that was, in effect, a meeting and a tacit agreement.

Senator FUMO. Mr. President, perhaps the gentleman from Allegheny, Senator Zemprelli, wants to correct his Freudian slip. He said that the previous meeting was adjourned. Before he said it was recessed. I would not want him to be in the record wrong.

Senator ZEMPRELLI. Mr. President, an adjourned meeting which had been recessed.

Senator FUMO. Mr. President, I certainly share some of the frustrations of the gentleman from Blair, Senator Jubelirer, at this point.

Mr. President, does the gentleman from Allegheny, Senator Zemprelli, mean to tell us that the meeting that he attended, which the gentleman from Lebanon, Senator Brightbill, did not attend, and the gentleman from Mercer, Senator Wilt, is not here to tell us what happened, that there was no meeting, recessed or otherwise?

Senator ZEMPRELLI. Mr. President, at 2:40 a.m. I would not suggest under the wildest imagination that there was not a meeting. What I was suggesting to the gentleman was, as has happened many times in the past, I have reviewed the contents of a report of a Committee of Conference at which time I may not have attended the meeting and affixed my signature. The only person who can tell you whether there was a meeting would be the gentleman from Mercer, Senator Wilt. As a matter of fact, I described very succinctly my involvement with this procedure and it was to stand with the gentleman from Mercer, Senator Wilt, at this podium and affix my signature to a bill that met with my approval. Whether he had a meeting with the rest of them or not, I am not sure, but I wish to assure the Chair and Members of this Chamber that this is a customary practice. Many a report of a Committee of Conference I have signed at which time I have never attended a meeting.

Senator FUMO. Mr. President, then as I understand it, there was no meeting, that the gentleman from Allegheny, Senator Zemprelli, merely signed a report of a Committee of Conference presented to him by the gentleman from Mercer, Senator Wilt. Is that what he is saying, Mr. President? At least it was not a meeting he attended.

Senator BRIGHTBILL. Mr. President, perhaps I could clarify this for the gentleman from Philadelphia, Senator Fumo.

THE PRESIDENT pro tempore. Is that permissible, Senator Fumo?

Senator FUMO. Mr. President, I was having more fun interrogating the gentleman from Allegheny, Senator Zemprelli, until I was finally getting somewhere, but we can double team. Senator Brightbill already said he was not there, that is why I did not continue interrogating him.

Senator BRIGHTBILL. Mr. President, frankly, I was having more fun listening too. Mr. President, if we refer to Printer's No. 2406 and Section 8, there is a clause which reads, "School bus drivers to stop at railroad crossings." At the initial meeting of the Committee of Conference which was at approximately 4:00 p.m. or 5:00 p.m. on Monday, which seems like about three weeks ago right now, that provision, Section 8, was in the report of the Committee of Conference and was discussed by the people at the committee and was intended to be in the report of the Committee of Conference. At the next meeting at which the Printer's Number—whatever the printer's number is that the gentleman from Philadelphia, Senator Fumo, is referring to—was signed, that provision, Section 8, was inadvertently left out. I know that was because of error. I know the Committee of Conference intended that Section 8 be included, so the final meeting which produced Printer's No. 2406 was simply a technical meeting to remedy

the omission of Section 8 relating to school bus drivers. That occurred here on the floor of the Senate as described most accurately by the gentleman from Allegheny, Senator Zemprelli.

Senator ZEMPRELLI. Mr. President—

Senator FUMO. Mr. President, I thought I was conducting the interrogation.

Senator ZEMPRELLI. Mr. President, it may be, except I gave an incomplete answer to that.

Mr. President, I may have in my remarks left the impression that I did not attend the meeting. I most certainly attended the meeting in which the first Committee of Conference report was the result. I was directing my latest remarks to what I think the gentleman from Philadelphia, Senator Fumo, referred to as the report of the Committee of Conference which is now before us. My recollection of the meeting is as precisely as has been described by the gentleman from Lebanon, Senator Brightbill, as to the fact that there was an omission in error that needed to be included and that simply is the way the issue was resolved.

Senator FUMO. Mr. President, I think I now at least have some picture of what transacted. Apparently, the meeting was held somewhere in this Chamber, either at the desk of the gentleman from Allegheny, Senator Zemprelli, or at the desk of the gentleman from Lebanon, Senator Brightbill. It was here, it was sometime between 12:15 a.m. and 2:30 a.m. My next question is, Mr. President, I was here all during that period of time. I never once saw any House Member come onto our floor, and I am surprised to hear that the Sergeant-at-Arms would permit that because I believe it violates our Rules. Also, in the spirit of Sunshine, I do not believe the media is permitted on our floor to attend that meeting, if, in fact, it was either a technical or disorganized meeting, or whatever you want to call it. I would like to know from either the gentleman from Lebanon, Senator Brightbill, or the gentleman from Allegheny, Senator Zemprelli, whether or not at that meeting, disoriented or technical, or whatever you want to call it, was William Wachob or Fred Taylor in attendance? Could either Senator answer? I will just put the question to the gentleman from Lebanon, Senator Brightbill. We can start there. He was there now, we understand. Were either one of those two House Members at that meeting, Mr. President?

Senator BRIGHTBILL. Mr. President, would the gentleman indicate which meeting he is referring to?

Senator FUMO. Yes, Mr. President, the one he attended on the floor, that he just told me about.

POINT OF ORDER

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

The PRESIDENT pro tempore. The gentleman from Delaware, Senator Bell, will state it.

Senator BELL. Mr. President, Mason's Manual of Legislative Procedure states that it is a conference of committees. Each House appoints three members to their committee. The two committees then hold a conference. The gentleman from Allegheny has already stated that the Senate committee, which formed part of the conference, met in the Senate

Chamber. Two of the three Members were present. I submit to the Chair, can we challenge whether or not the House committee which formed a conference went through the formalities of a meeting?

The PRESIDENT pro tempore. Senator Fumo, in response to the gentleman's point of order, it is the advice of the Parliamentarian that technically the Senate cannot question the activities of the committee appointed to the conference by the House of Representatives. I do not know whether that moves us forward or not, but technically we cannot question that.

Senator FUMO. Mr. President, I do not believe my ears. Are you telling me that from the dialogue we just had where two Members of this Senate say they had a meeting on this floor, a meeting of a Committee of Conference, and we all understand that a meeting of a Committee of Conference means that the report coming out must be agreed to by two Members of the House and two Members of the Senate, that everybody has to meet and do that, at least that is my understanding of the Sunshine Act, that when the evidence is this clear that, in fact, no such meeting ever occurred, I do not have the right as a Senator to ask a question whether or not that happened?

The PRESIDENT pro tempore. No, Senator, that is not what the ruling of the Chair was. The parliamentary point which was raised was, could the Senate question the activity of the House portion of the Committee of Conference? Technically, the answer was we could not.

Senator FUMO. I am not questioning that, Mr. President. All I am saying is, I just want to know at the meeting, at the meeting of the Committee of Conference—that is what we are talking about—the Members of the Committee are those six people who were appointed, three from the House and three from the Senate. I just want to know if the House Members were here?

PARLIAMENTARY INQUIRY

Senator BELL. Mr. President, I rise to a question of parliamentary inquiry.

The PRESIDENT pro tempore. The gentleman from Delaware, Senator Bell, will state it.

Senator BELL. Mr. President, my point of parliamentary inquiry is, does a conference of committees of the House and Senate not consist of two separate committees from respective houses and the Senate has its own committee which attends a conference with the House committee?

Senator FUMO. Mr. President, it is one committee.

The PRESIDENT pro tempore. As to the two houses, I am now reading from Section 769 on page 545 of Mason's Manual of Legislative Procedure: "...it is not proper for either to appoint the time and place for a conference. The custom is for no specific provision to be made by either house but for the committees to meet at a time arranged among themselves at the usual or a convenient place...It is usual for the chairman of the conference committee of the house of origin to take the principal responsibility...." But, the wording of the paragraph makes it very apparent that it is not even necessary for the committees to meet as one.

Senator FUMO. Mr. President, am I right in assuming that will now be the precedent in the future, that when a Committee of Conference is reported—let me take the logic out of what the gentleman from Delaware, Senator Bell, has raised—that we in the Senate will have our three conferees meet and decide and the House Members will have their three conferees meet and decide and then through some magic, we will have a report signed? Is that the new procedure, or is that an acceptable procedure?

The PRESIDENT pro tempore. The Senate will be at ease. (The Senate was at ease.)

The PRESIDENT pro tempore. Senator, it would appear from the colloquy and from the interrogation, what transpired here was that the committee met in simul, all six of them.

Senator FUMO. Mr. President, could you define that word to me in that context?

The PRESIDENT pro tempore. Yes, there was an ensemble. They got together, they agreed upon—

Senator FUMO. Mr. President, they? Who, Mr. President?

The PRESIDENT pro tempore. The committee of the House and the Senate met in conference. They agreed upon a report. It was subsequently reduced to writing, but erroneously omitted a portion of it which has been referred to as Section 8, appropriately enough. Then it was signed in error. A new report was prepared and the signatures were procured to that by the chairman from the members of the committee. The one difference between that situation, which frequently happens, and this one is that the report had erroneously been presented to both Bodies and so a new one apparently had to be prepared with a new printer's number. But, it would appear to the Chair from the colloquy that the requisites were met for the committee to reconsider the issue and to correct the error of omission of the previous printer's number.

Senator FUMO. Mr. President, what you are saying to me, for future precedent, if in fact, because I believe this is precedent setting, that when a Committee of Conference meets and "erroneously" leaves something out they have the authority to subsequently change that, write a new printer's number and just circulate it without, in fact, a meeting, because I think it is a charade. We all know there were no House Members on this floor attending a second meeting which never occurred. That is now to be a precedent. If someone says it was erroneous, they can re-write the entire conference report and just circulate it for signatures without a second meeting. Does that comply with the Sunshine Act, Mr. President?

The PRESIDENT pro tempore. First of all, it would appear the facts as you have stated them are not clear from this record because it would appear that there was a meeting of the conferees of both houses at which there was agreement upon a Committee of Conference report. It was signed in error when there were omissions from that report. It would further appear that once this Body recommitted the bill that the chairman of the committee procured the signatures of two Members of the House and three Members of the Senate and produced that document across the desk once again. It would appear to the Chair that it is properly before the Body.

Senator FUMO. Mr. President, there was no need then for a second meeting—how we normally use the word meeting, that meaning a group or at least a majority of the six conferees or at least two conferees from each house? They did not have to meet in any kind of formal Session?

The PRESIDENT pro tempore. Senator, it would appear from the experience of the Chair that it is a very common procedure among committees of conference to reach an agreement and then take the formal document around for signature to Members of the committee, a very common procedure indeed.

Senator FUMO. Mr. President, even though the House adjourned at 7:00 p.m., we decided at 12:15 a.m. to do this, when the other two House Members were nowhere near this Chamber when this happened.

The PRESIDENT pro tempore. What purports to be the signatures of the two House Members appear upon the document itself.

Senator FUMO. Mr. President, that is correct. From the testimony, dialogue and the colloquies we have here tonight, it is quite clear that those two House Members never set foot in this Chamber after we decided to recommit this bill to that committee. It is also quite clear from the dialogue there was some sort of meeting, or at least something that the gentleman from Lebanon, Senator Brightbill, and the gentleman from Allegheny, Senator Zemprelli, referred to as a meeting occurred on this floor and that is where the signatures were gotten.

The PRESIDENT pro tempore. It would appear from the colloquy and from the record, as the Chair heard it, that the chairman of the committee procured the signatures of Senator Brightbill and Senator Zemprelli to the corrected committee report and apparently did the very same thing with the House Members of the committee.

Senator FUMO. Mr. President, may I ask a question now of the gentleman from Lebanon, Senator Brightbill?

The PRESIDENT pro tempore. Yes, except Senator Zemprelli has asked for recognition. I will be right back to you.

Senator FUMO. Mr. President, when I have finished my interrogation I will gladly yield to him.

Mr. President, I desire to interrogate the gentleman from Lebanon, Senator Brightbill.

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

Senator BRIGHTBILL. I will, Mr. President.

Senator FUMO. Mr. President, will the gentleman from Lebanon, Senator Brightbill, tell me when he signed the committee report whether or not the signatures of the House Members were already on that cover sheet?

Senator BRIGHTBILL. Mr. President, I do not recall.

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

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

Senator ZEMPRELLI. I will, Mr. President.

Senator FUMO. Mr. President, does the gentleman from Allegheny, Senator Zemprelli, recall when he signed the cover sheet on the report of the Committee of Conference whether or not the signatures of the House Members were already on the sheet?

Senator ZEMPRELLI. They were not, Mr. President.

Senator FUMO. Does the gentleman recall what time he signed the cover sheet?

Senator ZEMPRELLI. I have no idea, Mr. President.

Senator FUMO. Mr. President, does the gentleman recall answering my question which was posed to him five minutes after we sent this bill back to the Committee of Conference that he had already signed it and he had already attended a meeting but he did not know where, does he recall telling me that on this floor?

Senator ZEMPRELLI. Mr. President, absolutely not. I did not say that. The gentleman did not inquire as to a meeting. What the gentleman asked me was, was the report of the Committee of Conference completed and I said that it was and that I had signed the same.

Senator FUMO. Mr. President, to clarify the record, the answer I recall was, "Yes, we just had the meeting."

I said, "Where?"

"Somewhere over there and it has already been signed."

Mr. President, it is probably fruitless to continue the interrogation. I, at this time, object to the propriety of this Committee of Conference because even though it may be something that has been done in the past, it clearly violates not only the Rules of this Senate but it violates the Sunshine Law and it violates, in my opinion, the very Constitution of this Commonwealth. There was not a Committee of Conference held that reported out 2406. That was a sham. If anything, there was a report already printed because there were rumors circulated on this floor that it already was printed. In fact, that is what brought the ire of the gentleman from Allegheny, Senator Zemprelli, upon this house, because he was upset that he was told there was already such a report printed.

Mr. President, this report of the Committee of Conference is improper, illegal and unconstitutional. I, therefore, ask that we not even consider it at this point in time.

Senator ZEMPRELLI. Mr. President, in view of all that has been said and having, perhaps, a gross misunderstanding on the play on words and what constitutes a meeting and what not, I think it is in order for me to make a precise statement as to how I viewed tonight's events.

I first attended the meeting that had been advertised Sunshine in attendance with other Senators. A report was agreed upon and a report was signed. It was my judgment that what transpired thereafter was to correct a printer's error in terms of that bill not reflecting what had been agreed to previously in committee. If the gentleman wants to call that a meeting, so be it. Regardless of what the gentleman wants to call it, the issue as far as I am concerned with the present bill that is before us is that it reflects precisely what that committee had agreed upon earlier and was not represented in the printed

bill. Additionally, I would want to state for the record that my apprehension was from what I had heard in this Chamber between the time the first Committee of Conference report was reported and that which is before us now was reported was that there was going to be an entirely different bill. That did not materialize. That information was also communicated to the persons here in indicating to them that the bill which was before us in the present printer's number reflected precisely what that committee had agreed to earlier.

The PRESIDENT pro tempore. Senator Fumo has questioned the sufficiency, the constitutionality and the propriety of the report of the Committee of Conference. Under Mason's Legislative Manual, Section 681, paragraph 2, "If the question of whether a committee report is sufficient, or has been properly authorized, be raised, the question should be submitted to the body itself for decision rather than to be decided by the presiding officer."

The Senate will be at ease.

(The Senate was at ease.)

The PRESIDENT pro tempore. Before the Clerk calls the roll, we are voting on the issue of the propriety of the report of the Committee of Conference. Those voting "aye," vote that the report is properly before the Senate. Those voting "no," vote that it is improperly before the Senate.

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

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

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

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

YEAS—41

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

NAYS—4

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

The PRESIDENT pro tempore. The Senate has voted that the committee report is properly before the Body.

And the question recurring,

Will the Senate agree to the motion to adopt the Report of Committee of Conference on Senate Bill No. 11?

Senator ROCKS. Mr. President, now that we have established the propriety of the report, I would like to attempt to find out what is in it. I desire to interrogate the gentleman from Mercer, Senator Wilt.

The PRESIDENT pro tempore. Senator Wilt does not appear to be on the floor, Senator.

Senator ROCKS. Mr. President, I would then desire to interrogate the gentleman from Lebanon, Senator Brightbill.

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

Senator BRIGHTBILL. I will, Mr. President.

Senator ROCKS. Mr. President, if we could abbreviate the format for interrogation, I would just ask if it would be possible for a synopsis of what this report now contains?

The PRESIDENT pro tempore. Senator Brightbill, would you please present to the Members of the Senate a synopsis of the report of the Committee of Conference?

Senator BRIGHTBILL. I will be happy to, Mr. President. The basic report contains three provisions which deal with the controlled outlets which are the outlets of the manufacturers of gasoline and the retail dealers. The three provisions are found on page 4 and basically provide that there are three rights that a dealer has.

Number one, when he is in a competitive situation with the controlled outlet, he is in a position where it would give him a cause of action if the controlled outlet offers to sell or sells a grade of branded gasoline at retail at a price which is less than the wholesale price paid by the dealer.

Number two gives the dealer a right which he does not have under the federal law. Under the federal law there is no requirement that there be included by manufacturers a rent which is objectively reasonable and economically realistic. This bill would give the dealer that right so that any rent charged to him would have to be based upon criteria which are objectively reasonable and economically realistic.

Number three is an attempt to define the situation where the controlled outlet is in competition with a retail service station dealer. It is an attempt to establish a test for when the controlled outlet is discriminating and engaging in an unfair pricing in reference to the gasoline it sells in relation to the retail service station dealer. The situation we are trying to meet there is the situation where, for example, a controlled outlet is selling gas for say, \$1.02 a gallon, the retail dealer is buying its gas at wholesale at \$1.00 a gallon and the retail service station dealer contends that the controlled outlet is selling at a price which does not produce a reasonable rate of return. This paragraph is intended to establish a test to see if it is, in fact, receiving a reasonable rate of return.

In addition, there is a provision relating to school bus drivers requiring them to stop before crossing any railroad grade crossing or tracks of any railroad.

Senator STREET. Mr. President, I desire to interrogate the gentleman from Lebanon, Senator Brightbill.

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

Senator BRIGHTBILL. I will, Mr. President.

Senator STREET. Mr. President, we are talking about controlled outlets. I am assuming that terminology means the outlet that is controlled by the company?

Senator BRIGHTBILL. Mr. President, the controlled outlet is the outlet which is operated by the employees of the manufacturer or refiner.

Senator STREET. Mr. President, the retailer has the right now under this to question the prices that the controlled outlet is selling it for to determine whether they are making a reasonable profit?

Senator BRIGHTBILL. In a general sense, yes, Mr. President.

Senator STREET. Mr. President, under this report of the Committee of Conference, what would require that the manufacturer who controls the controlled outlet has to even have dealers?

Senator BRIGHTBILL. Nothing, Mr. President.

Senator STREET. Mr. President, then the manufacturers could eventually do away with all the dealers and all of the outlets would be controlled outlets.

Senator BRIGHTBILL. I believe so, Mr. President. I think it is a little more complex than that in that there are some provisions of federal law that apply. I believe what the gentleman is stating is true.

Senator KELLEY. Mr. President, would the gentleman from Lebanon, Senator Brightbill, consent to further interrogation?

The PRESIDENT pro tempore. Will the gentleman from Lebanon, Senator Brightbill, permit himself to be interogated?

Senator BRIGHTBILL. I will, Mr. President.

Senator KELLEY. Mr. President, referring to Senate Bill No. 11, Printer's No. 2406, is the difference between Printer's No. 2406 and Printer's No. 2391 which was the first report of the Committee of Conference which was received by the Senate and presumably by the other Body, is the difference that Printer's No. 2406 contains on page 6, beginning on line 27, the provision which the gentleman referred to as the school bus restriction?

Senator BRIGHTBILL. No, Mr. President.

Senator KELLEY. Mr. President, that provision was not in the Printer's No. 2391 edition, was it?

Senator BRIGHTBILL. Mr. President, the provision that is different begins on page 6, line 26.

Senator KELLEY. I stand corrected, Mr. President. The gentleman has corrected it. In my interrogation I said line 27, it should have been line 26. Is that provision the distinguishing characteristic between the two reports?

Senator BRIGHTBILL. Yes, Mr. President.

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

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

Senator MELLOW. 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 taken agreeably to the provisions of the Constitution and were as follows, viz:

YEAS—33

Andrezeski	Jubelirer	O'Pake	Shumaker
Bell	Kelley	Pecora	Singel
Bodack	Kratzer	Reibman	Stapleton
Brightbill	Lincoln	Rhoades	Stauffer
Early	Lloyd	Romanelli	Stout
Fisher	Loeper	Ross	Tilghman
Greenleaf	Musto	Scanlon	Wilt
Holl	O'Connell	Shaffer	Zemprelli
Howard			

NAYS—14

Corman	Hopper	Moore	Street
Fumo	Kusse	Rocks	Wenger
Hager	Lewis	Snyder	Williams
Hess	Mellow		

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 LEAVE

Senator ZEMPRELLI. Mr. President, I request a temporary Capitol leave for Senator Williams.

The PRESIDENT pro tempore. Is there objection to a temporary Capitol leave for Senator Williams? The Chair hears none and that leave will be granted.

SUPPLEMENTAL CALENDAR NO. 6

BILL ON CONCURRENCE IN
HOUSE AMENDMENTS

SENATE CONCURS IN HOUSE AMENDMENTS

SB 1379 (Pr. No. 2393) — The Senate proceeded to consideration of the bill, entitled:

An Act providing for the administration and allocation of certain Federal Block Grants.

Senator JUBELIRER. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 1379.

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

MOTION TO SUSPEND RULES

Senator RHOADES. Mr. President, I move to suspend the Rules of the Senate in order to permit me to amend Senate Bill No. 1379.

The PRESIDENT pro tempore. Senator, the Chair is advised by the Parliamentarian that it is only proper to suspend the Rules of the Senate to amend House amendments to the bill and not to amend the bill itself. Are your amendments directed to amendments placed in the bill by the House of Representatives or do they amend the bill as it left the Senate?

Senator RHOADES. Mr. President, they amend the amendments from the House.

The PRESIDENT pro tempore. The motion is in order. Senator Rhoades asks unanimous consent to amend House amendments and moves to suspend Senate Rule XV in order to offer amendments to House amendments to Senate Bill No. 1379. The motion is not debatable.

On the question,

Will the Senate agree to the motion?

A voice vote having been taken, the question was determined in the affirmative.

Senator RHOADES, by unanimous consent, offered the following Senate amendments to House amendments:

Amend Bill, page 2, lines 7 through 30; pages 3 through 17, lines 1 through 30, by striking out all of said lines on said pages and inserting:

Section 1. Authorization.

(a) Program.—The Department of Community Affairs is authorized to expend funds, received from Federal community development block grants, under a small communities development program. These funds may be directed into small communities development projects which are administered by the department presently or which are initiated by the department. The department shall accept and review competitive proposals for funds for the economic development, housing and other community development needs from communities and counties which are determined to have high economic and social need.

(b) Guidelines.—The department is authorized further to establish guidelines for the administration of this program. These guidelines shall be published in the Pennsylvania Bulletin, at the expense of the department, before they shall take effect.

Section 2. Effective date.

This act shall take effect in 60 days.

On the question,

Will the Senate agree to Senate amendments to House amendments?

Senator RHOADES. Mr. President, what this amendment will do is grant authorization to the Department of Community Affairs to expend funds which we approved in the budget back in June. This will be in the form of federal community development block grants on a competitive basis. It will also authorize the department to establish guidelines for the administration of this program. In essence, what it does is re-establish the present small communities program grant versus a new program which has been proposed in Senate Bill No. 1379. With the Chair's permission, I would like to give the reasons why this is being proposed.

One of the key things which is presently in the bill which the amendment will take out will restore the process which has been followed and replace it instead, Senate Bill No. 1379, with entitlements to eighty-seven cities, boroughs, towns and townships in fifty-four counties. The entitlements would be based on population, not on need. In other words, when the awards are made they are made on the percent of poverty, the age of the housing, the per capita income and by the population change, plus or minus. Now it will be made strictly on population. The grants will be much smaller. In terms of high cost, big ticket infrastructures which are used and needed in many of the small rural areas where they need sewage or water lines, the grants will be so small that they will be insignificant.

Secondly, currently there are 1,801 municipalities which compete for up to \$750,000 through the grants. If we do not amend this bill, we will have only eighty-seven cities, boroughs, towns and townships or 4.2 percent of the eligible municipalities that will get funding. Fifty-four counties will receive entitlements which they will then—they may, they do not have to—distribute to the other 1,660 townships at their discretion. Most of the funding applications have come from towns with populations lower than 5,000. I think they said it is about 92 percent of the eligible units.

Mr. President, what I am basically saying is that this is a very biased proposal if we do not include this amendment, because it will favor urban and suburban areas and destroy any type of funding which will help out our rural areas which are least able to fund major projects on their own.

One other thing I want to point out with this bill, too, is under the old program we had about \$9.5 million set aside for economic development which was to help invest and develop jobs. There was another \$7 million set aside for community facilities. There was also \$1.5 million for imminent threat set aside. Under the proposal that is before us without the amendment, all that would not be put in and becomes part of a 13 percent competitive entitlement, which means there would only be about \$5.7 million available versus a roughly \$17 million or \$18 million appropriation.

One other thing, too, is the cost of this. Anyone who applies for this is going to have to submit an application to meet all the federal guidelines and then they are going to have to be approved. There is no policy established for the county giving out the money to the townships, but it still comes back and says, "The DCA must account for all the funds that are expended." So DCA not only has to monitor the programs they give out to the counties and the towns, but also all the subcontracts that are given out beyond that particular point.

Mr. President, one other thing I want to add comes down to this point: The boroughs or townships with populations over 400 will get entitlement grants of \$50,000 yearly, where cities where we are talking about a population of 10,000 or more will get entitlement grants of \$300,000 annually. That is six times higher than what boroughs and townships receive and the question of fairness becomes another issue. If I can cite some statistics in here, we have some towns, and I am looking at Chest Springs Borough with a population of 198 people in Cambria County, that would get \$478 per year under this program while Emporium Borough which has 2,837 in Cameron County would get \$107,000. The inequity in this just does not work out. The other thing, too, is if we look at the average per capita distribution ranges from a low of \$1.92 per person per year in Cumberland County to a high of \$49.58 per person in Forest County, the changes are different. Another inequity that the Members will see in this system is the difference between entitlement and nonentitlement communities are even greater. Consider Nanty Glo Borough in Cambria County whose population of 3,936 may—notice I said may—qualify for \$9,511 per year from county entitlement funds while Browns Borough in Fayette County whose population

of 4,043 qualifies it for an entitlement community on its own with an annual entitlement of \$255,113 and they noted what a difference 64 people can make. I point those out in terms of discrepancies which exist within this. Also I would point out that under the Community Development Act of 1974, the state is responsible for any funds allocated in the small communities program. This effectively means that the state cannot contract away any fiduciary or programmatic responsibilities under the act. In other words, subcontracts between counties and nonentitled municipalities proposed by the bill would not reduce the state's accountability for how these funds were expended, in fact, it could triple our state administrative cost. These costs, perhaps as much as \$500,000, would have to come out of the General Fund.

Another thing I would want to add, and I think it is very significant, is the fact that all of these contracts would have to comply with federal rules and regulations. You noticed where I said one town would get \$498 total. Three basic program requirements, each application must be directed to one of three statutory objectives: Benefit to low moderate income persons, 51 percent of all CDBG project dollars. So if they got \$498, half of that or 51 percent of that would have to go to low and moderate income. The only thing I think they would be able to do is probably put an outhouse in the backyard.

Prevention or elimination of blight addresses an urgent need that is an imminent threat to health and safety. The federal government has outlined how this money must be spent and where it must be addressed. Other points that must be considered when anyone makes an application for this will come under administration. You have Title I of the Housing and Community Development Act, 24 Code of Federal Regulations, the Office of Management and Business Circular A102, Office and Business Management Circular A87, Office and Business Manager Circular A122 plus the environment under the National Environment Policy Act of 1969 and the 24 CFR parity environmental review procedures. What I am trying to say is that this money that is going out is going to be taken out of the rural areas and put back into the big cities. Those already protected in the plan or receiving HUD money will continue to receive that but the money that is going is taken out of areas where it is most needed and being put into areas. It is like saying this: You have a need in this rural area that is being addressed. You put it into that big area and whether they have a need or not they are going to get the money. The people least able to afford this are going to be hurt most but it is going to be, what should I say, a form of revenue sharing in any other way.

I would ask for my colleagues' support on this amendment because I think it is very important for the total development of the Commonwealth.

Senator ROMANELLI. Mr. President, I feel the bill as it stands addresses the needs of the rural communities. There is no need for this amendment. Therefore, I would urge a "no" vote on the amendment and let the bill stand as it is printed.

Senator BRIGHTBILL. Mr. President, I will try to be brief. I think we have to keep in mind what the federal criteria

are here for this \$44 million which has been allocated to Pennsylvania on an annual basis, and that is the criteria of eliminating blight, benefiting low or moderate income and meeting the urgent needs where the funds are available. We believe the bill that is before the Senate does that and we would ask for a defeat of the amendment.

One of the cries we have been hearing by those who would advocate a return to the old system and those who were opponents of the present are that the new system, the proposed system, does not meet the needs of boroughs and townships. I think that one only need look at the record of the Department of Community Affairs as it has made grants up to this date. Out of 184 grants made during the past two years, only 12.6 percent have gone to boroughs and townships. Fifty-eight percent have gone to counties and 28 percent have gone to these so-called big cities that I have heard referred to. These big cities are cities of less than 30,000 to 35,000 people. I may be from Lebanon, but that is still not a big city. In fact, under the bill as proposed, the city share would drop from 28 percent to 21 percent, the county share would go from 58 percent to 32 percent and the borough and township share would go from 12 percent up to 32 percent, an increase of threefold and there would be discretionary money that would also be available for boroughs and townships. At the bottom line, in fact, approximately two-thirds of the money that is available would be available to boroughs and townships either directly or through the counties.

Mr. President, a number of points were raised during debate. I would like to note, first, entitlements under this bill are based upon population and need. The standards for need are established by the federal program. The grants are of sufficient size to provide for sewer and water, those kind of projects, plus there is a 13 percent discretionary pot which can be used to round out grants or provide megagrants for small communities. I must note that each municipality has a far better chance of receiving funding than it had under the old system. Under the old system for every grant for which application was made, granted and funded there were about twenty-five that were not funded. This is, in fact, the bill that addresses the needs of rural Pennsylvania and this is a bill that addresses the needs of local control. The Department of Community Affairs does maintain prior approval, does have sufficient checks and balances to meet the federal auditing requirements.

In addition, the minimum grants are not \$50,000 as stated, but rather \$90,000 under the present federal funding and over a three-year period that is a significant sum of money that can provide significant projects in areas in which there is rural poverty.

I have heard the per capita argument. If we take the per capita argument and we look at the present discretionary program, we will see that the present discretionary program does not meet this so-called per capita test. We have boroughs of 750 people receiving \$750,000. We have counties of 100,000 people receiving nothing at all under the present system.

Lastly, Mr. President, there is \$880,000 allocated to the department for administering this program and we believe this is a sufficient amount to provide for effective administration and it is also a program that is going to get the money out in the streets, get the business of improving our rural areas moving and create jobs and create employment.

Senator SINGEL. Mr. President, briefly for the record, the information I have from the Department of Community Affairs indicates that under the existing system 875 applications have been received and 233 projects approved. Of these, 67 percent went to boroughs and townships and only 21 percent ended up in the cities. I say that just to provide some information that seems to be at odds with what the previous speaker said. I think it is important to note in this debate that what we are talking about is small, small community funding. Under the existing guidelines, fully 1,800 municipalities are eligible to compete for funds up to \$700,000. What is proposed in the bill before us would be to cut eligibility for annual funding to those towns that are over 4,000 in population. It happens that 80 percent of the municipalities now eligible are under 4,000 people, which means that the number of communities that are potentially eligible to participate is dropped down to eighty-seven. That is eighty-seven cities, boroughs, towns and townships and only eighty-seven will be eligible for some kind of an annual funding process. To bring it home to my district, for example, the projects that have been funded under the small communities project range in dollar amounts from \$300,000 to \$750,000. Not one of those dozen projects went to a municipality of over 4,000 people. In other words, they would not have had a reasonable expectation of receiving up to \$750,000 under the formula outlined in this bill. I really believe that it is going to be very difficult for small communities, that is boroughs and townships under 4,000, to take advantage of a greatly reduced pot of money on the county level, and I think this violates the intent of the small communities in getting the money out to the smaller areas.

The point here is simply that I think the compromise that has been arrived at, and I commend those who have attempted to do that and have acted in good faith in order to handle a very difficult situation, but I have to tell you in all honesty that I think there is a serious flaw. Any time you attempt to ascribe population figures, you are shifting the emphasis from need to an arbitrary judgment about where the money should go. It does not matter if there are 100 people in a borough or 10,000 people in a borough, if the sanitary sewer system needs rebuilt, it is going to cost three-quarter of a million dollars. Under this scheme it is not very likely that that large amount of money is going to be available for that small of a community. Therefore, Mr. President, I would urge all of my colleagues, for the benefit of those communities that are under 4,000 people and for small community development in general, to support the Rhoades amendment.

Senator RHOADES. Mr. President, what I want to say is in regard to the charges made before. There are before us need factors which have been defined, that is why there is a differ-

ence with some communities receiving money and others not. Under this I do not see any need of defining the bill aside from population and the amount of monies they would get.

One thing I think I would like to bring up is what the gentleman from Cambria, Senator Singel, said, too. Forty-eight cities received grants. It will go from 21 percent to 24 percent; for the boroughs from 40 percent to 38 percent; for the counties from 12 percent to 38 percent, but there will not be any 27 percent because there will not be a zero percent for the townships. In turn they are going to have to beg to get anything they possibly can. There is no guarantee the county will in any way, shape or form give them entitlement, plus the county can hold it and use it for their own programs or save it and let it lapse over a period of time and then use it.

In my home county I have sixty-seven towns and townships. Seven of the towns would be eligible for an entitlement, and I think I have one township that would be eligible. We would get \$300,000. That means that has to be split between, let us say, approximately fifty-nine townships. You divide that and you tell me how you are going to build a sewage system or water line. It cannot be done.

Senator BRIGHTBILL. Mr. President, the 67 percent and the 21 percent that the gentleman from Cambria, Senator Singel, referred to in his debate is pretty much the percentage breakdown for the current bill. I would note that counties do not have their own territory. A county when it goes into a project by necessity is going to have to go into either a borough, a township or a city. Under this program all the cities, whether they are small or large, are going to be funded and, therefore, it is reasonable to believe the local officials are going to exercise their discretion in favor of the smaller communities.

And the question recurring,

Will the Senate agree to Senate amendments to House amendments?

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

YEAS—20

Bohack	Kelley	Pecora	Singel
Corman	Kusse	Reibman	Stapleton
Hager	Lincoln	Rhoades	Stout
Howard	Loeper	Shaffer	Street
Jubelirer	O'Pake	Shumaker	Wilt

NAYS—27

Andrezeski	Hess	Moore	Snyder
Bell	Holl	Musto	Stauffer
Brightbill	Hopper	O'Connell	Tilghman
Early	Kratzer	Rocks	Wenger
Fisher	Lewis	Romanelli	Williams
Fumo	Lloyd	Ross	Zemprelli
Greenleaf	Mellow	Scanlon	

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

And the question recurring,

Will the Senate concur in the amendments made by the House?

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

YEAS—39

Andrezeski	Hopper	Mellow	Shumaker
Bell	Howard	Moore	Snyder
Bodack	Jubelirer	Musto	Stauffer
Brightbill	Kelley	O'Connell	Street
Corman	Kratzer	O'Pake	Tilghman
Early	Kusse	Rocks	Wenger
Fumo	Lewis	Romanelli	Williams
Greenleaf	Lincoln	Ross	Wilt
Hess	Lloyd	Scanlon	Zemprelli
Holl	Loeper	Shaffer	

NAYS—8

Fisher	Pecora	Rhoades	Stapleton
Hager	Reibman	Singel	Stout

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.

REPORT FROM COMMITTEE ON RULES AND EXECUTIVE NOMINATIONS

Senator LOEPER, by unanimous consent, from the Committee on Rules and Executive Nominations, reported the following nominations, made by His Excellency, the Governor of the Commonwealth, which were read by the Clerk as follows:

BRIGADIER GENERAL, PENNSYLVANIA NATIONAL GUARD

July 26, 1984.

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 Colonel Robert E. Harris, R. D. 2, Box 364-T, Debra Drive, Palmyra 17078, Lebanon County, Forty-eighth Senatorial District, for appointment as Brigadier General, Pennsylvania Air National Guard, to serve until terminated as Commander, Pennsylvania Air National Guard, vice Major General Frank H. Smoker, Jr., retired.

DICK THORNBURGH.

BRIGADIER GENERAL, PENNSYLVANIA NATIONAL GUARD

September 5, 1984.

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 Colonel Pasquale J. Macrone, Jr., 247 Crestview Road, Hatboro 19040, Montgomery County, Twelfth Senatorial District, for appointment as Brigadier General, Pennsylvania Army National Guard, to serve until terminated, as Assistance Adjutant General, Headquarters State Area Command, Pennsylvania Army National Guard, vice Brigadier General Francis E. Jones, Jr., discharged.

DICK THORNBURGH.

BRIGADIER GENERAL, PENNSYLVANIA NATIONAL GUARD

July 26, 1984.

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 Colonel Stewart W. Timmerman, 518 Kingston Road, Harrisburg 17112, Dauphin County, Fifteenth Senatorial District, for appointment as Brigadier General, Pennsylvania Air National Guard, to serve until terminated as Deputy Commander, Pennsylvania Air National Guard, vice Brigadier General Donald J. Tressler, retired.

DICK THORNBURGH.

MEMBER OF THE MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING COMMISSION

October 1, 1984.

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 Michael F. Dunn (Borough Chief of Police), 100 Fairview Drive, Apt. 107A, West Chester 19380, Chester County, Nineteenth Senatorial District, for appointment as a member of The Municipal Police Officers' Education and Training Commission, to serve until February 21, 1985, and until his successor is appointed and qualified, vice Edward Wunsch, Feasterville, whose term expired.

DICK THORNBURGH.

DISTRICT JUSTICE

August 30, 1984.

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 William H. Waldron, Jr., 1149 Pine Lane, Chester 19013, Delaware County, Ninth Senatorial District, for appointment as District Justice in and for the County of Delaware, Magisterial District 32-1-03, to serve until the first Monday of January, 1986, vice Joseph E. Palma, Esquire, resigned.

DICK THORNBURGH.

DISTRICT JUSTICE

October 1, 1984.

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 Melvin Wilson, 550 Poplar Street, Central City 15926, Somerset County, Thirty-second Senatorial District, for appointment as District Justice in and for the County of Somerset, Magisterial District 16-3-02, to serve until the first Monday of January, 1986, vice Anthony F. Muscatello, resigned.

DICK THORNBURGH.

NOMINATIONS LAID ON THE TABLE

Senator LOEPER. Mr. President, I request that the nominations just read by the Clerk be laid on the table.

The PRESIDENT pro tempore. The nominations will be laid on the table.

**COMMUNICATIONS FROM THE GOVERNOR
REPORTED FROM COMMITTEE ON RULES
AND EXECUTIVE NOMINATIONS**

Senator LOEPER, by unanimous consent, reported from the Committee on Rules and Executive Nominations, communications from His Excellency, the Governor of the Commonwealth, recalling the following nominations, which were read by the Clerk as follows:

**MEMBER OF THE STATE BOARD
OF FUNERAL DIRECTORS**

September 28, 1984.

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 27, 1984 for the appointment of Joseph F. Brennan, 1 Buttonwood Square, Philadelphia 19130, Philadelphia County, First Senatorial District, as a member of the State Board of Funeral Directors, to serve for a term of five years, and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Anthony A. Sanvito, Coraopolis, whose term expired.

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

DICK THORNBURGH.

MEMBER OF THE STATE PLANNING BOARD

September 27, 1984.

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 24, 1984 for the appointment of Edward M. Mead, 800 West Dutch Road, Fairview 16415, Erie County, Forty-ninth Senatorial District, as a member of the State Planning Board, to serve until his successor is appointed and qualified, vice Thomas B. King, Ph.D., State College, resigned.

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 WEST CHESTER UNIVERSITY OF
PENNSYLVANIA OF THE STATE SYSTEM
OF HIGHER EDUCATION**

October 1, 1984.

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 28, 1984 for the appointment of Johanna K. Havlick, 545 Georgia Lane, West Chester 19380, Chester County, Nineteenth Senatorial District, as a member of the Council of Trustees of West Chester University of Pennsylvania of the State System of Higher Education, to serve until the third Tuesday of January, 1989, and until her successor is appointed

and qualified, vice Bernard J. Carrozza, confirmed to another position.

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

DICK THORNBURGH.

NOMINATIONS LAID ON THE TABLE

Senator LOEPER. Mr. President, I request that the nominations just read by the Clerk be laid on the table.

The PRESIDENT pro tempore. The nominations will be laid on the table.

EXECUTIVE NOMINATIONS

EXECUTIVE SESSION

Motion was made by Senator LOEPER,

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

Which was agreed to.

NOMINATIONS TAKEN FROM THE TABLE

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

The Clerk read the nominations as follows:

**JUDGE, COURT OF COMMON PLEAS,
PHILADELPHIA COUNTY**

September 4, 1984.

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 Frank M. Jackson, Esquire, 1801 John F. Kennedy Boulevard, Philadelphia 19103, Philadelphia County, Second Senatorial District, for appointment as Judge of the Court of Common Pleas of Philadelphia County, to serve until the first Monday of January, 1986, vice the Honorable Thomas N. Shiomos, resigned.

DICK THORNBURGH.

**JUDGE, COURT OF COMMON PLEAS,
PHILADELPHIA COUNTY**

September 28, 1984.

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 Wilhelm F. Knauer, Jr., Esquire, 26P - 1420 Locust Street, Philadelphia 19102, Philadelphia County, Eighth Senatorial District, for appointment as Judge of the Court of Common Pleas of Philadelphia County, to serve until the first Monday of January, 1986, vice the Honorable Paul M. Chalfin, resigned.

DICK THORNBURGH.

On the question,

Will the Senate advise and consent to the nominations?

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

YEAS—47

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

NAYS—0

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

Ordered, That the Governor be informed accordingly.

NOMINATIONS TAKEN FROM THE TABLE

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

The PRESIDENT pro tempore. The Chair hears no objection.

The Clerk read the nominations as follows:

**BRIGADIER GENERAL, PENNSYLVANIA
NATIONAL GUARD**

July 26, 1984.

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 Colonel Robert E. Harris, R. D. 2, Box 364-T, Debra Drive, Palmyra 17078, Lebanon County, Forty-eighth Senatorial District, for appointment as Brigadier General, Pennsylvania Air National Guard, to serve until terminated as Commander, Pennsylvania Air National Guard, vice Major General Frank H. Smoker, Jr., retired.

DICK THORNBURGH.

**BRIGADIER GENERAL, PENNSYLVANIA
NATIONAL GUARD**

September 5, 1984.

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 Colonel Pasquale J. Macrone, Jr., 247 Crestview Road, Hatboro 19040, Montgomery County, Twelfth Senatorial District, for appointment as Brigadier General, Pennsylvania Army National Guard, to serve until terminated, as Assistance Adjutant General, Headquarters State Area Command, Pennsylvania Army National Guard, vice Brigadier General Francis E. Jones, Jr., discharged.

DICK THORNBURGH.

**BRIGADIER GENERAL, PENNSYLVANIA
NATIONAL GUARD**

July 26, 1984.

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 Colonel Stewart W. Timmerman, 518 Kingston Road, Harrisburg 17112, Dauphin County, Fifteenth Senatorial District, for appointment as Brigadier General, Pennsylvania Air National Guard, to serve until terminated as Deputy Commander, Pennsylvania Air National Guard, vice Brigadier General Donald J. Tressler, retired.

DICK THORNBURGH.

**MEMBER OF THE COUNCIL OF TRUSTEES OF
INDIANA UNIVERSITY OF PENNSYLVANIA**

September 6, 1984.

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 Renee G. Forne, 426 Lincoln Avenue, Erie 16505, Erie County, Forty-ninth Senatorial District, for appointment as a member of the Council of Trustees of Indiana University of Pennsylvania, to serve for three years or for so long as she is a full-time undergraduate student in attendance at the university, whichever period is shorter, vice Theodore E. Fick, Indiana, graduated.

DICK THORNBURGH.

**MEMBER OF THE MUNICIPAL POLICE
OFFICERS' EDUCATION AND
TRAINING COMMISSION**

August 7, 1984.

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 Michael Bortnicker (Public Member), 1636 Rose Glen Road, Havertown 19083, Delaware County, Seventeenth Senatorial District, for reappointment as a member of The Municipal Police Officers' Education and Training Commission, to serve until February 21, 1987, and until his successor is appointed and qualified.

DICK THORNBURGH.

**MEMBER OF THE MUNICIPAL POLICE
OFFICERS' EDUCATION AND
TRAINING COMMISSION**

August 7, 1984.

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 Warren J. Broz (Non-Commissioned Police Officer), 1813 Fairacres Avenue, Pittsburgh 15216, Allegheny County, Forty-second Senatorial District, for reappointment as a member of The Municipal Police Officers' Education and Training Commission, to serve until February 21, 1987, and until his successor is appointed and qualified.

DICK THORNBURGH.

MEMBER OF THE MUNICIPAL POLICE
OFFICERS' EDUCATION AND
TRAINING COMMISSION

August 7, 1984.

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 Charles J. DeHart, III (Mayor of Borough), 13 East Main Street, Hummelstown 17036, Dauphin County, Fifteenth Senatorial District, for appointment as a member of The Municipal Police Officers' Education and Training Commission, to serve until February 21, 1987, and until his successor is appointed and qualified, vice Honorable John Gilmore, terminated.

DICK THORNBURGH.

MEMBER OF THE MUNICIPAL POLICE
OFFICERS' EDUCATION AND
TRAINING COMMISSION

August 7, 1984.

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 Arthur F. Detisch (Second Class Township Official), 3405 Caughey Road, Millcreek Township 16505, Erie County, Forty-ninth Senatorial District, for appointment as a member of The Municipal Police Officers' Education and Training Commission, to serve until February 21, 1987, and until his successor is appointed and qualified, vice Todd Pagliarulo, Hershey, terminated.

DICK THORNBURGH.

MEMBER OF THE MUNICIPAL POLICE
OFFICERS' EDUCATION AND
TRAINING COMMISSION

August 7, 1984.

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 Frank Giordano (Borough Chief of Police), 519 Garland Drive, Carlisle 17013, Cumberland County, Thirty-first Senatorial District, for reappointment as a member of The Municipal Police Officers' Education and Training Commission, to serve until February 21, 1987, and until his successor is appointed and qualified.

DICK THORNBURGH.

MEMBER OF THE MUNICIPAL POLICE
OFFICERS' EDUCATION AND
TRAINING COMMISSION

August 7, 1984.

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 Mitchell (Non-Commissioned Police Officer), Rear 1383 North Washington Street, Wilkes-Barre 18705, Luzerne County, Fourteenth Senatorial District, for reappointment as a member of The Municipal Police Officers' Education and Training Commission, to serve until February 21, 1987, and until his successor is appointed and qualified.

DICK THORNBURGH.

MEMBER OF THE MUNICIPAL POLICE
OFFICERS' EDUCATION AND
TRAINING COMMISSION

August 7, 1984.

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 Milton T. Pollen (Educator), 1440 North Fortieth Street, Allentown 18104, Lehigh County, Sixteenth Senatorial District, for reappointment as a member of The Municipal Police Officers' Education and Training Commission, to serve until February 21, 1987, and until his successor is appointed and qualified.

DICK THORNBURGH.

MEMBER OF THE MUNICIPAL POLICE
OFFICERS' EDUCATION AND
TRAINING COMMISSION

August 7, 1984.

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 Martin Schneider, D.D.S. (Elected Official-City Council), 355 South 16th Street, Lebanon 17042, Lebanon County, Forty-eighth Senatorial District, for reappointment as a member of The Municipal Police Officers' Education and Training Commission, to serve until February 21, 1987, and until his successor is appointed and qualified.

DICK THORNBURGH.

MEMBER OF THE MUNICIPAL POLICE
OFFICERS' EDUCATION AND
TRAINING COMMISSION

August 7, 1984.

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 H. Ulrich (City Chief of Police), 728 State Street, Lancaster 17603, Lancaster County, Thirteenth Senatorial District, for reappointment as a member of The Municipal Police Officers' Education and Training Commission, to serve until February 21, 1987, and until his successor is appointed and qualified.

DICK THORNBURGH.

MEMBER OF THE BOARD OF TRUSTEES OF
NORRISTOWN STATE HOSPITAL

September 4, 1984.

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 Rose Hunsicker, 822 Buttonwood Street, Norristown 19401, Montgomery County, Twenty-fourth Senatorial District, for appointment as a member of the Board of Trustees of Norristown State Hospital, to serve until the third Tuesday of January, 1989, and until her successor is appointed and qualified, vice Suzanne Felix, Maple Glen, resigned.

DICK THORNBURGH.
DISTRICT JUSTICE

August 30, 1984.

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 William H. Waldron, Jr., 1149 Pine Lane, Chester 19013, Delaware County, Ninth Senatorial District, for appointment as District Justice in and for the County of Delaware, Magisterial District 32-1-03, to serve until the first Monday of January, 1986, vice Joseph E. Palma, Esquire, resigned.

DICK THORNBURGH.
DISTRICT JUSTICE

October 1, 1984.

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 Melvin Wilson, 550 Poplar Street, Central City 15926, Somerset County, Thirty-second Senatorial District, for appointment as District Justice in and for the County of Somerset, Magisterial District 16-3-02, to serve until the first Monday of January, 1986, vice Anthony F. Muscatello, resigned.

DICK THORNBURGH.

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

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

YEAS—47

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

NAYS—0

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

Ordered, That the Governor be informed accordingly.

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 STATE BOARD
OF FUNERAL DIRECTORS

September 28, 1984.

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 27, 1984 for the appointment of Joseph F. Brennan, 1 Buttonwood Square, Philadelphia 19130, Philadelphia County, First Senatorial District, as a member of the State Board of Funeral Directors, to serve for a term of five years, and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Anthony A. Sanvito, Coraopolis, whose term expired.

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

DICK THORNBURGH.

MEMBER OF THE STATE PLANNING BOARD

September 27, 1984.

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 24, 1984 for the appointment of Edward M. Mead, 800 West Dutch Road, Fairview 16415, Erie County, Forty-ninth Senatorial District, as a member of the State Planning Board, to serve until his successor is appointed and qualified, vice Thomas B. King, Ph.D., State College, resigned.

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 WEST CHESTER UNIVERSITY OF
PENNSYLVANIA OF THE STATE SYSTEM
OF HIGHER EDUCATION

October 1, 1984.

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 28, 1984 for the appointment of Johanna K. Havlick, 545 Georgia Lane, West Chester 19380, Chester County, Nineteenth Senatorial District, as a member of the Council of Trustees of West Chester University of Pennsylvania of the State System of Higher Education, to serve until the third Tuesday of January, 1989, and until her successor is appointed and qualified, vice Bernard J. Carrozza, confirmed to another position.

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.

**COMMUNICATION FROM THE GOVERNOR
TAKEN FROM THE TABLE**

Senator LOEPER called from the table communication from His Excellency, the Governor of the Commonwealth, recalling the following nomination, which was read by the Clerk as follows:

**MEMBER OF THE MUNICIPAL POLICE
OFFICERS' EDUCATION AND
TRAINING COMMISSION**

October 1, 1984.

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 7, 1984 for the reappointment of Edward Wunsch (Township Chief of Police), 104 Sharp Lane, Feasterville 19047, Bucks County, Sixth Senatorial District, as a member of The Municipal Police Officers' Education and Training Commission, to serve until February 21, 1985, and until his successor is appointed and qualified.

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

DICK THORNBURGH.

NOMINATION RETURNED TO THE GOVERNOR

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

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

Senator LEWIS. Mr. President, I request a roll call vote.

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

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

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

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

Senator ANDREZESKI. 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 LOEPER and Senator LEWIS and were as follows, viz:

YEAS—24

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

NAYS—21

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

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

Ordered, That the Governor be informed accordingly.

**RECONSIDERATION OF EXECUTIVE NOMINATION
NOMINATION LAID ON THE TABLE**

Senator LOEPER. Mr. President, I move to reconsider the vote by which the recall of the nomination for Edward Wunsch, as a member of the Municipal Police Officers' Education and Training Commission, was returned to the Governor, and the nomination be laid on the table.

The motion was agreed to.

The PRESIDENT pro tempore. The nomination will be laid on the table.

EXECUTIVE SESSION RISES

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

The motion was agreed to.

SUPPLEMENTAL CALENDAR NO. 8

THIRD CONSIDERATION CALENDAR

**BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE**

HB 1137 (Pr. No. 3653) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, adding an offense and providing a penalty; further providing for defenses relating to spousal relationships; and providing for the offense of spousal sexual assault.

Considered the third time and agreed to,

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

On the question,
Shall the bill pass finally?

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

YEAS—43

Andrezeski	Holl	Mellow	Shumaker
Bell	Hopper	Moore	Singel
Bodack	Howard	Musto	Stapleton
Brightbill	Jubelirer	O'Connell	Stauffer
Corman	Kelley	O'Pake	Stout

Early	Kratzer	Reibman	Street
Fisher	Kusse	Rhoades	Tilghman
Fumo	Lewis	Rocks	Wenger
Greenleaf	Lincoln	Romanelli	Wilt
Hager	Lloyd	Ross	Zemprelli
Hess	Loeper	Shaffer	

NAYS—4

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

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

CONSIDERATION OF CALENDAR RESUMED

HB 133 CALLED UP

HB 133 (Pr. No. 3013) — Without objection, the bill, which previously went over in its order temporarily, was called up, from page 2 of the Third Consideration Calendar, by Senator JUBELIRER.

CONSIDERATION OF HB 133

HB 133 (Pr. No. 3013) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the "Liquor Code," approved April 12, 1951 (P.L. 90, No. 21), abolishing the Pennsylvania Liquor Control Board; providing for the powers and duties of the Pennsylvania Liquor Board, the Department of Revenue and the Office of Attorney General; creating the Office of Administrative Law Judge and defining its powers and duties; further providing for penalties; transferring personnel, equipment and appropriations; and making editorial changes.

Considered the third time,

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

Senator GREENLEAF. Mr. President, I ask unanimous consent to offer an amendment to House Bill No. 133.

MOTION TO LAY BILL ON THE TABLE

Senator O'CONNELL. Mr. President, I move that House Bill No. 133 be laid on the table.

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

MOTION TO ADJOURN

Senator EARLY. Mr. President, I move that the Senate do now adjourn until Monday, November 19, 1984, at 2:00 p.m., Eastern Standard Time.

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

BILL SIGNED

The PRESIDENT pro tempore (Henry G. Hager) in the presence of the Senate signed the following bill:

SB 1379.

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

PARLIAMENTARY INQUIRY

Senator GREENLEAF. Mr. President, I rise to a question of parliamentary inquiry.

The PRESIDENT pro tempore. The gentleman from Montgomery, Senator Greenleaf, will state it.

Senator GREENLEAF. Mr. President, I believe that I would have a motion to amend the bill that is presently before the Senate. Does that motion have to be disposed of before any other motions are entertained by the Chair?

The PRESIDENT pro tempore. No, Senator, the motion to adjourn takes precedence over every motion and the motion is not debatable.

The question before the Senate is the motion to adjourn until Monday, November 19, 1984, at 2:00 p.m., Eastern Standard Time.

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

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

Senator SNYDER. 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 EARLY and were as follows, viz:

YEAS—24

Andrezeski	Lewis	O'Pake	Ross
Bell	Lincoln	Pecora	Scanlon
Bodack	Lloyd	Reibman	Stapleton
Early	Mellow	Rhoades	Williams
Fumo	Musto	Rocks	Wilt
Kusse	O'Connell	Romanelli	Zemprelli

NAYS—23

Brightbill	Holl	Loeper	Stauffer
Corman	Hopper	Moore	Stout
Fisher	Howard	Shaffer	Street
Greenleaf	Jubelirer	Shumaker	Tilghman
Hager	Kelley	Singel	Wenger
Hess	Kratzer	Snyder	

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

The PRESIDENT pro tempore. The Senate is now adjourned.

The Senate adjourned at 11:59 p.m., Eastern Daylight Saving Time.