

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

WEDNESDAY, MAY 24, 1989

SESSION OF 1989

173RD OF THE GENERAL ASSEMBLY

No. 33

SENATE

WEDNESDAY, May 24, 1989.

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

The PRESIDENT (Lieutenant Governor Mark S. Singel) in the Chair.

PRAYER

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

Heavenly Father, be with these women and men, our Senators, today. We ask that despite their many differences of faith, of political persuasion, of personalities, that they may dialogue, discuss and finally reach decisions with mutual charity and patience for the betterment of all citizens of this great Commonwealth. Amen.

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of May 23, 1989.

The Clerk proceeded to read the Journal of the preceding Session, when, on motion of Senator LOEPER, 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 Rules and Executive Nominations to meet and consider certain nominations during the Session.

REPORTS FROM COMMITTEE

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

SB 873 (Pr. No. 994)

An Act amending the act of July 3, 1985 (P. L. 164, No. 45), entitled "Emergency Medical Services Act," limiting the use of money from the Emergency Medical Services Operating Fund.

SB 935 (Pr. No. 1064)

An Act amending the act of April 27, 1905 (P. L. 312, No. 218), entitled "An act creating a Department of Health, and defining its powers and duties;....," further providing for the Secretary of Health.

SB 943 (Pr. No. 1072)

An Act providing for the registration and reporting of certain noncontrolled substances; imposing additional powers and duties on the Secretary of Health; and fixing penalties.

SENATE RESOLUTIONS

MEMORIALIZING THE PRESIDENT OF THE UNITED STATES TO RESTORE FUNDING FOR DEVELOPMENT AND PRODUCTION OF THE V-22 HELICOPTER

Senators BELL and LOEPER offered the following resolution (Senate Resolution No. 69), which was read, considered and adopted:

In the Senate, May 24, 1989.

A RESOLUTION

Memorializing the President of the United States to restore funding for development and production of the V-22 helicopter.

WHEREAS, The V-22 helicopter, also known as the Osprey, a helicopter-airplane hybrid designed primarily for use by the United States Marine Corps, is presently under development by Bell Corporation and Boeing Helicopter Company; and

WHEREAS, Defense Secretary Cheney has deleted funding for continued development of the Osprey from the 1990-1991 defense budget; and

WHEREAS, General A. M. Gray, Commandant of the Marine Corps, has dubbed the Osprey a national asset; and

WHEREAS, Termination of Osprey development and production at Boeing Helicopter would result in the discharge of 1,500 employees and would adversely affect 11,000 employees in supporting industries; therefore be it

RESOLVED, That the Senate of Pennsylvania memorialize the President of the United States to restore funding for development and production of the V-22 helicopter.

DISCHARGING COMMITTEE ON APPROPRIATIONS FROM FURTHER CONSIDERATION OF SENATE BILL NO. 335, PRINTER'S NO. 346

Senators O'PAKE, MELLOW, LINCOLN, STAPLETON, REIBMAN, ANDREZESKI, PORTERFIELD, SCANLON, STOUT, BELAN, REGOLI, MUSTO, STEWART, AFFLERBACH and JONES offered the following resolution, which was read as follows:

In the Senate, May 24, 1989.

A RESOLUTION

Discharging Committee on Appropriations from further consideration of Senate Bill No. 335, Printer's No. 346.

RESOLVED, That Senate Bill No. 335, Printer's No. 346, entitled "A act imposing limitations on the use of eminent domain by municipalities and authorities to obtain certain real estate or facilities; and making repeals," having been referred to the Committee on Appropriations on March 13, 1989, and the committee not having reported the same to the Senate for a period of over ten legislative days, the committee is discharged from further consideration thereof.

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

LEGISLATIVE LEAVES

Senator MELLOW. Mr. President, I request temporary Capitol leaves for Senator Jones and Senator Lynch.

The PRESIDENT. Senator Mellow requests temporary Capitol leaves for Senator Jones and Senator Lynch. The Chair hears no objection. The leaves will be granted.

LEAVE OF ABSENCE

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

CALENDAR

HB 162 CALLED UP OUT OF ORDER

HB 162 (Pr. No. 1828) — Without objection, the bill was called up out of order, from page 3 of the Third Consideration Calendar, by Senator LOEPER, as a Special Order of Business.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 162 (Pr. No. 1828) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of August 5, 1941 (P. L. 752, No. 286), known as the "Civil Service Act," reestablishing the State Civil Service Commission; further providing for the civil service system; further providing for political activity; making editorial changes; and making a repeal.

Considered the third time and agreed to,

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

On the question,

Shall the bill pass finally?

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

YEAS—49

Afflerbach	Greenleaf	Madigan	Ross
Andrezeski	Greenwood	Mellow	Salvatore
Armstrong	Helfrick	Musto	Scanlon
Baker	Hess	O'Pake	Shaffer
Belan	Holl	Pecora	Shumaker
Bell	Hopper	Peterson	Stapleton
Bodack	Jones	Porterfield	Stewart
Brightbill	Jubelirer	Punt	Stout
Corman	Lemmond	Regoli	Tilghman
Dawida	Lincoln	Reibman	Wenger
Fattah	Loeper	Rhoades	Williams
Fisher	Lynch	Rocks	Wilt
Fumo			

NAYS—0

A constitutional majority of all the Senators having vote "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.

LEGISLATIVE LEAVES

Senator BRIGHTBILL. Mr. President, I request temporary Capitol leave for Senator Salvatore.

Senator STAPLETON. Mr. President, I request temporary Capitol leaves for Senator Fumo, Senator Williams, Senator Fattah and Senator Lincoln.

The PRESIDENT. Senator Brightbill requests temporary Capitol leave for Senator Salvatore. Senator Stapleton requests temporary Capitol leaves for Senator Fumo, Senator Williams, Senator Fattah and Senator Lincoln. The Chair hears no objection. Those temporary Capitol leaves will be granted.

Senator LOEPER. Mr. President, Senator Helfrick has just been called from the floor and I would ask for a temporary Capitol leave, also, for Senator Helfrick.

The PRESIDENT. Also, Senator Loeper requests a temporary Capitol leave for Senator Helfrick. The Chair hears no objection. The leave will be granted.

SB 340 TAKEN FROM THE TABLE

Senator LOEPER. Mr. President, I move that Senate Bill No. 340, Printer's No. 729, be taken from the table and placed on the Calendar.

The motion was agreed to.

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

CONSIDERATION OF CALENDAR RESUMED

THIRD CONSIDERATION CALENDAR

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

SB 315 (Pr. No. 1093) — The Senate proceeded to consideration of the bill, entitled:

An Act providing for inpatient residential treatment services for mentally ill children and youth; and making an appropriation.

Considered the third time and agreed to,

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

On the question,

Shall the bill pass finally?

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

YEAS—49

Afflerbach	Greenleaf	Madigan	Ross
Andrezski	Greenwood	Mellow	Salvatore
Armstrong	Helfrick	Musto	Scanlon
Baker	Hess	O'Pake	Shaffer
Belan	Holl	Pecora	Shumaker
Bell	Hopper	Peterson	Stapleton
Bodack	Jones	Porterfield	Stewart
Brightbill	Jubelirer	Punt	Stout
Corman	Lemmond	Regoli	Tilghman
Dawida	Lincoln	Reibman	Wenger
Fattah	Loeper	Rhoades	Williams
Fisher	Lynch	Rocks	Wilt
Fumo			

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 575 (Pr. No. 1096) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of November 26, 1975 (P. L. 438, No. 124), entitled, as amended, "Child Protective Services Law," providing for reporting and investigating substance-abused children; and making an appropriation.

Considered the third time and agreed to,

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

On the question,

Shall the bill pass finally?

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

YEAS—49

Afflerbach	Greenleaf	Madigan	Ross
Andrezski	Greenwood	Mellow	Salvatore
Armstrong	Helfrick	Musto	Scanlon
Baker	Hess	O'Pake	Shaffer
Belan	Holl	Pecora	Shumaker
Bell	Hopper	Peterson	Stapleton
Bodack	Jones	Porterfield	Stewart
Brightbill	Jubelirer	Punt	Stout
Corman	Lemmond	Regoli	Tilghman
Dawida	Lincoln	Reibman	Wenger
Fattah	Loeper	Rhoades	Williams
Fisher	Lynch	Rocks	Wilt
Fumo			

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 REREPORTED FROM COMMITTEE
AS AMENDED OVER IN ORDER**

SB 576 — Without objection, the bill was passed over in its order at the request of Senator LOEPER.

**PREFERRED APPROPRIATION BILL ON
THIRD CONSIDERATION AND FINAL PASSAGE**

HB 623 (Pr. No. 1827) — The Senate proceeded to consideration of the bill, entitled:

An Act to provide additional appropriations from the General Fund for the expenses of the Executive Department and Judicial Department of the Commonwealth, the public debt and for the public schools for the fiscal year July 1, 1988, to June 30, 1989, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 1988; to provide additional appropriations from the Motor License Fund to the Executive Department; to provide for the additional appropriation of Federal funds to the Executive Department of the Commonwealth for the fiscal year July 1, 1988, to June 30, 1989, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 1988.

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 STAPLETON. Mr. President, may we be at ease for a moment.

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

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. The Chair recognizes the presence on the floor of Senator Fattah and his temporary Capitol leave will be cancelled.

And the question recurring,

Shall the bill pass finally?

Senator AFFLERBACH. Mr. President, the arguments that this side of the aisle presented on the floor yesterday with respect to this being a bloated bill to the tune of \$191 million are still correct. We still thoroughly believe that there are appropriations in this bill which would not properly be made at this time and should not properly be made at this time. However, we also recognize that there are certain essential elements of this bill which are critical to get to the Governor's desk, elements that many people in our communities are depending upon. Therefore, we are prepared to support passage of the bill at this time with the understanding and recognition on the record that it is bloated beyond any reasonable means, and we will rely upon our friends in the House of Representatives and in the Governor's Office to put this bill into the condition that it needs to be to address the immediate critical problem.

Senator LOEPER. Mr. President, also for purposes of the record, I would simply indicate that the revenues to fund this bill are currently available in this year's budget, and the bill could be funded with the revenues that are available.

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—49

Afflerbach	Greenleaf	Madigan	Ross
Andrezeski	Greenwood	Mellow	Salvatore
Armstrong	Helfrick	Musto	Scanlon
Baker	Hess	O'Pake	Shaffer
Belan	Holl	Pecora	Shumaker
Bell	Hopper	Peterson	Stapleton
Bodack	Jones	Porterfield	Stewart
Brightbill	Jubelirer	Punt	Stout
Corman	Lemmond	Regoli	Tilghman
Dawida	Lincoln	Reibman	Wenger
Fattah	Loeper	Rhoades	Williams
Fisher	Lynch	Rocks	Wilt
Fumo			

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

SB 5 — Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE

SB 16 (Pr. No. 1111) — The Senate proceeded to consideration of the bill, entitled:

An Act providing for government-wide computer security; and providing for the training in security matters of persons who are involved in the management, operation and use of State computers and State computer systems.

Considered the third time and agreed to,

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

On the question,
Shall the bill pass finally?

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

YEAS—49

Afflerbach	Greenleaf	Madigan	Ross
Andrezeski	Greenwood	Mellow	Salvatore
Armstrong	Helfrick	Musto	Scanlon
Baker	Hess	O'Pake	Shaffer
Belan	Holl	Pecora	Shumaker
Bell	Hopper	Peterson	Stapleton
Bodack	Jones	Porterfield	Stewart
Brightbill	Jubelirer	Punt	Stout
Corman	Lemmond	Regoli	Tilghman

Dawida	Lincoln	Reibman	Wenger
Fattah	Loeper	Rhoades	Williams
Fisher	Lynch	Rocks	Wilt
Fumo			

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.

BILLS OVER IN ORDER

SB 36, 104, 548 and 804 — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

SECOND CONSIDERATION CALENDAR

BILLS REREPORTED FROM COMMITTEE
AS AMENDED OVER IN ORDER

SB 364 and 555 — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

PREFERRED APPROPRIATION BILL
OVER IN ORDER

SB 458 — Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILL LAID ON THE TABLE

HB 7 (Pr. No. 473) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, providing protection for public utility employees who report a violation or suspected violation of Federal, State or local law; providing protection for such employees who participate in investigations, hearings, inquiries or court actions; and prescribing remedies and penalties.

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

BILL OVER IN ORDER

SB 47 — Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILL ON SECOND CONSIDERATION
AND REREFERRED

HB 75 (Pr. No. 1829) — The Senate proceeded to consideration of the bill, entitled:

An Act reenacting and amending the act of October 4, 1978 (P. L. 883, No. 170), referred to as the "Public Official and Employee Ethics Law," adding definitions; further providing for the membership, powers and duties of the State Ethics Commission and for persons who must file statements of financial interests; reestablishing the State Ethics Commission; and making an appropriation.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

Upon motion of Senator LOEPER, and agreed to, the bill just considered was rereferred to the Committee on Appropriations.

BILLS OVER IN ORDER

SB 81, 193, 287, 365, 398, 417, 430, 472, 515, 516, 517, 518, 519, 520, 522, 558, 597, 648, 702, 715, 728, 735, 742, 759 and 866 — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

RECESS

Senator LOEPER. Mr. President, at this time I would ask for a brief recess of the Senate for the purpose of a meeting of the Committee on Rules and Executive Nominations to take place in the Rules room at the rear of the Senate Chamber. It would be a very brief meeting.

The PRESIDENT. For the purpose of a meeting of the Committee on Rules and Executive Nominations to begin immediately in the room at the rear of the Senate Chamber, the Senate will stand in recess.

AFTER RECESS

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

REPORT FROM COMMITTEE ON
RULES AND EXECUTIVE NOMINATIONS

Senator WILT, 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:

DISTRICT JUSTICE

May 22, 1989.

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 A. Clement, Jr., 707 Sherwood Road, New Cumberland 17070, Cumberland County, Thirty-first Senatorial District, for appointment as District Justice in and for the County of Cumberland, Magisterial District 9-1-01, to serve until the first Monday of January, 1990, vice Robert B. Failor, resigned.

ROBERT P. CASEY.

JUDGE, COURT OF COMMON PLEAS,
FORTY-FOURTH JUDICIAL DISTRICT

February 22, 1989.

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, Brendan J. Vanston, Esquire, R. D. 3, Tunkhannock 18657, Wyoming County, Twentieth Senatorial District, for appointment as Judge of the Court of Common Pleas of the Forty-fourth Judicial District, composed of the Counties of Sullivan and Wyoming, to serve until the first Monday of January, 1990, vice The Honorable Roy Gardner, resigned.

ROBERT P. CASEY.

NOMINATIONS LAID ON THE TABLE

Senator WILT. Mr. President, I request the nominations just read by the Clerk be laid on the table.

The PRESIDENT. The nominations will be laid on the table.

EXECUTIVE NOMINATIONS

EXECUTIVE SESSION

Motion was made by Senator WILT,

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 WILT. Mr. President, I call from the table certain nominations and ask for their consideration.

The Clerk read the nominations as follows:

MEMBER OF THE PENNSYLVANIA
COUNCIL ON AGING

February 6, 1989.

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, Lou Capiella, 4017 Dexter Street, Philadelphia 19128, Philadelphia County, Seventh Senatorial District, for appointment as a member of the Pennsylvania Council on Aging, to serve for a term of three years and until his successor is appointed and qualified, pursuant to Act 153, approved December 15, 1988.

ROBERT P. CASEY.

DISTRICT JUSTICE

May 22, 1989.

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, Barbara M. Lyter, 112 North Third Street, Mifflintown 17059, Juniata County, Thirty-third Senatorial District, for appointment as District Justice in and for the County of Juniata, Magisterial District 41-3-01, to serve until the first Monday of January, 1990, vice Marian S. Mertz, resigned.

ROBERT P. CASEY.

MEMBER OF THE BOARD OF TRUSTEES
OF EBENSBURG CENTER

April 5, 1989.

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, Earl F. Glock, Esquire, 901 Sunnehanna Drive, Johnstown 15905, Cambria County, Thirty-fifth Senatorial District, for reappointment as a member of the Board of Trustees of Ebensburg Center, to serve until the third Tuesday of January, 1995, and until his successor is appointed and qualified.

ROBERT P. CASEY.

MEMBER OF THE STATE BOARD OF OPTOMETRY

April 20, 1989.

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, Bernard Mallinger, O.D., 1336 Bennington Avenue, Pittsburgh 15217, Allegheny County, Forty-third Senatorial District, for appointment as a member of the State Board of Optometry, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice James D. Danielson, O.D., Butler, whose term expired.

ROBERT P. CASEY.

MEMBER OF THE BOARD OF TRUSTEES OF WESTERN CENTER

February 8, 1989.

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, Virginia M. Arnal, 333 Ridge Avenue, Canonsburg 15317, Washington County, Forty-sixth Senatorial District, for reappointment as a member of the Board of Trustees of Western Center, to serve until the third Tuesday of January, 1995, and until her successor is appointed and qualified.

ROBERT P. CASEY.

MEMBER OF THE BOARD OF TRUSTEES OF WESTERN CENTER

February 8, 1989.

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, Beatrice F. Goldszer, 5808 Ferree Street, Pittsburgh 15217, Allegheny County, Forty-third Senatorial District, for reappointment as a member of the Board of Trustees of Western Center, to serve until the third Tuesday of January, 1995, and until her successor is appointed and qualified.

ROBERT P. CASEY.

On the question,

Will the Senate advise and consent to the nominations?

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

YEAS—49

Afflerbach	Greenleaf	Madigan	Ross
Andrezeski	Greenwood	Mellow	Salvatore
Armstrong	Helfrick	Musto	Scanlon
Baker	Hess	O'Pake	Shaffer
Belan	Holl	Pecora	Shumaker

Bell	Hopper	Peterson	Stapleton
Bodack	Jones	Porterfield	Stewart
Brightbill	Jubelirer	Punt	Stout
Corman	Lemmond	Regoli	Tilghman
Dawida	Lincoln	Reibman	Wenger
Fattah	Loeper	Rhoades	Williams
Fisher	Lynch	Rocks	Wilt
Fumo			

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.

NOMINATION TAKEN FROM THE TABLE

Senator WILT. Mr. President, I ask unanimous consent to call from the table certain nomination and ask for its consideration.

The Clerk read the nomination as follows:

DISTRICT JUSTICE

May 22, 1989.

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 A. Clement, Jr., 707 Sherwood Road, New Cumberland 17070, Cumberland County, Thirty-first Senatorial District, for appointment as District Justice in and for the County of Cumberland, Magisterial District 9-1-01, to serve until the first Monday of January, 1990, vice Robert B. Failor, resigned.

ROBERT P. CASEY.

On the question,

Will the Senate advise and consent to the nomination?

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

YEAS—49

Afflerbach	Greenleaf	Madigan	Ross
Andrezeski	Greenwood	Mellow	Salvatore
Armstrong	Helfrick	Musto	Scanlon
Baker	Hess	O'Pake	Shaffer
Belan	Holl	Pecora	Shumaker
Bell	Hopper	Peterson	Stapleton
Bodack	Jones	Porterfield	Stewart
Brightbill	Jubelirer	Punt	Stout
Corman	Lemmond	Regoli	Tilghman
Dawida	Lincoln	Reibman	Wenger
Fattah	Loeper	Rhoades	Williams
Fisher	Lynch	Rocks	Wilt
Fumo			

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.

NOMINATION TAKEN FROM THE TABLE

Senator WILT. Mr. President, I ask unanimous consent to call from the table certain nomination and ask for its consideration.

The Clerk read the nomination as follows:

JUDGE, COURT OF COMMON PLEAS,
FORTY-FOURTH JUDICIAL DISTRICT

February 22, 1989.

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, Brendan J. Vanston, Esquire, R. D. 3, Tunkhannock 18657, Wyoming County, Twentieth Senatorial District, for appointment as Judge of the Court of Common Pleas of the Forty-fourth Judicial District, composed of the Counties of Sullivan and Wyoming, to serve until the first Monday of January, 1990, vice The Honorable Roy Gardner, resigned.

ROBERT P. CASEY.

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

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

YEAS—49

Afflerbach	Greenleaf	Madigan	Ross
Andrezeski	Greenwood	Mellow	Salvatore
Armstrong	Helfrick	Musto	Scanlon
Baker	Hess	O'Pake	Shaffer
Belan	Holl	Pecora	Shumaker
Bell	Hopper	Peterson	Stapleton
Bodack	Jones	Porterfield	Stewart
Brightbill	Jubelirer	Punt	Stout
Corman	Lemmond	Regoli	Tilghman
Dawida	Lincoln	Reibman	Wenger
Fattah	Loeper	Rhoades	Williams
Fisher	Lynch	Rocks	Wilt
Fumo			

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.

EXECUTIVE SESSION RISES

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

The motion was agreed to.

UNFINISHED BUSINESS

BILLS IN PLACE

Senator ANDREZESKI presented to the Chair several bills.
Senator ROCKS presented to the Chair several bills.

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. The Chair recognizes the presence on the floor of Senator Fumo. His temporary Capitol leave will be cancelled.

**GUESTS OF SENATOR ROGER A. MADIGAN
PRESENTED TO SENATE**

Senator MADIGAN. Mr. President, it is my honor to introduce the gentleman whom we just confirmed as judge in the Forty-fourth Judicial District, which is a two-county judicial district, that being of Sullivan County in my Senatorial district and Wyoming County from Senator Lemmond's district. I would like to introduce Brendan J. Vanston, whom we just confirmed, and his lovely wife. Would they please rise and receive the usual warm Senate welcome.

The PRESIDENT. Would Judge Vanston please rise, along with the other folks who are here with you, so the Senate of Pennsylvania could accord you their congratulations and warm welcome.

Prior to the official greeting of Judge Vanston, the Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I think it is quite appropriate that Senator Madigan took credit for Judge Vanston living in his district, but he should be well aware of the fact that Judge Vanston basically comes from my district, as does all of his family, so we in Lackawanna County would like to take some part of the credit and some pride in the fact that we do have our newest judge from Pennsylvania, Judge Vanston.

Senator MADIGAN. Mr. President, I am pleased to share that honor.

The PRESIDENT. It is just unfortunate that Judge Vanston is not here to hear the Senators quarreling over jurisdictions.

Senator MADIGAN. Mr. President, he was sitting there and he left. He was so excited that he has gone back to take over his duties.

Senator LEMMOND. Frankly, Mr. President, it is good that he was not here to hear the boasts of Senator Mellow and Senator Madigan, because he lives in my district. He will be a superb judge, following in a great tradition of Wyoming and Sullivan Counties, and I do appreciate our support for him.

The PRESIDENT. The Chair thanks all three Senators and offers the congratulations of the Senate to Brendan Vanston and his family, even though they may be absent at the moment.

CONGRATULATORY RESOLUTIONS

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

Congratulations of the Senate were extended to Titus H. Brubaker by Senator Armstrong.

Congratulations of the Senate were extended to Brian Thomas Coxson and to Michael John James Gavin by Senator Baker.

Congratulations of the Senate were extended to Thomas Natchuras by Senator Bell.

Congratulations of the Senate were extended to Mr. and Mrs. Merle Gephart, Mr. and Mrs. Ray G. Kibler and to Mr. and Mrs. Walter Rice by Senator Corman.

Congratulations of the Senate were extended to Daniel Urban by Senator Dawida.

Congratulations of the Senate were extended to Lovell Tatum, Jr., Lisa Renee Powell and to Surbrena D. Hargrove by Senator Fattah.

Congratulations of the Senate were extended to Mr. and Mrs. Hugo Piconi by Senator Fisher.

Congratulations of the Senate were extended to Jeffrey W. Tauzin by Senator Hess.

Congratulations of the Senate were extended to John Spriggle by Senator Jones.

Congratulations of the Senate were extended to William E. McCoy by Senator Madigan.

Congratulations of the Senate were extended to Mr. and Mrs. Stephen L. Rakowicz by Senator Mellow.

Congratulations of the Senate were extended to Dr. James R. Replogle and to Gilbertsville Fire Company No. 1 by Senator O'Pake.

Congratulations of the Senate were extended to Rotary District 451 of Brazil by Senator Peterson.

Congratulations of the Senate were extended to Mr. and Mrs. James M. Rogers and to Glenn D. Williams, Jr. by Senator Reibman.

Congratulations of the Senate were extended to James F. Beatty by Senator Shaffer.

Congratulations of the Senate were extended to Carl Grieco by Senator Shumaker.

Congratulations of the Senate were extended to Jesse Balenger by Senator Williams.

Congratulations of the Senate were extended to William S. Blood by Senator Wilt.

CONDOLENCE RESOLUTION

The PRESIDENT laid before the Senate the following resolution, which was read, considered and adopted:

Condolences of the Senate were extended to the family of the late Petty Officer Todd Christopher McMullen by Senator Armstrong.

BILLS ON FIRST CONSIDERATION

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

The motion was agreed to.

The bills were as follows:

SB 873, 935 and 943.

And said bills having been considered for the first time,

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

PETITIONS AND REMONSTRANCES

Senator O'PAKE. Mr. President, today I have offered, along with fifteen of my Senate colleagues, a discharge resolu-

tion to finally permit this Senate's consideration of a measure prime sponsored by Senator Pecora, a Member of the Senate Republican caucus, that would protect citizens throughout the Commonwealth from having unwanted out-of-town trash dumped in their communities.

It has now been more than two months since the Majority Leader of this Body argued that the legislation in question, Senate Bill No. 335, a bill which received unanimous and bipartisan support of the Senate Committee on Local Government in January, could not be finally acted upon because it needed a fiscal note. That was on March 13th. My question to my colleagues today is this: On such an important issue, how long should it take to produce a fiscal note?

Last week, prior to our return to Session, following the Primary Election recess, Senator Mellow, in a letter to the Majority Chairman of the Committee on Appropriations, asked that Senate Bill No. 335 be called up for consideration at Monday's meeting of the Committee on Appropriations. Some seventeen bills were considered and approved by that committee on Monday. Unfortunately, Senate Bill No. 335 was not one of them. That brings us to today and the unfortunate but apparently required action of offering a discharge resolution so all the Members of the Senate can finally vote on this important bill.

The legislation is designed to place reasonable restrictions on the ability of governmental units to use the extraordinary power of eminent domain or condemnation to acquire property outside of their jurisdictions for the creation of landfills to dump their trash and garbage.

All it really says is that the local county commissioners should have the right to approve of such condemnation by the outside governmental jurisdictions before such condemnation occurs. We are talking about local citizen input. We are talking about local control. We are talking about protecting our rural areas, farmland and other property rich in natural resources from being turned into dumping grounds for out-of-town trash and garbage.

While some apparently feel that last year's enactment of the municipal waste planning, recycling and waste reduction law addresses this issue, nothing could be further from the truth. Act 101 of 1987 does not address the separate issue of a local government's ability to foist its will through the power of eminent domain on the residents of another community, and it does not provide protection to counties that just last September began a two and a half year process of developing waste management plans under Act 101. Until those plans are developed and approved, or up until March 1991, there is no safeguard to prevent landfill site development by out-of-town governmental units.

That is why Senate Bill No. 335 was introduced. That is why it received the unanimous support of the Senate Committee on Local Government, and that is why we should stop dragging our feet and get this bill to the Senate floor for final action.

Senator LOEPER. Mr. President, I had not planned to make any remarks today. However, due to the comments of

the gentleman from Berks, I feel it incumbent to respond to those remarks, particularly since it is very obvious the gentleman was standing and reading from his press release. It was already released, apparently, because I had a press call prior to his remarks today to respond to them. I think it is very unfortunate, Mr. President, that the gentleman simply looks to politicize this process and make it a partisan issue. I think that it is unfortunate for the residents of the affected communities that he chooses to deal with it in this fashion. I would remind the gentleman that this situation is subject to the provisions of the solid waste plan, which the gentleman from Berks, himself, in fact, voted for last year. I think it is inconsistent that he gets up and votes for legislation, on one hand, to put this plan into practice, and yet, on the other hand, wishes to choose to pick apart those pieces for his own particular use.

I might indicate, Mr. President, when we talk about a discharge resolution of a committee, we are really talking about usurping the actual responsibilities of a committee chairman. I believe that to be a very serious action. I would indicate to the gentleman that in response to the letter to the gentleman from Montgomery, Chairman of the Committee on Appropriations, Senator Tilghman, that Senator Tilghman did respond. I might just, for purposes of the record, indicate what some of that response was. That the fiscal analysis, Mr. President, of Senate Bill No. 335 is not yet complete in the Committee on Appropriations, that the committee staff is still looking at a number of key fiscal impacts the legislation would have, both on state government as well as local government. They include, and I think it is important to note, several different items. Number one, the requiring of real estate transfer tax, which would change long-standing policies on the taxation of municipal property transactions. Number two, Mr. President, the requiring of municipal waste facility owners to make in-lieu-of-tax payments to the host municipalities, school district and county, which would change long-standing policies on the taxation of municipal property located within that jurisdiction. Third, Mr. President, I think we have to consider the impact of imposing an additional municipal service charge on disposal and above the fees now imposed under Act 101. Fourth, Mr. President, the committee is also having to make an estimate of how many municipalities would be affected by this legislation, since the bill makes a confusing reference to the term "municipality." That term includes counties as well as other units of local government. Act 101 gives counties additional authority and redefines the responsibilities of townships, boroughs, cities or other units of local government. The bill and Act 101 seem to appear to conflict, particularly in Section 2. I would further indicate, Mr. President, that the note on exemptions that was referred to as far as Act 101, that would allow permits for facilities not included in a county waste plan, are not, in fact, exemptions. The sections of the bill of Act 101 set up a series of stringent tests that an applicant must pass before DER could even consider issuing a permit for a facility that is not in the county plan.

Mr. President, I have only partially excerpted passages from the letter in response to Senator Mellow's letter. I would suggest for the record that the committee is moving ahead in the proper direction, trying to assess what these cost impacts are to local government or the subdivisions of state government. I would suggest, Mr. President, that the Members of this Senate who cosponsored a discharge resolution that would fly in the face of the Rules of the Senate should take a very serious look at the implications of the action they may take.

Senator O'PAKE. Mr. President, it is obvious that the Majority Floor Leader, by virtue of having read from a prepared script, was prepared for this issue. I find it mystifying that he talks about not politicizing this issue. The bill is in the Committee on Appropriations because the Majority Leader sought to politicize the issue and lined up all the Republican votes except for the gentleman from Allegheny, Senator Pecora, the sponsor, to bury this bill in the Committee on Appropriations. It is unfortunate that the only resource available to the Minority when an Appropriations Committee Chairman refuses to attach a fiscal note to a bill and release it is to offer a discharge resolution. My question to the Majority Leader is, when will this bill be considered? It was committed on March 13th to the Committee on Appropriations merely for a fiscal note. I have read in the press where several Senators have indicated they support the bill and will do all that they can to see the bill released from committee, including Senator Brightbill from part of Berks County. As the floor leader knows, Berks County is vitally interested in this, because the only county presently engaged in trying to foist its garbage and dump its trash in another county by condemnation is Delaware County, which is dumping its trash in Berks County at the Colebrookdale Landfill, but that should really not be the issue because all the questions that were raised, in terms of the fiscal analysis, are really red herrings. They are all speculative at this point. No one can conceivably give a fiscal note, because no one knows at this point how many municipal authorities are going to choose to perpetuate this obnoxious thing on the residents of other counties. When your county is attacked, then you, my friends on the other side of the aisle, will be very concerned about preventing it. Then it may be too late. Then your constituents will rightfully point their fingers at you and say, why did you not do something to prevent it when you had the opportunity? To suggest, as the Majority Floor Leader has just read from his prepared script, that there are all of these fiscal impacts and ramifications that have to be considered is really dodging the issue. A fiscal note can never determine as of now how many counties are looking into other counties to dump their trash, how many municipalities will be affected and what the impact is on municipal use or real estate taxes at a local level. We all know what this is about. My only question is that since there are no answers about all these speculative smoke screens that have been raised by the Majority Floor Leader, when are we going to get down to the business of attaching a fiscal note and getting it to the floor of the Senate? I would urge that all those

who have publicly expressed support for this, talk to the Chairman of the Committee on Appropriations and get this bill released. All we are asking for—and it is not too much—is for the people of Pennsylvania to look to their state Senator representing that area and feel that they have done what they can to protect the environment of that county against out-of-county governmental authorities who want to dump their trash and garbage on beautiful farmland somewhere else, in someone else's backyard in another county. Let us face this on the merits. Let us not continue to bury this and hide this bill hoping the issue will go away, because it will not go away. If the Discharge Resolution is too strong a medicine, I respectfully request, as the gentleman from Lackawanna, Senator Mellow, did last week, to get the Senate Appropriations staff to get this fiscal note. It should be a very simple fiscal note because there is only one county involved here. Let us get this bill voted on and not hide behind the Committee on Appropriations. This was not intended to be dumped, and when some people on that side of the aisle voted to recommit, they indicated to their press that they just wanted to see the fiscal ramifications. Let us get a vote on the merits. Let us see how people feel about protecting the environments back in their home counties. Let us not wait until it is too late, when somebody has already filed condemnation and taken by eminent domain a farmer's property or a landowner's property because, as I said, then it will be too late. Let us get this before us. Let us get it moving. Let us get it to the House of Representatives. All we are waiting for is a fiscal note, and I do not think that two months and two weeks is a reasonable length of time to get a fiscal note on such a narrow issue.

Senator HOLL. Mr. President, today a resolution was introduced having to do with New Jersey dumping sludge and solid waste in Pennsylvania. This resolution was signed by more than half of the Members of the Senate, and I think the other Members should be aware that the resolution was introduced. It seems that based on a congressional public hearing held recently in the Philadelphia area, having to do with dumping sludge in the Atlantic Ocean and to protect the State of New Jersey from encroachment, and New York and other states, the information was developed that New Jersey has a law that prevents any sludge from being dumped in New Jersey. It does not really make any difference whether it is New Jersey sludge, Pennsylvania sludge or sludge from any other part of the United States—no sludge dumping. Yet when we did our research, we found that Pennsylvania already allows 25 percent of the sludge placed in Pennsylvania landfills from states outside of Pennsylvania and that New Jersey currently dumps 50 percent of its solid waste in Pennsylvania landfills. What this resolution does, it calls on the Senate of Pennsylvania to conduct a public hearing very quickly to examine the landfill capacity in Pennsylvania in anticipation of New Jersey's proposed increase in dumping sewage and sludge which is now dumped out in the Atlantic Ocean and in the Commonwealth of Pennsylvania.

SPECIAL ORDER OF BUSINESS ANNOUNCEMENTS BY THE SECRETARY

The SECRETARY. Immediately upon the adjournment of the Senate, the Committee on State Government will convene in Room 460 to consider Senate Bills No. 153, 312, 373, 730, 732, 970 and 971 and Senate Resolution No. 33. Also, immediately upon adjournment, the Committee on Education will convene in Room 461 to consider Senate Bills No. 252, 605, 633, and 614, and the public hearing of the Committee on Law and Justice, originally scheduled to convene at 1:00 p.m. on Senate Bill No. 815, has been cancelled.

ADJOURNMENT

Senator LOEPER. Mr. President, I move the Senate do now adjourn until Monday, June 5, 1989, at 2:00 p.m., Eastern Daylight Saving Time, unless sooner recalled by the President pro tempore.

The motion was agreed to.

The Senate adjourned at 11:48 a.m., Eastern Daylight Saving Time.