

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

WEDNESDAY, JUNE 27, 1990

SESSION OF 1990 174TH OF THE GENERAL ASSEMBLY

No. 45

SENATE

WEDNESDAY, June 27, 1990.

The Senate met at 11:00 a.m., Eastern Daylight Saving Time.

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

PRAYER

The Chaplain, the Reverend Mr. JOHN B. BARKER, Pastor of Brentwood Presbyterian Church, Pittsburgh, offered the following prayer:

Let us pray.

Eternal God, You have taught us that true greatness comes from being a servant. We thank You for these men and these women who serve, who so unselfishly give of their time, their energies, their imaginations and their intelligence.

As they meet today, remind them that they enjoy the trust of the public and must seek to do its will. Through Your spirit guide them in all their decisions and their deliberations.

We pray this through the one who served us. Amen.

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of June 26, 1990.

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.

HOUSE MESSAGES

SENATE BILLS RETURNED WITH AMENDMENTS

The Clerk of the House of Representatives returned to the Senate SB 741, 742, 743, 744, 745, 746, 749, 750, 751, 752 and 753, with the information the House has passed the same with amendments in which the concurrence of the Senate is requested.

The PRESIDENT. Pursuant to Senate Rule XV, Section 5, these bills will be referred to the Committee on Rules and Executive Nominations.

HOUSE BILLS FOR CONCURRENCE

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

June 26, 1990

HB 1549 — Committee on Urban Affairs and Housing.

HB 2120, 2121, 2122 and 2617 — Committee on Local Government.

GENERAL COMMUNICATION

ARBITRATION AWARD AND DECISION OF THE PENNSYLVANIA SUPREME COURT AFFECTING THE CONFERENCE OF PENNSYLVANIA STATE POLICE LODGES

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

COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
Harrisburg

June 21, 1990

The Honorable Mark R. Corrigan
Secretary of the Senate
Room 462 Main Capitol Bldg.
Harrisburg, PA 17120

Dear Honorable Corrigan:

On behalf of the Executive Branch, I bring to the attention of the Senate of Pennsylvania the attached arbitration award and subsequent decision of the Pennsylvania Supreme Court affecting the members of the Pennsylvania State Police represented by the Fraternal Order of Police. The Commonwealth had challenged the legality of various provisions of the award, including the pension provisions in ¶9. The Supreme Court has decided that this pension provision is not in violation of the retirement code and has reinstated the arbitration award.

Section 7 of Act 111 of 1968, 43 P.S. § 217.7, requires that the Legislature take whatever action necessary to carry out the determination of the Board of Arbitration. Therefore, I am providing you with the court's opinion and arbitration award so that the Legislature may take whatever action it deems appropriate to carry out the pension provision of ¶9 of the award of the Board of Arbitration.

Sincerely,

JOSEPH L. ZAZYCZNY
Secretary of
Administration

The PRESIDENT. The report will be filed in the Library.

REPORT OF COMMITTEE OF CONFERENCE SUBMITTED

Senator WENGER submitted the Report of Committee of Conference on **SB 576**, which was placed on the Calendar.

DISCHARGE PETITIONS

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

In the Senate, June 27, 1990.

A PETITION

To place before the Senate the nomination of William E. Strickland, Jr., as a member of the Pennsylvania Council on the Arts.

TO: The Presiding Officer of the Senate

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of William E. Strickland, Jr., Pittsburgh, Pennsylvania, as a member of the Pennsylvania Council on the Arts, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

Roy W. Wilt
F. Joseph Loeper
Robert C. Jubelirer
Noah W. Wenger
David J. Brightbill

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

In the Senate, June 27, 1990.

A PETITION

To place before the Senate the nomination of Bernard C. Watson, Ph.D., as a member of the Pennsylvania Council on the Arts.

TO: The Presiding Officer of the Senate

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of Bernard C. Watson, Ph.D., Philadelphia, Pennsylvania, as a member of the Pennsylvania Council on the Arts, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

Roy W. Wilt
F. Joseph Loeper
Robert C. Jubelirer
Noah W. Wenger
David J. Brightbill

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

In the Senate, June 27, 1990.

A PETITION

To place before the Senate the nomination of Nancy Lewis as a member of the Brandywine Battlefield Park Commission.

TO: The Presiding Officer of the Senate

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of Nancy Lewis, West Chester, Pennsylvania, as a member of the Brandywine Battlefield Park Commission, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

Roy W. Wilt
F. Joseph Loeper
Robert C. Jubelirer
Noah W. Wenger
David J. Brightbill

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

In the Senate, June 27, 1990.

A PETITION

To place before the Senate the nomination of Margaretta G. Horten as District Justice, Westmoreland County.

TO: The Presiding Officer of the Senate

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of Margaretta G. Horten, North Huntingdon, Pennsylvania, as District Justice, Westmoreland County, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

Roy W. Wilt
F. Joseph Loeper
Robert C. Jubelirer
Noah W. Wenger
David J. Brightbill

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

LEGISLATIVE LEAVES

Senator BRIGHTBILL. Mr. President, I would ask for Capitol leaves for Senator Corman and Senator Baker and legislative leaves for Senator Madigan, Senator Jubelirer, Senator Greenwood and Senator Fisher.

Senator STAPLETON. Mr. President, I ask for a legislative leave for Senator Jones and temporary Capitol leaves for Senator Fattah and Senator Andrezeski.

The PRESIDENT. Senator Brightbill asks temporary Capitol leaves for Senator Corman and Senator Baker, also legislative leaves for Senator Madigan, Senator Jubelirer, Senator Greenwood and Senator Fisher. Senator Stapleton requests legislative leave for Senator Jones and temporary Capitol leaves for Senator Fattah and Senator Andrezeski. The Chair hears no objection to those leave requests. Those leaves will be granted.

CALENDAR

HB 2469 CALLED UP OUT OF ORDER

HB 2469 (Pr. No. 3386) — Without objection, the bill was called up out of order, from page 7 of the Third Consider-

ation Calendar, by Senator LOEPER, as a Special Order of Business.

**BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE**

HB 2469 (Pr. No. 3386) — The Senate proceeded to consideration of the bill, entitled:

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

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—50

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

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.

SPECIAL ORDER OF BUSINESS

**BRISTOL HIGH SCHOOL CLASS AA
WOMEN'S SOFTBALL CHAMPIONS
PRESENTED TO SENATE**

Senator LEWIS. Mr. President, I am extremely delighted to have a group of guests in the balcony today. This group of young women from Bristol High School in Bucks County has recently won the State Class AA Women's Softball Championship in Pennsylvania. They are accompanied by their coach, Michael Lalli, and I saw Representative Corrigan sitting with them. Mr. President, I would also like to say to them that the sport of softball is something which many of us in this Chamber engage in from time to time, and I would like to report to them and to my colleagues here that on Monday night in a softball game a team of Senators defeated a team from the House of Representatives. I know they were just introduced in the House a few minutes ago. I suspect they were not made aware of this information. They are now here in the better softball Chamber. Would you please extend the Senate's usual warm welcome to this group of champions from Bucks County.

The PRESIDENT. Would the members of the softball team from Bristol and Representative Tom Corrigan please rise so we can welcome you to the Senate of Pennsylvania.

(Applause.)

The PRESIDENT. Unfortunately, Representative Corrigan, I am not in a position to offer you equal time.

**SPECIAL ORDER OF BUSINESS
ANNOUNCEMENT BY THE SECRETARY**

The SECRETARY. The Majority and Minority Leaders have given their permission for the Committee on Rules and Executive Nominations to meet during today's Session to consider certain nominations.

RECESS

Senator LOEPER. Mr. President, at this time I would ask for a recess of the Senate for the purpose of a Republican caucus to begin immediately in the Majority caucus room on the first floor. After that I would have a recess for the purpose of Members to have lunch, with an expectation then of returning to the floor somewhere in the neighborhood of 2:00 p.m.

Senator MELLOW. Mr. President, I would request a Democrat caucus to take place immediately upon recess.

The PRESIDENT. For purposes of caucuses and lunch, the Senate will now stand in recess.

AFTER RECESS

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

**SPECIAL ORDER OF BUSINESS
ANNOUNCEMENTS BY THE SECRETARY**

The SECRETARY. The Majority and Minority Leaders have given their permission for the following committee meetings to occur during today's Session: The Committee on Appropriations to consider House Bills No. 317, 406, 2492 and 2579; the Committee on Aging and Youth to consider House Bill No. 2480 and the Committee on State Government to consider House Bill No. 200.

CONSIDERATION OF CALENDAR RESUMED

**BILL ON CONCURRENCE IN HOUSE
AMENDMENTS AS AMENDED**

BILL OVER IN ORDER

SB 1272 — Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILL ON CONCURRENCE IN HOUSE AMENDMENTS

SENATE CONCURS IN HOUSE AMENDMENTS

SB 430 (Pr. No. 2289) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of February 19, 1980 (P. L. 15, No. 9), entitled "Real Estate Licensing and Registration Act," further providing for the broker's disclosures to the buyer, time-shares, campground memberships and prohibited acts.

Senator LOEPER. Mr. President, I move the Senate do concur in the amendments made by the House to Senate Bill No. 430.

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

LEGISLATIVE LEAVE CANCELLED

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

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—50

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

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.

THIRD CONSIDERATION CALENDAR PREFERRED APPROPRIATION BILL OVER IN ORDER

HB 2458 — Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILL OVER IN ORDER

HB 62 — Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 176 (Pr. No. 3833) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for the grading and offense of a former convict not to own a firearm and for mandatory sentencing for convictions for certain drug offenses.

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—50

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

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.

LEGISLATIVE LEAVE CANCELLED

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

THIRD CONSIDERATION CALENDAR RESUMED BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 334 (Pr. No. 3836) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for certificate of title applications, transfers and security interests and for manufacturer and dealer registration plates; providing for special registration plates for Pearl Harbor survivors and for circus and carnival use; further providing for suspension of registration, suspension of vehicle business registration plates, revocation or suspension of operating privilege and cancellation of driver's license; providing for personnel actions based on certain employee safety considerations and for the Motor Vehicle Transaction Recovery Fund;

further providing for a certain restricted receipts fund, for certificates of registration and decals and for exemptions from registration; 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—50

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

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.

LEGISLATIVE LEAVES CANCELLED

The PRESIDENT. The Chair recognizes the presence on the floor of Senator Fisher and his temporary Capitol leave will be cancelled. Also, Senator Corman, his temporary Capitol leave be cancelled.

THIRD CONSIDERATION CALENDAR RESUMED

BILL OVER IN ORDER TEMPORARILY

SB 374 — Without objection, the bill was passed over in its order temporarily at the request of Senator LOEPER.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 452 (Pr. No. 467) — The Senate proceeded to consideration of the bill, entitled:

An Act prohibiting and restricting the use of certain instruments in connection with renal dialysis; granting rights to renal dialysis patients; and imposing duties on the Department of Health.

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—50

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

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.

LEGISLATIVE LEAVE CANCELLED

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

THIRD CONSIDERATION CALENDAR RESUMED

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 700 (Pr. No. 3834) — The Senate proceeded to consideration of the bill, entitled:

An Act prohibiting health care practitioners from balance billing for services to certain patients.

Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

Senator LOEPER. Mr. President, for the information of the Members who may not be on the floor and may wish to either debate or actively vote on the legislation before us, I would remind the Members that this is the medical overcharge measure.

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. The Chair recognizes the presence on the floor of the gentleman from Bradford, Senator Madigan, whose legislative leave is hereby cancelled.

And the question recurring,

Will the Senate agree to the bill on third consideration?

Senator PETERSON, by unanimous consent, offered the following amendment No. A2922:

Amend Title, page 1, line 4, by removing the period after "PATIENTS" and inserting: ; and making an appropriation.

Amend Bill, page 6, by inserting between lines 11 and 12:

Section 7. Appropriations.

The sum of \$10,000,000, or as much thereof as may be necessary, is hereby appropriated to the Department of Aging for the fiscal year July 1, 1990, to June 30, 1991, to contract for supplemental health insurance for Medicare beneficiaries whose income exceeds the maximum allowed under the Medical Assistance Healthy Horizons Program but is less than 150% of the Federally established poverty level.

Amend Sec. 7, page 6, line 12, by striking out "7" and inserting: 8

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

Senator PETERSON. Mr. President, this amendment would provide funding to assist those who are at the 150 percent federally established poverty level or lower, the funds to pay for their copay insurance that would pay the 20 percent they would still owe on Medicare. If we are really concerned about helping the poor in our society and those who are struggling to meet their rent payments, their utility payments and their health care payments, this will provide them with the insurance coverage they need to have their medical bills completely paid. I ask my colleagues to support this amendment on behalf of those poor senior citizens.

Senator BELL. Mr. President, I oppose this amendment. This is the old technique of killing a bill by sweetening it with kindness. The gentleman offering the amendment is chairman of the committee that would normally handle a separate bill to do what the gentleman wants. I suggest we vote against this amendment, and perhaps the gentleman could introduce a separate bill and quickly process it through his own committee.

Senator AFFLERBACH. Mr. President, I join with my colleague, the gentleman from Delaware, Senator Bell, in urging defeat of this amendment. Although the motivations of the gentleman from Venango, Senator Peterson, may well be meritorious in this regard, in attempting to provide some additional aid for seniors who find themselves in the unhappy position that he has described, the fact remains that this is a very hurried, last minute attempt to string an amendment onto this bill. Clearly, we would have had the opportunity to consider this amendment yesterday if the gentleman had had it prepared at that time. He obviously did not. In addition to that, we are in the waning days of our budget considerations and we now are faced with being asked to expend an additional \$10 million that has not up to this time been worked into the budget considerations at all. I think, if anything, this amendment is designed purely to kill the bill. I oppose it and I ask this Chamber to vote it down.

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. The Chair recognizes the presence of the gentleman from Bucks County, Senator Greenwood. His temporary Capitol leave will be cancelled.

LEGISLATIVE LEAVES

Senator MELLOW. Mr. President, I request temporary Capitol leaves for Senator Dawida, Senator Lewis, Senator Porterfield, Senator Regoli, Senator Reibman, Senator Scanlon and Senator Stapleton.

The PRESIDENT. Senator Mellow requests temporary Capitol leaves for Senator Dawida, Senator Lewis, Senator Porterfield, Senator Regoli, Senator Reibman, Senator Scanlon and Senator Stapleton. The Chair hears no objection. The leaves will be granted.

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

Senator MELLOW. Mr. President, I rise, also, to support the statements that have been placed on the record by the gentleman from Lehigh, Senator Afflerbach, and the gentleman from Delaware, Senator Bell. This was an amendment that was not shared with us when we had the opportunity of caucusing a little earlier this afternoon. Furthermore, Mr. President, we are deep into the negotiations for the 1990-91 budget, and this would add an additional \$10 million into that appropriation which the sponsor of the amendment and others know only too well that we, in fact, do not have, and I would request a negative vote on Senator Peterson's amendment.

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

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

YEAS—16

Armstrong	Helfrick	Loeper	Shaffer
Baker	Hess	Madigan	Shumaker
Brightbill	Hopper	Peterson	Wenger
Corman	Jubelirer	Punt	Wilt

NAYS—34

Afflerbach	Greenleaf	Mellow	Rocks
Andrezeski	Greenwood	Musto	Salvatore
Belan	Holl	O'Pake	Scanlon
Bell	Jones	Pecora	Stapleton
Bodack	LaValle	Porterfield	Stewart
Dawida	Lemmond	Regoli	Stout
Fattah	Lewis	Reibman	Tilghman
Fisher	Lincoln	Rhoades	Williams
Fumo	Lynch		

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

**GUESTS OF SENATOR DAVID J. BRIGHTBILL
PRESENTED TO SENATE**

Senator BRIGHTBILL. Mr. President, in the gallery is Dr. John Norton who is a political science professor from Lebanon Valley College. He has with him a group of outstanding high school students who are studying with him for a seminar on the Senate. He conducts a model Senate at Lebanon Valley College. I would ask that we recognize Dr. John Norton and his students and give them our traditional warm welcome.

The PRESIDENT. Would the guests of Senator Brightbill please rise so we could welcome you to the Senate of Pennsylvania.

(Applause.)

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

It was agreed to.

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

On the question,

Shall the bill pass finally?

Senator HESS. Mr. President, I must be honest with everyone here. I want the record to show if I were running for reelection today, I do not know whether I would be standing at this microphone. So now that the record is clear about my intentions, I want to say I do have a rather troublesome feeling. I understand why some people support this bill and I understand why it is popular. It is a senior citizens vote. I have asked and requested amendments which are not ready yet, but I would offer them if they were. There is a group of citizens in this state that is not able to vote and speak on issues like the MOM bill, for example. Those of us 18 years of age or older will be able to speak at the polls in November as to whether or not this is a proper measure to pass and whether we agree or disagree with our elected representatives. But what about those children out there, age one to eighteen? My amendment, if it were down here by now, would say that we would cap the costs that doctors could charge the minors of our country in this state. If you are going to take one group of society and say, you know, we overcharged them, therefore, if they are going to overcharge, that overcharge has to be shifted somewhere.

I know many senior citizens in my family who are much better off than my two sons, who I hope soon will present grandchildren to me. I do not see anybody speaking out for my grandchildren, but everybody seems to want to jump on the bandwagon when they want us to help out the senior citizens in my family. I appreciate that and they appreciate that. The question is, are we being equitable? If I take my family, which is an average middle class family, I can assure you we are not being equitable. Some of the senior citizens in my family need this bill, some of the senior citizens in my family do not need this bill, but every young married couple who is a blood relative of mine needs help with the medical bills for their children. And just to make that point, I will be casting a negative vote on this measure.

Senator PETERSON. Mr. President, I know my discussion here today will not change one vote. Probably half of the Senate will not listen to it because they are busy with their conversations. I think today, when we pass House Bill No. 700, we are making a major change in economics in Pennsylvania. We are setting fees for professionals. We are setting how much they can charge for certain procedures, and we have never done that. We were told yesterday we needed a level playing field, and I think that is true. The level playing field that is important to our seniors is access to health care. A lot of people do not want to believe there are access problems in any part of Pennsylvania, but there already are and they are growing. If you read national statistics, they are growing nationally also. High quality health care will not be available

to all in this country and in this Commonwealth with bills like House Bill No. 700. It is price setting, it is price fixing and it provides subsidized care for wealthy as well as poor seniors. It does not matter if you drive an Eldorado and have millions of dollars in the bank. It will provide help for people who drive Eldorados and have millions of dollars in the bank as well as those who are poor and can use the help. It does not have any kind of a means test, and as the Senator from York pointed out, probably those in Pennsylvania who most need good quality health care are the children of the poor. Their future health, their ability to learn, their ability to build a life depends on being healthy. But we are putting our resources to those, in many cases, who have been very successful and are living the good life. I am wondering if my colleagues would listen for just a moment, if they are prepared to provide legal fees or CAT Fund legal fees for senior citizens, or realtor fees, financial consultant and planning fees or accounting fees. All our seniors have to have their income tax prepared each year. They all have to have plumbers and electricians. Are we going to set fees there?

I think we are on a dangerous precedent. As I said yesterday we do a lot of crazy things around here trying to make health care affordable. We squeeze the balloon on the side, it comes out at the top. There will be price shifting here. Union contracts will cost more because when they lose on one end, they will charge somebody else. Companies paying health care insurance will pay more. You do not cut health care costs by squeezing the balloon. You get people to make sure people have good health care, good preventative health care and have health care accessible and available.

With the many rural and urban populations in Pennsylvania with high Medicaid populations and Medicare populations within the same community, I cannot believe, and I hope I am wrong, but if I were a young doctor coming out of medical school today on a residency program today, I do not think 99 out of 100 would choose to go into an area that has 75, 80 or 85 percent government paid health care with set prices which the MOM bill and the Medicare program will do in the future. We will be here in the future dealing with how we are going to get primary care physicians into those parts of Pennsylvania where our senior citizens do not have physicians available to serve them. I hope I am wrong, but if I thought I was wrong I would not be up here today.

My major concern of this bill is if every doctor in Pennsylvania had to absorb this bill equally and fairly, it would be a pill they would not like but they could swallow. But that is not going to happen. Doctors in affluent and rich areas are not going to be affected. They will grumble about it; they will not like it. Doctors who serve the poor people and the large populations of seniors, I hope do not, but will probably vote with their feet and move into neighborhoods where they do not have 75, 80 or 85 percent of their business provided by government fixed programs. It sounds good. The groups that wanted it have fought hard for it and probably my opposing it has not been a smart political thing to do. As Chairman of the Committee on Public Health and Welfare and looking at the

whole health care issue in this Commonwealth, the MOM bill is not a positive step in providing health care access, and without access it does not matter what the price is.

Senator AFFLERBACH. Mr. President, I think the Senate, too, is embarking on a course of action today that is certainly unique, is certainly going to be something that will be revisited in the future. Unlike the previous two speakers, however, I think we are moving in the correct direction. I share the concern of the gentleman from York. I think there are many young families particularly who are in need of relief on their health care costs and, in fact, I had an amendment drafted which I had intended to offer to this bill that would have done precisely that. I decided not to offer that amendment because, frankly, I felt that too many Members of this Chamber would consider it to be socialized medicine to think that we should, in fact, try to control fees to young families as well as the elderly all in one fell swoop and, rather, we should establish a track record with the elderly.

With respect to the second gentleman, I would say, indeed it is the doctors in the more affluent areas who have been most vociferously opposed to this legislation because they know very well the patients they are treating are the very patients whose bills have been padded above and beyond the Medicare reimbursement, and now that will no longer be possible because all senior citizens by virtue of age qualify for Medicare, not by virtue of income. It is, in fact, just the doctors from those most affluent areas who stand to lose the most.

With respect to service in the rural areas, I would direct the gentleman to review today's edition of the Wall Street Journal, that liberal of liberal newspapers, with respect to its column on health care costs which is found on page B-1. It speaks to the idea of rural hospitals and Medicare and quotes a General Accounting Office report recently released that indicates very clearly, in fact it states flatly that Medicare has had virtually no impact upon the closing of rural hospitals. While this report deals specifically with hospitals, I would suggest the same holds true for doctors' services produced in the rural areas and that the gentleman should obtain a copy of that report and read through it, because it sets forth very clearly that for-profit rural hospitals have eight times the chance of closing that the non-profit hospitals have. I suggest it is exactly the same with the physicians who are providing services in those areas. We do not expect to see by any means a lack of health care provisions in the rural areas as a result of this bill. If anything, I believe it may well be improved. I would congratulate this Chamber for what is about to happen and that is to take a very unique and forward reaching step into the future by passing this bill.

Senator ANDREZESKI. Mr. President, I am glad to be here as a Member of the Senate of Pennsylvania on a day where we help set what will become a trend setting law that will go like a wave across the nation. This same law is in place in almost the same capacity in Massachusetts and Connecticut. We will become the first very large state to adopt this measure. I would like to say that in the ten years I have been a Member of the Senate of Pennsylvania, I have had many

senior citizens in my office who have complained about the fact that they had many phone calls over bills they did not know they had when they had an operation, specifically when many older Americans have gone into the hospital and were not told that some doctors accept assignments and others do not. I have dealt with hundreds of people over the years who had very high medical bills that they thought were covered by insurance. I think we are taking the first step to say that people who are on limited incomes will be able to live with some security within those limited incomes when they are sick.

I would also like to congratulate the Members of this General Assembly in the House and Senate who stood by the concept of House Bill No. 700, the MOM legislation, to finally see it come out of this Chamber and to see it come out with the same concepts that were intended when it was first introduced in the House.

LEGISLATIVE LEAVE CANCELLED

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

LEGISLATIVE LEAVE

Senator LINCOLN. Mr. President, I would request temporary Capitol leave for Senator Williams.

The PRESIDENT. Senator Lincoln requests temporary Capitol leave for Senator Williams. The Chair hears no objection. The leave will be granted.

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—44

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

NAYS—6

Brightbill	Hess	Peterson	Wilt
Corman	Hopper		

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

BILL OVER IN ORDER

SB 1059 — Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1111 (Pr. No. 2352) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of November 24, 1976 (P. L. 1163, No. 259), entitled "Generic Equivalent Drug Law," further providing for the addition and deletion of generic drugs from the formulary.

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—50

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

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 ON THIRD CONSIDERATION AMENDED

HB 1141 (Pr. No. 3835) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for obscene and other sexual materials; providing for obscene performances; and prohibiting the disclosure of confidential tax information by certain persons.

Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

Senator HOPPER, by unanimous consent, offered the following amendment No. A2882:

Amend Title, page 1, line 4, by striking out "AND"

Amend Title, page 1, line 5, by removing the period after "PERSONS" and inserting: ; and further providing for criminal history record information.

Amend Bill, page 9, line 20, by striking out all of said line and inserting:

Section 3. Section 9106 of Title 18 is amended to read:
§ 9106. Prohibited information.

(a) General rule.—

(1) Intelligence information, investigative information and treatment information shall not be collected in the central repository [nor in any automated or electronic criminal justice information system]. This prohibition shall not preclude the collection in the central repository [or in any automated or electronic criminal justice information system] of names, words, numbers, phrases or other similar index keys to serve as indices to investigative reports.

(2) Intelligence information may be placed in an automated or electronic criminal justice system only if:

(i) the criminal justice agency has reasonable suspicion of criminal activity; and

(ii) access to the intelligence information contained in the automated or electronic criminal justice system is restricted to the authorized employees of the criminal justice agency and cannot be accessed by any other individuals inside or outside that agency.

(3) Intelligence information shall be placed within categories designated by the head of the criminal justice agency. The categories shall be based on subject matters that would give rise to prosecution for a State offense graded as a misdemeanor or felony, or for a Federal offense for which the penalty is imprisonment for more than one year.

(4) Intelligence information may not be collected in violation of State law.

(5) Intelligence information may not be disseminated to any outside agency unless the information has been verified.

(6) Intelligence information may not be collected or maintained concerning participation in a political, religious or social organization, or the organization or support of any nonviolent demonstration, assembly, protest, rally or similar form of public speech, unless there is a reasonable suspicion that the subject of the information is, or may be, involved in criminal activity.

(7) Investigative information and treatment information contained in the files of any criminal justice agency may be placed within an automated or electronic criminal justice information system, provided that access to the investigative information and treatment information contained in the automated or electronic criminal justice information system is restricted to authorized employees of that agency and cannot be accessed by individuals outside of that agency.

(b) Dissemination of protected information.—

(1) Intelligence information, investigative information and treatment information shall not be disseminated to any department, agency or individual unless the agency requesting the information is a criminal justice agency.

(2) Criminal justice agencies may request and may receive intelligence information, investigative information and treatment information only in connection with the duties of a criminal justice agency and only when the request for information is based upon the name, fingerprints, modus operandi, genetic typing, voice print or other identifying characteristic.

(3) Intelligence information shall be disseminated only to other criminal justice agencies which have established policies and procedures regarding data entry, maintenance, security, categorization and dissemination which are consistent with the regulations promulgated under this section. The regulations should not include any review of intelligence information by the promulgating agency.

(4) If an intelligence officer of the disseminating agency is notified that intelligence information which has been previ-

ously disseminated to another criminal justice agency is materially misleading, obsolete or otherwise unreliable, the information shall be corrected and the recipient agency notified of the change within a reasonable period of time.

(5) Criminal justice agencies shall establish retention schedules for intelligence information. Intelligence information shall be purged under the following conditions:

(i) The data is no longer relevant or necessary to the goals and objectives of the criminal justice agency.

(ii) The data has become obsolete, making it unreliable for present purposes; and the utility of updating the data would be worthless.

(iii) The data cannot be utilized for present or future strategic or tactical intelligence studies.

(c) Security of the information.—A criminal justice agency or other entity which possesses information protected by this section, but which is not the source of the information, may make use of or disclose such information to the extent that such use or disclosure is appropriate to the proper performance of the criminal justice agency using or disclosing the information; otherwise, the criminal justice agency may not disseminate such information. Agencies and individuals receiving intelligence information, investigative information or treatment information assume equal responsibility for the security of such information as the originating agency.

(d) Notations of the record.—Criminal justice agencies maintaining intelligence information, investigative information or treatment information must enter, as a permanent part of an individual's information file, a listing of all persons and agencies to whom they have disseminated that particular information, the date of the dissemination and the purpose for which the information was disseminated. This listing shall be maintained separate from the record itself.

(e) Security requirements.—Every criminal justice agency collecting, storing or disseminating intelligence information, investigative information or treatment information shall insure the confidentiality and security of such information by providing that wherever such information is maintained, a criminal justice agency must:

(1) institute procedures to reasonably protect any repository from theft, fire, sabotage, flood, wind or other natural or man-made disasters;

(2) select, supervise and train all personnel authorized to have access to intelligence information, investigative information or treatment information;

(3) insure that, where computerized data processing is employed, the equipment utilized for maintaining intelligence information, investigative information or treatment information is dedicated solely to purposes related to the administration of criminal justice, or, if the equipment is not used solely for the administration of criminal justice, the criminal justice agency is accorded equal management participation in computer operations used to maintain the intelligence information, investigative information or treatment information.

(f) Penalties.—Any person, including any agency or organization, who violates the provisions of this section shall be subject to the administrative penalties provided in section 9181 (relating to general administrative sanctions) and the civil penalties provided in section 9183 (relating to civil actions).

Section 4. This act shall take effect as follows:

(1) Section 3 of this act, amending section 9106, shall take effect in 60 days.

(2) The remainder of this act shall take effect immediately.

On the question,

Will the Senate agree to the amendment?

Senator FUMO. Mr. President, this amendment is the same as Senate Bill No. 635 that we debated at great length yesterday, and I believe there were 14 Members who voted against it. I would urge those Members again to vote against it. Again, this bill just takes our Bill of Rights and tears it up and allows for rumor central to be operated by government now and can easily allow for reputations to be besmirched and careers and individuals' reputations to be ruined with really no basis at all to do that and, in fact, we have now increased the span to make it national. I would urge my colleagues again to please, those who voted in favor of this bill yesterday, reconsider and remember what you are doing to our Bill of Rights and to yourselves, your constituents and families, because I submit to you that anyone in public life is going to be the first one targeted for this kind of nonsense. I give to you as precedent the Rizzo spy squad of years before. I would urge you to vote "no." At least allow the House to consider this bill independently, rather than putting it into a House bill concerning pornography or whatever we have before us today. I would urge a "no" vote, Mr. President.

And the question recurring,

Will the Senate agree to the amendment?

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

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

The PRESIDENT. The gentleman will be so recorded.

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

The PRESIDENT. The gentleman will be so recorded.

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

The PRESIDENT. The gentleman will be so recorded.

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

YEAS—35

Andrezeski	Helfrick	Loeper	Rocks
Armstrong	Hess	Madigan	Salvatore
Baker	Holl	Mellow	Shaffer
Bell	Hopper	Musto	Shumaker
Brightbill	Jubelirer	Pecora	Stapleton
Corman	LaValle	Peterson	Tilghman
Fisher	Lemmond	Punt	Wenger
Greenleaf	Lewis	Regoli	Wilt
Greenwood	Lincoln	Rhoades	

NAYS—15

Afflerbach	Fattah	O'Pake	Stewart
Belan	Fumo	Porterfield	Stout
Bodack	Jones	Reibman	Williams
Dawida	Lynch	Scanlon	

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

The PRESIDENT. Without objection, House Bill No. 1141 will go over in its order, as amended.

BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE

SB 1202 (Pr. No. 2282) — The Senate proceeded to consideration of the bill, entitled:

An Act providing for the Office of State Inspector General in the Office of General Counsel; and providing for the powers and duties of the office.

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 LINCOLN. Mr. President, I desire to interrogate the gentleman from Schuylkill, Senator Rhoades.

The PRESIDENT. Will the gentleman from Schuylkill, Senator Rhoades, permit himself to be interrogated?

Senator RHOADES. I will, Mr. President.

Senator LINCOLN. Mr. President, would the gentleman explain basically what Senate Bill No. 1202 would cause to happen in Pennsylvania if enacted into law?

Senator RHOADES. Mr. President, I think the difference is, what we are taking is, really what the Governor has done through executive order, and legislatively and statutorily establishing it whole. We will expand the jurisdiction of the Inspector General to be able to go into the departments of the administration, as he is able to do now, and will also hire a staff to investigate complaints that are made and from that standpoint make the administrative change or the recommendations for administrative changes that should be made. Or, if it would require action by the Attorney General or the District Attorney, he would be able to go in at that particular point and refer that information that he has learned to them to take the appropriate action.

Senator LINCOLN. Mr. President, the gentleman's comment on hiring staff, what kind of an expansion in the number of state employees are we talking about that would be brought about by this piece of legislation?

Senator RHOADES. Mr. President, to give you an exact number, right now I do not have an exact number in hand, but I think we might be talking 10, 12, maybe 15 people. I do not see where it is going to be bigger than that. In many cases they will be deputies to him who will be in charge of doing the investigations.

Senator LINCOLN. Mr. President, is the worst case scenario 10 and the best case scenario 15?

Senator RHOADES. Mr. President, I am roughly estimating those right now. I do not think we are going to see more than that. Primarily, it is going to be investigations. I think if it starts getting bigger than that, then we had better take a pretty good look at it again.

Senator LINCOLN. Mr. President, are we talking about an expenditure of three-quarters of a million, a million, two million?

Senator RHOADES. Mr. President, again, I do not have the numbers. I could obtain those for you, but I think it might be more in the neighborhood of about three-quarters.

Senator LINCOLN. Mr. President, would the gentleman indicate as to whether there has been dissatisfaction and is there a record of that dissatisfaction, with the current system that has been instituted by Governor Casey and by executive order he brought a person into place to do precisely what this bill would call for?

Senator RHOADES. Mr. President, no. As a matter of fact, with the present Inspector General, he has been most cooperative with us in terms of developing this legislation, getting his thoughts so that it can be properly implemented statewide statutorily with legislative approval. As I said, what we are basically doing is, I think, any Governor through executive order can put it in place and can also take it out of place. Our thought is to put it in statutorily so that it is there because it is working. I think it has been a good idea regardless of being a Democrat Governor or a Republican Governor. Others have done it. I think we ought to carry it on.

Senator LINCOLN. Mr. President, I thank the gentleman for his very candid answers, and I would like to be recognized on the bill.

Mr. President, even more so, after the dialogue between the prime sponsor of the bill and myself, I am convinced that there is absolutely no need or any pressing desire to have this particular piece of legislation passed and enacted into law. Generally speaking, I would think that the acceptance of the person whom we have placed in this position as State Inspector General, by virtue of the Governor's action with an executive order, has been well received. In fact, I do not believe that I have heard a complaint from any constituent who has had some dealing with Inspector General Smith. I do not have any mail, I do not have anything that would indicate to me there would be any need whatsoever for changing something that is already working. My experience in life is if it is not broke, you do not fix it, and that is precisely what we are all about with Senate Bill No. 1202. We are taking a system that is working extremely well with very little public knowledge because it is working so smoothly. We do not have any criticism in the form of newspaper stories. I do not recall ever hearing any of our loyal opposition clamoring to the microphone on Petitions and Remonstrances and berating the outrageous job that Inspector General Smith is doing. I believe that any expenditure, whether it be three-quarters of a million dollars, or whatever the number may be, our staff on our Committee on Appropriations is unable to determine truthfully what this bill would cost. I think the honesty of the prime sponsor in his response to my question would indicate that there is some very difficult question about just what it would cost. Experience being a good factor at times, my experience with a number of state employees being ten at the worst case scenario, 15 at the best case scenario, we are talking probably three-quarters of a million to a million and a half dollars for salaries and benefits alone. That does not include furniture, office space, whatever else may be involved. It just does not seem like a very good idea because it is not needed. I think if we had no Inspector General, if we did not have a person in place, if that person were doing a job that was questionable in any way whatso-

ever, then I could under those circumstances maybe see the need for Senate Bill No. 1202. Under the circumstances, it just does not make any sense. I think it is a waste of money, I think it is something that, to be quite honest with you, surprises me from the source it is coming. This would be something that, over the years, a good Democrat Senator would have been sponsoring, and there would have been Republicans who would have been saying, "Why?" and whatever, and the same things I am saying. But I really do not believe it is necessary to do this, and I would ask that we vote "no" on this particular piece of legislation.

Senator RHOADES. Mr. President, I guess from one good Republican putting up a good piece of legislation, whether a good Republican does it or a good Democrat does it, I think the best way to summarize this is if we see it as being good now, then it should be just as good later. If it is good, what does it matter who proposes it? We should keep the process in place and ensure that the goodness that comes out of this service will stay in place. If it is the truth, what does it matter who said it? And I say, in essence, to the Inspector General's bill, if it is a good bill, what does it matter who proposes it as long as we continue to have the goodness?

And the question recurring,
Shall the bill pass finally?

(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. The gentleman will be so recorded.

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

The PRESIDENT. 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—32

Afflerbach	Greenwood	Lynch	Salvatore
Armstrong	Helfrick	Madigan	Shaffer
Baker	Hess	Musto	Shumaker
Bell	Holl	Pecora	Stewart
Brightbill	Hopper	Peterson	Stout
Corman	Jubelirer	Punt	Tilghman
Fisher	Lemmond	Rhoades	Wenger
Greenleaf	Loeper	Rocks	Wilt

NAYS—18

Andrezeski	Fumo	Mellow	Reibman
Belan	Jones	O'Pake	Scanlon
Bodack	LaValle	Porterfield	Stapleton
Dawida	Lewis	Regoli	Williams
Fattah	Lincoln		

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

SB 1396 (Pr. No. 1798) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), entitled "Tax Reform Code of 1971," further providing for the definition of "farming" and for sales tax on the sale of horses in certain circumstances; and exempting feed for horses from sales tax.

Considered the third time and agreed to,

On the question,

Shall the bill pass finally?

RECONSIDERATION OF SB 1396

Senator LOEPER. Mr. President, I move that the Senate do reconsider the vote by which Senate Bill No. 1396 was agreed to on third consideration.

The motion was agreed to.

And the question recurring,

Will the Senate agree to the bill on third consideration?

Senator LOEPER. Mr. President, I request that Senate Bill No. 1396 go over in its order temporarily.

PARLIAMENTARY INQUIRY

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

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

Senator LINCOLN. Mr. President, could the Chair give me the chronology of what we have done recently, or give me maybe an update on what we have just done in the last three minutes. I missed the bill.

The PRESIDENT. We are on page 4 of the Calendar dealing with Senate Bill No. 1396. Senate Bill No. 1396 has been taken over temporarily at the request of Senator Loeper.

Senator LINCOLN. Mr. President, we had completed some activity and action on the floor on Senate Bill No. 1396 previous to that.

The PRESIDENT. The Chair was moving rapidly to agree to it on third consideration and final passage, but was stopped before final passage.

Senator LINCOLN. No, Mr. President, I heard a reconsideration motion made by Senator Loeper, and I did not know what we were reconsidering.

The PRESIDENT. That is correct. We were reconsidering the vote by which the bill passed on third consideration.

Senator LINCOLN. Mr. President, by which it passed?

The PRESIDENT. That is correct, and was agreed to.

Senator LINCOLN. Mr. President, we have reconsidered, and now the Chair is in the process of going over Senate Bill No. 1396 for the day?

The PRESIDENT. Temporarily.

Senator LINCOLN. Mr. President, thank you very much.

The PRESIDENT. Senate Bill No. 1396 at present, for the information of all Members, is now on third consideration and at the present time is going to be taken over temporarily.

Without objection, Senate Bill No. 1396 will go over in its order temporarily.

BILLS OVER IN ORDER

SB 1445 and 1446 — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILL ON THIRD CONSIDERATION,
DEFEATED ON FINAL PASSAGE

SB 1448 (Pr. No. 2356) — The Senate proceeded to consideration of the bill, entitled:

An Act authorizing the State Tax Equalization Board to provide financial assistance to counties for assessment reform; creating a revolving loan fund from a restricted account within the General Fund; providing for grants-in-aid and loans for assessment improvement including countywide reassessment; providing for the powers and duties of the State Tax Equalization Board; 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?

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

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

The PRESIDENT pro tempore. I will, Mr. President.

Senator MELLOW. Mr. President, could the gentleman briefly tell us, of the \$25 million that appears to be appropriated in the bill, where that \$25 million is going to come from?

The PRESIDENT pro tempore. Mr. President, so that the Members know, the measure, which is based upon the recommendations of the Local Government Commission, is intended to improve fairness of property taxes by establishing a loan program which is up to the counties. It is certainly optional with the counties, to update and revise their assessment systems; and a grant program for counties to achieve an acceptable level of assessment uniformity. It is a loan program that the gentleman refers to, Mr. President, and would not be in effect this year at all. The money would be repaid. It would be in and out. It would be a budget item for next year's budget. I do not think we can just stop state government and allow ourselves not to progress in an area where we need to recognize that oppressive property taxes are costing millions upon millions of dollars without dealing with specific reforms. This is strictly a no-interest loan program. If counties wish to avail themselves of it, they can. If they do not, they do not have to. I would imagine most counties would. It has been endorsed by the Pennsylvania County Commissioners and brings us to the last part of the 20th Century and on the threshold of the 21st Century, and the money would be a budget priority out of the general fund of the 1991-1992 budget. There are many priorities in a budget; this would have to be a priority that would have to be dealt with next year.

Senator MELLOW. Mr. President, Senator Jubelirer in his discussion mentioned the fact that this is a loan program. I did not hear him mention any part about if it dealt with the

grant program. Could he kindly share with us what the grant program is all about?

The PRESIDENT pro tempore. Mr. President, there is a \$4.7 million direct county grant-in-aid program. That is the sum and substance, less than \$5 million, and these grants would be used to maintain assessment systems. There is an appropriation, I think of \$300,000, also included for administration of the program by the State Tax Equalization Board. Again, my answer to him would be the same as it was for the loan program. It would be that this roughly \$5 million would be a budget item for next year, as there are many budget items, but I certainly do not consider this something that would be considered a budget buster. In essence what we would be doing would be saving local taxpayers significant dollars, I believe, in the long run on their local property taxes. That is why most of this particular program, by the way, was a very good part of the previous tax plan offered by the Governor and supported by the gentleman from Lackawanna County, Senator Mellow, and others who believed this program, as I did, was a good program and was one that deserved to be reconsidered in the different bills we offer. However, that was part of one package totally, and this is a separate bill that can rise and stand on its own. Had this program, I believe, been offered separately last year, it would have been passed without any opposition whatsoever. I believe the one-time revolving loan fund is a small price to pay for accurate, fair and uniform property taxes and it should result, Mr. President, in cost savings for counties in the long term since it is going to mean more efficient and accurate assessment practices. The \$4.7 million grant program which the gentleman has inquired about will provide cost savings to local governments by reducing costly appeals and providing more predictability and continuity in property tax revenues. So I do not expect that; in fact, if anything, it is going to save the taxpayers and the counties money, and it is a very, very miniscule price to pay in the budget for that kind of result.

Senator MELLOW. Mr. President, could Senator Jubelirer tell us as to how a reassessment of property values throughout the Commonwealth in our various counties helps us to lower property taxes for senior citizens?

The PRESIDENT pro tempore. Mr. President, I think we are not trying to target any one group. We are trying to target fairness, and this does not mandate anything. We have been targeted ourselves by a national service as the fourth worst state in regards to assessments in the nation. I do not think there is any question that good assessments, fair assessments are the foundation of fair and uniform property taxes. I do not think anybody would argue that. Frankly, since property taxes generate over \$5 billion in revenue for local governments in Pennsylvania, I believe it is important that the Commonwealth take whatever steps are necessary to ensure that counties have the tools to perform the most uniform and accurate assessments possible. I think the only way you are going to do that is with modern systems evaluations and computerized record keeping. We have absolutely an abomination in this state, and I do not think anybody disagrees. This is a Local

Government Commission bill. I have not tried to reinvent the wheel here. This bill has been, I believe, on the Calendar of the House of Representatives as well. We have tried to gather together some of the modern tools to put into legislation so that, if counties want to use them, they would be available. It is strictly a "may" provision, and that I believe would save dollars in the long run.

Senator MELLOW. Mr. President, in the June 8, 1990 edition of *The Daily American*, which is a Somerset newspaper, Senator Jubelirer was quoted, and I realize that sometimes things are taken out of context, and perhaps this is not the quote. The quote is: "The proposed assessment reform would be," according to Senator Jubelirer, "good for senior citizens who aren't working. It also relieves the burden on the property owner." What I would like to know is, in the passage of this proposal, how does a reassessment possibly help lower the burden on a senior citizen? Whether that senior citizen is employed or whether that senior citizen is not employed, I think is rather insignificant because the burden of property tax on a senior citizen is the same. It is a heavy burden when people are not making a great deal of money. What I would like to know, basically, is if there is any way—or maybe he was misquoted in the newspaper—that the enactment of this proposal will have a reduction of property taxes for senior citizens?

The PRESIDENT pro tempore. Mr. President, you combine fairness in assessment practices with the homestead exemption, which you found fault with several weeks ago, and you have the tools by which those who levy property taxes can cut property taxes. It is that simple. When you have the kind of unfairness that is around Pennsylvania today, those particularly who are able to build very expensive houses have an opportunity, frankly, to avoid paying their fair share of taxes, which I believe those who have held their homes for a long time likely are paying. That is the opportunity for the levying officials to cut property taxes. Senior citizens, in my judgment, when you talk about things like homestead exemption and for those senior citizens who are not employed, there would be a tremendous benefit to them. Again, this was part of the previous tax plan and one that has been noted by the Local Government Commission. It has been hailed by those who follow this issue across the Commonwealth as being an absolute necessity if we are to achieve any degree of fairness in the area of property taxes. The previous plan, the Casey tax plan, did not have the homestead exemption. We have passed that here on its first leg, and when you combine that I cannot imagine that the number one group who would benefit surely would be senior citizens. I did, indeed, speak to a group in Somerset. I would suggest that that quote may have been taken in line with a lot of things that I have tried to explain here today.

Senator MELLOW. Mr. President, I thank the gentleman, and now, Mr. President, I would just like to put some remarks on the record.

First of all, Senator Jubelirer talked about how I fought and would continue to fight a homestead exemption that was

pushed by Senator Jubelirer in a constitutional amendment last week or several weeks ago, because, by and large, it was not a true homestead exemption. It was a homestead exemption, if I can recall, that could establish up to a \$15,000 credit in property evaluation for a single property owner. It would bring about, if passed, up to a \$10,000 credit for a business owner. But, Mr. President, the main difference between the two is that in subsequent legislation Senator Jubelirer has asked us, or will be asking us, or we already have passed legislation that would place the burden of replacing the property tax for the individual homeowner with the wage tax to pay for the amount of money that would be exempted under the homestead exemption. But he did not do that for the business entity which in fact, by and large, carved out a homestead exemption which would give a tax reduction to business at the expense of the homeowner. I mean that is clear. We discussed that on the floor of this Senate several weeks ago, and I do not think there was any misinterpretation or misunderstanding. In fact, Mr. President, what we asked at that point in time was let us only come up with the exemption if you want a true homestead exemption, and that is what Senator Jubelirer really wanted. We should not have placated the business interests in the state by adding the \$10,000 homestead exemption for business. We purely and simply should have had the \$15,000 homestead exemption that would take care of the property owner, including the senior citizen, if you will.

Also, Mr. President, it was suggested that I did support the Casey property tax reform proposal of 1989. I submit to the gentleman that was the true property tax reform proposal that has been before this General Assembly that we have had the opportunity to discuss over the past several years, not the property tax proposal that is before us today. By and large, we were not looking for \$25 million in this particular proposal which, prior to the enactment of an amendment just this past week, would have taken it out of funds that already have been spent on PENNFREE, but in the property tax proposal that was advanced by the Casey Administration, Mr. President, and supported, if I may suggest to the gentleman, by several Members of his own caucus, we had set aside \$140 million for the implementation of that program and we did not leave it to chance that perhaps money would be coming from somewhere.

Let us follow the thing through a little bit further, Mr. President, in dealing with reassessment. We have a number of Members of the Senate, both present Members and those who have served in the past, who have been members of boards of county commissioners. As serving as members of boards of county commissioners in the various counties of this Commonwealth, one of the things they were in charge of was reassessment. Mr. President, if you talk to anyone who deals with reassessment, they will tell you that those individuals who are the most severely impacted upon in a reassessment are those people who have lived in a home for a long period of time, because those are the people who have a very low assessment on their property. Those individuals who are being targeted by the enactment of Senator Jubelirer's proposal, basically,

are people who have lived in a residence for a very long period of time. So the people that he is saying he is trying to help, Mr. President, are those individuals who will be the most severely impacted upon and they are the senior citizens. So, if you follow out the scenario that he has unfolded for us and if, in fact, the homestead exemption amendment is never passed and, therefore, the poor senior citizens never receive their benefit from a homestead exemption, Mr. President, and if the bill that Senator Jubelirer has presented to us today for final consideration is in fact adopted, and senior citizens have their properties reassessed and the \$25 million that he knows only too well is not available in the 1990-91 budget allocation, then the only thing that we have been able to accomplish here this afternoon by the enactment of this proposal is that we have brought about a reassessment of property taxes to people who could suffer the most from that reassessment and those individuals who have lived at that particular property address for a long period of time. And, Mr. President, they are the senior citizens.

I think to be precise, in conclusion, not only will I ask the Members, at least on this side of the aisle, to vote against the proposal, but I think it is important for us to note that this is only piecemeal legislation. It is a too little too late approach to a piece of legislation that we had before us last year that Senator Jubelirer and others, I assume to their credit, did everything they possibly could to make sure that that particular tax proposal would not pass. And when the gentleman talks about fairness, there is nothing fair about the proposal he is presenting to us today and asking us to enact, Mr. President, because, by and large, what this proposal on its own does is, it asks for \$25 million for a loan and a grant program, money which is not available. It asks for a reassessment in the counties in Pennsylvania which will have a significant impact on those people who have lived in those properties for a long period of time, which by and large are senior citizens and people on a fixed income, and there, as we stand here today, is no homestead exemption in Pennsylvania, whether that homestead exemption be for the senior citizens, whom we would all like to take care of, and those who live on a fixed income and the property tax owner, to exempt their assessed valuation of up to \$15,000 or the additional \$10,000 that also Senator Jubelirer wanted to take care of, meaning those people who have business interests in Pennsylvania. In taking care of those people, there is no implementing legislation that would add the tax dollars into the local tax coffers for business interests, because of having exclusion on the homestead exemption that they would for the individual property owner who is also a wage earner, who potentially could have an increase in his or her wage taxes, Mr. President, to make up the reduction of property tax. It is because of the arguments that I have laid forth. and because of the fact that there is no \$25 million to pay for the implementation of the program, and because the program is nothing more than a piecemeal piece of legislation which is unfortunately too little and too late, I ask for a negative vote.

The PRESIDENT pro tempore. Mr. President, I have listened with great interest to my distinguished colleague, the Democratic Floor Leader from Lackawanna County, totally distort a program that has been hailed and endorsed by newspaper editorials, by those who follow property taxes, by the Governor himself and by Senator Mellow himself last year when he was advocating such a program, and well he should have. It was a good part of last year's program, and had it not been tied into some of the more onerous parts, it would have passed without question. This has been a long time coming. It is certainly again the work of many people in both this Senate and the House of Representatives who believe that assessment reform, as each county decides to have it, should be available. To suggest anything else is regression of the worst kind. To distort it and make it sound like it is some secretive plan to raise people's taxes is as absolutely distortive as anything I have ever heard on this issue, and I think we have heard a great deal. Such is not the case. Mr. President, last year the Governor said that Pennsylvania's local tax system was the state's number one problem. When he failed to fix the problem and spent the \$140 million that was set aside for tax reform, he stopped talking about the problem, while the tax reform money may have disappeared and went for another good cause, the eradication of the drug problem. Mr. President, we have never said the local tax problem has gone away, and it is still, if not the number one problem, certainly among the top problems that Pennsylvania has. We are a laughingstock in the nation with the kind of assessment practices we have in this state. This bill takes an enormous step toward better assessments, fairer assessments in Pennsylvania. It is consistent with changes made in 1982 that established the common level ratio which helps with appeals and uniformity. In 1986 it instituted the training and certification of assessors. It is time for Pennsylvania to take another step. This bill and Senate Bills No. 1448 and 1449 and the other bills go farther than we had ever gone toward fairer and more uniform real property taxes. They go a long way toward providing fairness. I clearly understand the politics that are involved here today, but for any Member of this Senate to suggest that by having assessment fairness, by providing a pot of money so counties will have the wherewithal—and I have heard the gentleman talk before about mandates, we do not provide mandates here—to go through modern assessment practices and computerize the data, we provide that. That is a fair negotiation for next year's budget and I would think it should be on top of everyone's list. For those who want to vote against this, I suggest they look at the bill themselves and not get caught up in the personal politics that goes with it. I clearly understand that. Mr. President, it is a good bill. It is a fair bill. It is a needed bill. It is a highly endorsed bill by all who have talked about it. It has never, ever been suggested that this bill do anything but bring us into the last part of the 20th Century and deal a degree of fairness to an issue that is crying out for fairness. Again last year, whatever the problems were, this was not one of them. It was part of a package that was defeated because it was one package.

Mr. President, I ask for a positive vote, and for those who believe in assessment fairness and want to reform the system, this goes a long way toward doing it. I would suggest that those who want to get caught up in the personal politics of this remember that each of us has a constituency out there that is crying out for assessment reform and this goes a long way toward doing that.

Senator MELLOW. Mr. President, I guess, to the dismay of some Members here who would like us to move on with other things, this is a very important topic and, for the gentleman to say that those of us who want to get involved in personal politics should not be involved in this, is like the pot calling the kettle black. Mr. President, why do we not really look at the thing the way it exists. I mean these are Senator Jubelirer's words that had appeared in the newspaper, *The Altoona Mirror*, of December 18, 1988. Now, Senator Jubelirer I know has talked about how close some of these proposals are to the Casey proposal that was defeated at the polls in a Primary Election in 1989, when his quote in this particular interview was, "It will be a maze of additional taxes that we're going to have to pay...." I could not agree with him more. His proposals are a maze of additional taxes which people, and most importantly, people on a fixed income and senior citizens will have to pay. He further referred to the Casey proposal as "...a pig in a poke." If it was a pig in a poke then when it was advanced by Governor Casey, I just wonder what kind of a pig in a poke it might be because it has now been advanced by Senator Jubelirer. He then went ahead and talked about editorial comment. I think it is quite important if you go ahead and start to read the editorial comment, because I do not think Senator Jubelirer could take what has been said basically in an editorial comment, and be too happy about his presentation. For example, *The Pittsburgh Post Gazette* of January 30, 1990 talked about Senator Jubelirer and tax reform and, by and large, it was very critical of his tax reform and said the tax reform was basically nonexistent. *The Courier Times*, Bucks County, Friday, May 11, 1990, said, "Another start, Not quite tax reform," and it goes ahead to talk about, once again, in there how this is not tax reform. *The Tribune Democrat* in Johnstown, in a very strong article in 1990, once again talked about the fact that Senator Jubelirer wants to increase wage taxes. Mr. President, *The York Daily Record* said, "Tax reform light strikes Jubelirer." Mr. President, these headlines that are being listed here with regard to tax reform are not an indication to me that there is this great strong editorial comment out there supporting Senator Jubelirer, with one rare exception, and that was an editorial that did appear several weeks ago in *The Harrisburg Patriot*. *The Harrisburg Patriot* did talk about the fact that perhaps it is now time that we should start to support some form of tax reform in the form that is before us and it is that which has been presented by Senator Jubelirer.

Mr. President, *The York Sunday News*, also in 1990, says, "Tax reform might look pretty good." Mr. President, it does not talk about how good this particular tax reform program is. There are at least two other editorial comments that we

have, and both talk about the package known as tax reform and one talks about the fact that the bills, whose chances for passage are enhanced, in handling these particular proposals, it is suggested that they, quite honestly, do not deserve to become law. This is editorial comment, not news comment. It is by the editorialists who are the writers and the movers and the shakers and those who basically develop issues in Pennsylvania. They are saying what should take place with regard to the tax reform. Once again I have to reiterate the fact that this tax reform bill is asking for \$25 million in additional expenditures. Mr. President, the money is not there. All other things being equal, there is not any question that we should not be considering this proposal today until we are absolutely certain beyond a question of a doubt where this \$25 million is going to come from. Is a suggestion going to be made during the future budget negotiations that this money come from child welfare payments? Or is a suggestion going to be made that this money come from a reimbursement to our school districts? Or should it be taken away from a program, Mr. President, that already is suffering from a bit of underfunding, our special education? Or perhaps we should go ahead and should cut back on the tremendous job that has been done by the administration with regard to the environmental concerns, and we should take money away from the clean-up of many of our hazardous waste sites that we have in Pennsylvania? Or maybe the gentleman should suggest, like he did in the past through support of a budget, that we should raid the lottery to the tune of an additional \$25 million to make this money available. Mr. President, once again I am purely and simply going to ask that we have a negative vote on this proposal. It is a proposal, Mr. President, that is too little too late and does not deserve our consideration here this afternoon, and I would ask for a negative vote.

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

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

The PRESIDENT pro tempore. I will, Mr. President.

Senator AFFLERBACH. Mr. President, presently there are several counties that are either considering reassessment, have completed reassessment within the past two or three years or are presently undergoing reassessment. How would this bill impact upon those counties with respect to either the loan fund or the grants-in-aid? More directly, would those counties which have just completed their reassessment within the past, let us say, three years be able to qualify for either the loan fund or the Grant-in-Aid Program?

The PRESIDENT pro tempore. Mr. President, the answer is yes, it is retroactive. I have a county that has gone through reassessment, Fulton County, and I know they qualify. I am trying to get the exact amount of time. It is January 1, 1988, Mr. President.

Senator AFFLERBACH. Mr. President, I saw that date in the bill. However, I am bothered by subparagraph (b) of that section which says that, "None of the proceeds of the loan shall be used to retire 'debt' or 'unfunded debt' as defined in

the act of July 12, 1972," which is known as the Government Unit Debt Act. My question is, not having that in front of me, if a county has, in fact, borrowed money, obviously it is in debt to have completed its reassessment. May it utilize the loan fund program to retire that debt?

The PRESIDENT pro tempore. Mr. President, I can only respond in the sense that we believe it covers the situation he raises. It is the Local Government Commission bill that is being considered by the House of Representatives. It is the same provision that was in the Casey tax plan last year. It is, we believe, sufficient to cover the gentleman's concerns, and that is the only way I know how to answer him.

Senator AFFLERBACH. Mr. President, moving then to the Grants-in-Aid Program, I notice in that particular section I cannot find any retroactive date whatsoever. Does that mean that it is or is not retroactive for these counties that have completed reassessment within, say, the past three years?

The PRESIDENT pro tempore. That would be prospective, Mr. President, because those grants are to update and maintain quality assessments, not to go through any kind of assessment procedure. That would be prospective.

Senator AFFLERBACH. Mr. President, that concludes my interrogation. I have a couple of remarks on the bill.

Even during the consideration of Governor Casey's proposal, the question remained unclear as to exactly what the retroactive provision was with respect to the loans. Indeed, I never was able to get a satisfactory answer as to whether or not a county that had, in fact, borrowed money to do reassessment would be able to then obtain a low interest loan through a program such as this in order to retire that debt. It seems that is still an unclear provision of the bill. In addition to that, the Grants-in-Aid Program is, while I admire its intent and think it is something very worthwhile as the gentleman had indicated, apparently prospective, so a county that has completed its reassessment and has placed in operation a mechanism to continue that assessment on a professional and annualized basis would not be able to recoup any of those expenses over the past two or three years that it may be doing that.

For those two reasons I find it necessary to oppose the bill today, but hope that we would be better able to clarify those provisions because that is extremely important to several of our counties that have moved ahead on their own volition rather than waiting for the Commonwealth to pass legislation of this nature.

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—25

Armstrong	Helfrick	Madigan	Salvatore
Baker	Hess	Pecora	Shaffer
Bell	Hopper	Peterson	Shumaker
Brightbill	Jubelirer	Punt	Tilghman
Corman	Lemmond	Rhoades	Wenger
Fisher	Loeper	Rocks	Wilt
Greenwood			

NAYS—25

Afflerbach	Greenleaf	Lynch	Reibman
Andrezeski	Holl	Mellow	Scanlon
Belan	Jones	Musto	Stapleton
Bodack	LaValle	O'Pake	Stewart
Dawida	Lewis	Porterfield	Stout
Fattah	Lincoln	Regoli	Williams
Fumo			

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

RECONSIDERATION OF SB 1448

BILL ON FINAL PASSAGE

Senator LOEPER. Mr. President, I move that the Senate do now reconsider the vote by which Senate Bill No. 1448, Printer's No. 2356, just failed of final passage.

The motion was agreed to.

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—27

Armstrong	Greenwood	Loeper	Salvatore
Baker	Helfrick	Madigan	Shaffer
Bell	Hess	Pecora	Shumaker
Brightbill	Holl	Peterson	Tilghman
Corman	Hopper	Punt	Wenger
Fisher	Jubelirer	Rhoades	Wilt
Greenleaf	Lemmond	Rocks	

NAYS—23

Afflerbach	Fumo	Mellow	Scanlon
Andrezeski	Jones	Musto	Stapleton
Belan	LaValle	O'Pake	Stewart
Bodack	Lewis	Porterfield	Stout
Dawida	Lincoln	Regoli	Williams
Fattah	Lynch	Reibman	

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.

ANNOUNCEMENTS BY MAJORITY LEADER

Senator LOEPER. Mr. President, to try and dispatch the day's business in a quicker fashion as we move on, we have a number of committees that have called off-the-floor meetings, and I would suggest at this time, maybe if we could start one at a time with those committees to meet off the floor while we are still considering today's Calendar, it might be helpful in dispensing the business of the day. I would suggest at this time, Mr. President, maybe we could begin with the Committee on Transportation, and if all Members of the Committee on Transportation could meet with the Chairman, Senator Corman, in the Rules room, to be followed by the Committee on State Government, to be followed by the Committee on Military and Veterans Affairs, the Committee on Aging and Youth and the Committee on Appropriations.

**SPECIAL ORDER OF BUSINESS
ANNOUNCEMENTS BY THE SECRETARY**

The SECRETARY. Several of those meetings have been approved by the Majority and Minority Leaders: The Committee on Transportation to consider Senate Resolution No. 165 and House Bill No. 1796, and the Committee on Military and Veterans Affairs will consider House Bills No. 1960 and 2362.

The PRESIDENT. At the suggestion of the Majority Leader, the Senate will continue with its business, accommodating some committee meetings that will be held off the floor throughout the afternoon.

RECESS

Senator MELLOW. Mr. President, with the indulgence of the Majority and after what just took place on the debate, that might be quite difficult. I would think, Mr. President, that since there are a number of committee meetings that are being held, we should at this point in time recess the Senate since a number of our Members are at committee meetings, and we think it would be important if we would recess the Senate pending the outcome and the conclusion of those meetings.

The PRESIDENT. There being no objection, for the purpose of a series of meetings to take place over the next hour or so, namely, the Committee on Transportation, the Committee on State Government, the Committee on Military and Veterans Affairs, the Committee on Aging and Youth and the Committee on Appropriations, the Senate will stand in recess.

AFTER RECESS

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

CONSIDERATION OF CALENDAR RESUMED

HB 853 CALLED UP

HB 853 (Pr. No. 3768) — Without objection, the bill, which previously went over in its order temporarily, was called up, from page 3 of the Third Consideration Calendar, by Senator LOEPER.

BILL ON THIRD CONSIDERATION AMENDED

HB 853 (Pr. No. 3768) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for juror qualification.

Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

ROCKS AMENDMENT

Senator ROCKS, by unanimous consent, offered the following amendment No. A2469:

Amend Title, page 1, line 4, by removing the period after "QUALIFICATION" and inserting: and for access to and disclosure of certain confidential information and for confidential communications with sexual assault counselors.

Amend Sec. 1, page 2, line 22, by striking out "SECTION 4502" and inserting: Sections 4502 and 5945.1

Amend Sec. 1, page 2, line 23, by striking out "IS" and inserting: are

Amend Bill, page 3, line 7, by striking out all of said line and inserting:

§ 5945.1. Confidential communications [to] with sexual assault counselors.

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

"Coparticipant." A victim participating in group counseling.

"Rape crisis center." Any office, institution or center offering assistance to victims of sexual assault and their families through crisis intervention, medical and legal accompaniment and follow-up counseling.

"Sexual assault counselor." A person who is engaged in any office, institution or center defined as a rape crisis center under this section, who has undergone 40 hours of sexual assault training and is under the control of a direct services supervisor of a rape crisis center, whose primary purpose is the rendering of advice, counseling or assistance to victims of sexual assault.

"Victim." A person who consults a sexual assault counselor for the purpose of securing advice, counseling or assistance concerning a mental, physical or emotional condition caused or reasonably believed to be caused by a sexual assault. The term shall also include those persons who have a significant relationship with a victim of sexual assault and who seek advice, counseling or assistance from a sexual assault counselor concerning a mental, physical or emotional condition caused or reasonably believed to be caused by a sexual assault of a victim.

"Confidential communication." [Information] All information, oral or written, transmitted between a victim of sexual assault and a sexual assault counselor in the course of [that] their relationship [and in confidence by a means which, so far as the victim is aware, does not disclose the information to a third person other than those who are present to further the interests of the victim in the consultation or those to whom disclosure is reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the sexual assault counselor is consulted. The term includes all information received by the sexual assault counselor in the course of that relationship] including, but not limited to, any advice, reports, statistical data, memoranda, working papers, records or the like, given or made during that relationship.

(b) Privilege.—[A sexual assault counselor has a privilege not to be examined as a witness in any civil or criminal proceeding without the prior written consent of the victim being counseled by the counselor as to any confidential communication made by the victim to the counselor or as to any advice, report or working paper given or made in the course of the consultation.]

(1) No sexual assault counselor may, without the written consent of the victim, disclose the victim's confidential oral or written communications to the counselor nor consent to be examined in any court or criminal proceeding.

(2) No coparticipant who is present during counseling may disclose a victim's confidential communication made during the counseling session nor consent to be examined in

any civil or criminal proceeding without the written consent of the victim.

Section 2. This act shall take effect as follows:

(1) Section 1 (section 4502) of this act shall take effect in 60 days.

(2) The remainder of this act shall take effect immediately.

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?

WENGER AMENDMENT

Senator WENGER, by unanimous consent, offered the following amendment No. A2936:

Amend Title, page 1, line 4, by removing the period after "QUALIFICATION" and inserting: ; granting immunity to the owners, tenants or lessees of agricultural property from certain claims involving individuals picking their own agricultural products; and further providing for the liability of corporate directors.

Amend Bill, page 3, line 7, by striking out all of said line and inserting:

Section 2. Title 42 is amended by adding a section to read:

§ 8339. Agricultural immunity.

(a) General rule.—No cause of action shall arise against the owner, tenant or lessee of land or premises for injuries to any person, other than an employee or contractor of the owner, tenant or lessee, who is on the land or premises for the purpose of picking and purchasing agricultural or farm products at a farm or "u-pick" operation, unless the person's injuries were caused by a condition which involved an unreasonable risk of harm and all of the following apply:

(1) The owner, tenant or lessee knew or had reason to know of the condition or risk.

(2) The owner, tenant or lessee failed to exercise reasonable care to make the condition safe, or to warn the person of the condition or risk.

(b) Definitions.—As used in this section, the term "agricultural or farm products" means the natural products of the farm, nursery, grove, orchard, vineyard, garden and apiary, including, but not limited to, trees and firewood.

Section 3. The definition of "business corporation" in section 8362 of Title 42 is amended to read:

§ 8362. Definitions of subchapter.

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

"Business corporation." Any corporation subject to the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, the act of November 30, 1965 (P.L.847, No.356), known as the Banking Code of 1965, the act of December 14, 1967 (P.L.746, No.345), known as the Savings Association Code of 1967, [or] 15 Pa.C.S. Pt. II Subpt. B (relating to business corporations), or any association subject to the act of June 12, 1968 (P.L.173, No.94), known as the Cooperative Agricultural Association Act.

Section 4. Section 3 of the act, amending section 8362, shall be retroactive to January 27, 1984.

Section 5. This act shall take effect as follows:

(1) The amendment to 42 Pa.C.S. § 4502 shall take effect in 60 days.

(2) The remainder of this act shall take effect immediately.

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?

GREENLEAF AMENDMENT

Senator GREENLEAF, by unanimous consent, offered the following amendment No. A2968:

Amend Title, page 1, line 4, by removing the period after "QUALIFICATION" and inserting: and for jurisdiction and venue of juvenile matters.

Amend Sec. 1, page 2, line 22, by striking out "SECTION 4502" and inserting: Sections 1515(a)(1), 4502 and 6303

Amend Sec. 1, page 2, line 23, by striking out "IS" and inserting: are

Amend Sec. 1, page 2, by inserting between lines 23 and 24:

§ 1515. Jurisdiction and venue.

(a) Jurisdiction.—Except as otherwise prescribed by general rule adopted pursuant to section 503 (relating to reassignment of matters), district justices shall, under procedures prescribed by general rule, have jurisdiction of all of the following matters:

(1) Summary offenses, except those within the jurisdiction of an established and open traffic court and except those arising out of the same episode or transaction involving a delinquent act for which a child is charged as a delinquent child under Chapter 63 (relating to juvenile matters).

Amend Bill, page 3, line 7, by striking out all of said line and inserting:

§ 6303. Scope of chapter.

(a) General rule.—This chapter shall apply exclusively to the following:

(1) Proceedings in which a child is alleged to be delinquent or dependent.

(2) Transfers under section 6322 (relating to transfer from criminal proceedings).

(3) Proceedings arising under Subchapter E (relating to dispositions affecting other jurisdictions).

(4) Proceedings under the Interstate Compact on Juveniles, as set forth in section 731 of the act of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code."

(5) Proceedings in which a child is charged with a summary offense arising out of the same episode or transaction involving a delinquent act for which a child is charged as a delinquent child. Such summary offenses shall be included in any petition regarding the ancillary delinquent act. Upon finding a child to have committed a summary offense, the court may utilize any disposition available to the minor judiciary where a child is found to have committed a summary offense.

(b) Minor judiciary.—No child shall be detained, committed or sentenced to imprisonment by a district justice or a judge of the minor judiciary.

Section 2. This act shall take effect as follows:

(1) The amendments to section 4502 shall take effect in 60 days.

(2) The remainder of this act shall take effect immediately.

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?

MELLOW AMENDMENT

Senator MELLOW, by unanimous consent, offered the following amendment No. A2921:

Amend Title, page 1, line 4, by removing the period after "QUALIFICATION" and inserting: ; and providing for the disposition of a delinquent child, including driver's license suspension, for an offense involving a motor vehicle.

Amend Bill, page 3, by inserting between lines 6 and 7:

Section 2. Section 6352 of Title 42 is amended by adding a subsection to read:
§ 6352. Disposition of delinquent child.

(c) Delinquent act involving motor vehicle.—In addition to a disposition made under this section, the court shall order the operating privilege of a delinquent child to be suspended by the Department of Transportation for a period established in this subsection, when, while committing an act for which he was adjudicated delinquent or during flight therefrom, a motor vehicle was used. When the court orders a suspension of the operating privilege, which shall include a suspension of the privilege of operating a motorized pedalcycle, of a person under this subsection, the duration of the suspension shall be as follows:

(1) For a first offense, a period of 180 days from the date of disposition.

(2) For a second offense, a period of one year from the date of disposition.

(3) For a third offense, and any offense thereafter, a period of two years from the date of disposition. Suspensions resulting from offenses which do not arise from the same criminal episode shall be imposed consecutively.

A person whose record is received by the Department of Transportation under this subsection and who does not have a driver's license shall be ineligible to apply for a learner's permit under 75 Pa.C.S. §§ 1505 (relating to learners' permits) and 1507 (relating to application for driver's license or learner's permit by minor) for the time periods specified in this subsection. If the person is under 16 years of age when he is adjudicated delinquent, the suspension of his operating privilege shall commence upon his 16th birthday for the time periods specified in this subsection.

Amend Sec. 2, page 3, line 7, by striking out "2" and inserting:
3

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?

PETERSON AMENDMENT

Senator PETERSON, by unanimous consent, offered the following amendment No. A2935:

Amend Title, page 1, line 4, by removing the period after "QUALIFICATION" and inserting: and for limitation of actions relating to conversion and theft of timber.

Amend Bill, page 3, by inserting between lines 6 and 7:

Section 2. Section 5526 of Title 42 is amended by adding a paragraph to read:

§ 5526. Five year limitation.

The following actions and proceedings must be commenced within five years:

(5) An action for conversion of timber.

Section 3. The amendment to 42 Pa.C.S. § 5526 shall apply to actions that are commenced on or after the effective date of this act.

Amend Sec. 2, page 3, line 7, by striking out "2" and inserting:
4

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 PETERSON.

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. The Chair recognizes the presence on the floor of Senator Reibman. Her temporary leave will be cancelled.

RECESS

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

The PRESIDENT. For the purpose of a meeting of the Committee on Rules and Executive Nominations to convene immediately in the Rules 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:

MEMBER OF THE BOARD OF TRUSTEES OF COALDALE STATE GENERAL HOSPITAL

June 14, 1990.

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, Franklin R. Fetter, R. D. 2, Box 203AA, Barnesville 18214, Schuylkill County, Twenty-ninth Senatorial District, for reappointment as a member of the Board of Trustees of Coaldale State General Hospital, to serve until the third Tuesday of January, 1995, and until his successor is appointed and qualified.

ROBERT P. CASEY.

MEMBER OF THE BOARD OF TRUSTEES OF
COALDALE STATE GENERAL HOSPITAL

June 14, 1990.

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 J. Johnson, 14 Foster Avenue, Coaldale 18218, Schuylkill County, Twenty-ninth Senatorial District, for appointment as a member of the Board of Trustees of Coaldale State General Hospital, to serve until the third Tuesday of January, 1991, and until his successor is appointed and qualified, vice Rudolph J. Valentine, 30 North Nescopec Street, Tamaqua, whose term expired.

ROBERT P. CASEY.

MEMBER OF THE BOARD OF TRUSTEES OF
COALDALE STATE GENERAL HOSPITAL

June 14, 1990.

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 K. Klingaman, Sr., 31 Pine Street, Tamaqua 18252, Schuylkill County, Twenty-ninth Senatorial District, for appointment as a member of the Board of Trustees of Coaldale State General Hospital, to serve until the third Tuesday of January, 1991, and until his successor is appointed and qualified, vice Charles S. Guy, Tamaqua, whose term expired.

ROBERT P. CASEY.

MEMBER OF THE BOARD OF TRUSTEES OF
COALDALE STATE GENERAL HOSPITAL

June 14, 1990.

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, Trevor J. Lawrence, P. O. Box 31, Summit Hill 18250, Carbon County, Twenty-ninth Senatorial District, for appointment as a member of the Board of Trustees of Coaldale State General Hospital, to serve until the third Tuesday of January, 1993, and until his successor is appointed and qualified, vice Joseph Vadyak, Lansford, whose term expired.

ROBERT P. CASEY.

MEMBER OF THE BOARD OF TRUSTEES OF
COALDALE STATE GENERAL HOSPITAL

June 14, 1990.

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, Gerard A. Scaran, 713 East Ridge Street, Lansford 18232, Carbon County, Twenty-ninth Senatorial District, for appointment as a member of the Board of Trustees of Coaldale State General Hospital, to serve until the third Tuesday of January, 1995, and until his successor is appointed and qualified, vice Thomas Aiken, Sr., Tamaqua, whose term expired.

ROBERT P. CASEY.

MEMBER OF THE BOARD OF TRUSTEES OF
COALDALE STATE GENERAL HOSPITAL

June 14, 1990.

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, Rudolph J. Valentine, 30 North Nescopec Street, Tamaqua 18252, Schuylkill County, Twenty-ninth Senatorial District, for appointment as a member of the Board of Trustees of Coaldale State General Hospital, to serve until the third Tuesday of January, 1993, and until his successor is appointed and qualified, vice Florence Tarlton, Lansford, whose term expired.

ROBERT P. CASEY.

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

Harrisburg, PA 17120

CONSUMER ADVOCATE

June 6, 1990.

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

In conformity with law, and specifically my duties pursuant to Section 201(b) of the Commonwealth Attorneys Act, I have the honor hereby to nominate for the advice and consent of the Senate, Irwin A. Popowsky, Esquire, 2091 North Drive, Harrisburg, Pennsylvania 17110, Fifteenth Senatorial District, for appointment as Consumer Advocate, vice David Barasch, resigned.

ERNEST D. PREATE, JR.
Attorney General

MEMBER OF THE STATE REAL
ESTATE COMMISSION

April 17, 1990.

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, Oliver Morris Johnson, II, Esquire (Public Member), 301 Race Street, C-6, Philadelphia 19106, Philadelphia County, First Senatorial District, for appointment as a member of the State Real Estate Commission, to serve for a term of five years or until his successor is appointed and qualified, but not longer than six months beyond that period, vice Anne G. Kayarian, Williamsport, whose term expired.

ROBERT P. CASEY.

DISTRICT JUSTICE

February 28, 1990.

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 L. Gerheim, R. D. 1, Box 2040, Leechburg 15656, Armstrong County, Forty-first Senatorial District, for appointment as District Justice in and for the County of Armstrong, Magisterial District 33-3-03, to serve until the first Monday of January, 1992, vice Louis E. Milks, Jr., 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.

COMMUNICATIONS FROM THE GOVERNOR REPORTED FROM COMMITTEE ON RULES AND EXECUTIVE NOMINATIONS

Senator WILT, 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 PENNSYLVANIA PUBLIC TELEVISION NETWORK COMMISSION

June 20, 1990.

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 June 19, 1990 for the appointment of Raymond Sannie, 2638 Columbia Street, Allentown 18104, Lehigh County, Sixteenth Senatorial District, as a member of the Pennsylvania Public Television Network Commission, to serve for a term of six years and until his successor is appointed and qualified, vice John Scotzin, deceased.

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

ROBERT P. CASEY.

MEMBER OF THE STATE BOARD OF OPTOMETRY

June 22, 1990.

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 June 11, 1990 for the appointment of David H. Widmer, 100 Widmer Lane, Rochester 15074, Beaver County, Forty-seventh Senatorial District, for appointment as a member of the State Board of Optometry, to serve until June 24, 1991 and until his successor is appointed and qualified, but not longer than six months beyond that period, vice L. Ansel Cooley, Centre Hall, resigned.

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

ROBERT P. CASEY.

NOMINATIONS RETURNED TO THE GOVERNOR

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

The motion was agreed to.

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

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.

NOMINATION TAKEN FROM THE TABLE

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

The Clerk read the nomination as follows:

JUDGE, COURT OF COMMON PLEAS SCHUYLKILL COUNTY

April 11, 1990.

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, D. Michael Stine, Esquire, R. D. 1, Box 318, Tamaqua 18252, Schuylkill County, Twenty-ninth Senatorial District, for appointment as Judge of the Court of Common Pleas of Schuylkill County, to serve until the first Monday of January, 1992, vice The Honorable John E. Lavelle, mandatory retirement.

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—50

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

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.

NOMINATION TAKEN FROM THE TABLE

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

The Clerk read the nomination as follows:

DISTRICT JUSTICE

April 5, 1990.

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, Margaretta G. Horten, 12480 Adams Drive, North Huntingdon 15642, Westmoreland County, Forty-fifth Senatorial District, for appointment as District Justice in and for the County of Westmoreland, Magisterial District 10-2-09, to serve until the first Monday of January, 1992, vice Raymond E. Tubbs, 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—23

Afflerbach	Fumo	Mellow	Scanlon
Andrezski	Jones	Musto	Stapleton
Belan	LaValle	O'Pake	Stewart
Bodack	Lewis	Porterfield	Stout
Dawida	Lincoln	Regoli	Williams
Fattah	Lynch	Reibman	

NAYS—27

Armstrong	Greenwood	Loeper	Salvatore
Baker	Helfrick	Madigan	Shaffer
Bell	Hess	Pecora	Shumaker
Brightbill	Holl	Peterson	Tilghman
Corman	Hopper	Punt	Wenger
Fisher	Jubelirer	Rhoades	Wilt
Greenleaf	Lemmond	Rocks	

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

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.

CONSIDERATION OF CALENDAR RESUMED

THIRD CONSIDERATION CALENDAR RESUMED

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1449 (Pr. No. 2357) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 27, 1947 (P. L. 1046, No. 447), entitled, as amended, "State Tax Equalization Board Law," further providing for powers and duties of the State Tax Equalization Board; creating and empowering an advisory com-

mittee; establishing an assessment loan fund; making an appropriation; and making editorial changes.

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 MELLOW. Mr. President, just one broad statement as to the fact that this is an additional expenditure of \$11 million, money that we do not have, money that has not been made available in the 1990-91 budget that we know of. It basically provides for the same type of appropriation that did appear in the previous bill, except that in the previous bill a number of the items were loans, and I believe in this particular instance most of these are grants. It also deals with the powers of a regulatory agency and the State Tax Equalization Board. We think at this point in time that, not only because of the budget, but because of other reasons that were mentioned, before and also because of the involvement with STEB, we would ask for a negative vote on the proposal.

LEGISLATIVE LEAVES

Senator LOEPER. Mr. President, I would ask for temporary Capitol leaves on behalf of Senator Fisher, Senator Salvatore and Senator Jubelirer.

The PRESIDENT. Senator Loeper requests temporary Capitol leaves for Senator Fisher, Senator Salvatore and Senator Jubelirer. The Chair hears no objection. The leaves will be granted.

Senator MELLOW. Mr. President, I request temporary Capitol leaves for Senator Afflerbach, Senator Fattah, Senator Lincoln and Senator Reibman.

The PRESIDENT. Senator Mellow requests temporary Capitol leaves for Senator Afflerbach, Senator Fattah, Senator Lincoln and Senator Reibman. The Chair hears no objection. Those leaves will be granted.

SPECIAL ORDER OF BUSINESS

JUDGE D. MICHAEL STINE PRESENTED TO THE SENATE

Senator RHOADES. Mr. President, today we have unanimously confirmed the nominee for Judge of the Court of Common Pleas of Schuylkill County. I would appreciate it, at this time, if I could introduce him and ask the Senate to extend its usual warm welcome to our newly confirmed and soon to be sworn in Judge and Mrs. D. Michael Stine.

The PRESIDENT. Would the Judge-elect please rise so we can welcome you and your lovely wife to the Chamber of the Senate of Pennsylvania.

(Applause.)

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—27

Armstrong	Greenwood	Loeper	Salvatore
Baker	Helfrick	Madigan	Shaffer
Bell	Hess	Pecora	Shumaker
Brightbill	Holl	Peterson	Tilghman
Corman	Hopper	Punt	Wenger
Fisher	Jubelirer	Rhoades	Wilt
Greenleaf	Lemmond	Rocks	

NAYS—23

Afflerbach	Fumo	Mellow	Scanlon
Andrezeski	Jones	Musto	Stapleton
Belan	LaValle	O'Pake	Stewart
Bodack	Lewis	Porterfield	Stout
Dawida	Lincoln	Regoli	Williams
Fattah	Lynch	Reibman	

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 1450 (Pr. No. 1921) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 26, 1931 (P. L. 1379, No. 348), entitled, as amended, "Third Class County Assessment Board Law," limiting the act of second A class counties.

Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

Senator MELLOW. Mr. President, this is a bill that has been introduced and was drafted by the Local Government Commission, and I would request a positive vote on this proposal.

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—50

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

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 1453 (Pr. No. 2380) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 21, 1943 (P. L. 571, No. 254), entitled, as amended, "The Fourth to Eighth Class County Assessment Law," including third class counties within the scope of the act; further providing for assessment procedures; further providing for appeals of assessments; further providing for the powers and duties of county commissioners and of the governing body of home rule charter counties; making editorial changes; and making repeals.

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—50

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

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 1454 (Pr. No. 2381) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 22, 1933 (P. L. 853, No. 155), entitled "The General County Assessment Law," limiting the act to counties of the first, second and second A classes; further providing for the powers of the county commissioners relating to assessments; expanding the powers of assessment boards in counties of the first, second and second A classes; providing for optional assessment revision and appeals procedures; and making repeals.

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—50

Afflerbach	Greenleaf	Lynch	Rocks
Andrezeski	Greenwood	Madigan	Salvatore
Armstrong	Helfrick	Mellow	Scanlon
Baker	Hess	Musto	Shaffer
Belan	Holl	O'Pake	Shumaker
Bell	Hopper	Pecora	Stapleton
Bodack	Jones	Peterson	Stewart

Brightbill	Jubelirer	Porterfield	Stout
Corman	LaValle	Punt	Tilghman
Dawida	Lemmond	Regoli	Wenger
Fattah	Lewis	Reibman	Williams
Fisher	Lincoln	Rhoades	Wilt
Fumo	Loeper		

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 1506 (Pr. No. 1987) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 11, 1968 (P. L. 149, No. 84), entitled "Volunteer Firemen's Relief Association Act," further providing for the expenditure of the funds of a volunteer firemen's relief association.

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—50

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

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. 2321) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of November 4, 1983 (P. L. 217, No. 63), entitled "Pharmaceutical Assistance Contract for the Elderly Act," further defining "maximum annual income."

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—50

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

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 1535, 1652, HB 1658 and SB 1661 — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILL OVER IN ORDER TEMPORARILY

HB 1810 — Without objection, the bill was passed over in its order temporarily at the request of Senator LOEPER.

BILL ON THIRD CONSIDERATION AMENDED

HB 2029 (Pr. No. 3314) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for jurisdiction to enjoin certain nuisances in the City of Philadelphia.

Considered the third time,

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

Senator LOEPER, on behalf of Senator SALVATORE, by unanimous consent, offered the following amendment No. A2914:

Amend Title, page 1, lines 1 through 4, by striking out all of said lines and inserting:

Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for criminal mischief, and for institutional vandalism; and providing for sale and display of aerosol spray-paint cans and broad-tipped markers, for jurisdiction to enjoin certain nuisances in the City of Philadelphia and for sentencing for criminal mischief.

Amend Bill, page 1, lines 7 through 9, by striking out all of said lines and inserting:

Section 1. Sections 3304 and 3307 of Title 18 of the Pennsylvania Consolidated Statutes are amended to read:
§ 3304. Criminal mischief.

(a) Offense defined.—A person is guilty of criminal mischief if he:

- (1) damages tangible property of another intentionally, recklessly, or by negligence in the employment of fire, explosives, or other dangerous means listed in section 3302(a) of this title (relating to causing or risking catastrophe);

(2) intentionally or recklessly tampers with tangible property of another so as to endanger person or property; [or]

(3) intentionally or recklessly causes another to suffer pecuniary loss by deception or threat[.];

(4) intentionally defaces or otherwise damages tangible public property or tangible property of another with an aerosol spray-paint can, broad-tipped indelible marker or other marking, scratching or defacing device; or

(5) carries an aerosol spray-paint can, broad-tipped indelible marker or other marking, scratching or defacing device onto real property with intent to deface or otherwise damage tangible public property or tangible property of another with an aerosol spray-paint can, broad-tipped indelible marker or other marking, scratching or defacing device.

(b) Grading.—Criminal mischief is a felony of the third degree if the actor intentionally causes pecuniary loss in excess of \$5,000, or a substantial interruption or impairment of public communication, transportation, supply of water, gas or power, or other public service. It is a misdemeanor of the second degree if the actor intentionally causes pecuniary loss in excess of \$1,000, or a misdemeanor of the third degree if he intentionally or recklessly causes pecuniary loss in excess of \$500. Otherwise criminal mischief is a summary offense.

§ 3307. Institutional vandalism.

(a) Offenses defined.—A person commits the offense of institutional vandalism if he knowingly desecrates, as defined in section 5509 (relating to desecration of venerated objects), vandalizes, defaces or otherwise damages:

(1) any church, synagogue or other facility or place used for religious worship or other religious purposes;

(2) any cemetery, mortuary or other facility used for the purpose of burial or memorializing the dead;

(3) any school, educational facility, community center, municipal building, courthouse facility or juvenile detention center;

(4) the grounds adjacent to and owned or occupied by any facility set forth in paragraph (1), (2) or (3); or

(5) any personal property located in any facility set forth in this subsection.

(a.1) Illegal possession.—A person commits the offense of institutional vandalism if, with intent to violate subsection (a), the person carries an aerosol spray-paint can, broad-tipped indelible marker or other marking, scratching or defacing device onto property identified in subsection (a).

(b) Grading.—An offense under this section is a felony of the third degree if the act is one of desecration as defined in section 5509 or if the actor causes pecuniary loss in excess of \$5,000. Pecuniary loss includes the cost of repair or replacement of the property affected. Otherwise, institutional vandalism is a misdemeanor of the second degree.

(c) Penalty.—A person who violates subsection (a.1) and who, in the opinion of the court, would benefit, shall be sentenced to a mandatory term of supervised community service of not less than 50 days nor more than 74 days.

(d) Consequences.—Satisfactory completion of the community service program shall result in a dismissal of charges and expungement of the record of the person convicted under this section. The court shall follow procedures similar to those established for the Accelerated Rehabilitative Disposition Program.

Section 2. Title 18 is amended by adding a section to read: § 7326. Sale and display of aerosol spray-paint cans and broad-tipped markers.

(a) Offense defined.—

(1) A person may not sell or offer to sell an aerosol spray-paint can or broad-tipped indelible marker to any person under 18 years of age unless the purchaser is accompanied by a parent or legal guardian.

(2) Persons who sell or offer to sell such cans or markers shall not display these items and may display only facsimiles of such cans or markers containing no paint or ink.

(3) No person under 18 years of age shall at the time of purchase of items specified in paragraph (1) knowingly furnish fraudulent evidence of age, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the Selective Service Act of 1948 (62 Stat. 604, 50 U.S.C. App. §§ 451-470 and 1001-1017), or an identification card issued by a Federal, State, county or municipal government.

(b) Penalty.—A person who violates this section commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not more than \$1,000 or to imprisonment for not more than six months, or both.

Section 3. Section 1123(a) of Title 42 is amended by adding paragraphs to read:

Amend Bill, page 2, by inserting between lines 8 and 9:

Section 4. Title 42 is amended by adding a section to read: § 9720. Sentencing for criminal mischief.

(a) General rule.—A person convicted of an offense under 18 Pa.C.S. § 3304(a)(4) or (5) (relating to criminal mischief) or 3307 (relating to institutional vandalism), who in the opinion of the court, would benefit, shall be sentenced to a mandatory term of supervised community service, including repairing or restoring damaged property, in accordance with the following:

(1) If the damage to the property is less than \$200, the term of supervised community service shall be not less than 50 days nor more than 74 days.

(2) If the damage to the property is at least \$200, but less than \$1,000, the term of supervised community service shall not be less than 75 days nor more than 99 days.

(3) If the damage to the property is \$1,000 or more, the term of supervised community service shall be not less than 100 days nor more than 200 days.

(b) Consequences.—Satisfactory completion of the supervised community service program shall result in a dismissal of charges and expungement of the record of the person convicted under 18 Pa.C.S. § 3304(a)(4) or (5) or 3307. The court shall follow procedures similar to those established for the Accelerated Rehabilitative Disposition Program.

Amend Sec. 2, page 2, line 9, by striking out "2" and inserting: 5

On the question,

Will the Senate agree to the amendment?

Senator FUMO. Mr. President, on behalf of the gentleman from Philadelphia, Senator Salvatore, and myself, there are two amendments. That was the first one. This amendment has been agreed to, I understand. It is an effort on behalf of Senator Salvatore and myself to help curb graffiti in Philadelphia. It increases the penalties. It requires mandatory community service for people who do this, to go in and clean it up after they do it. Mr. President, we think it will go far to help clean up Philadelphia and the rest of the Commonwealth in ridding us of this scourge.

And the question recurring,

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 LOEPER, on behalf of Senator SALVATORE, by unanimous consent, offered the following amendment No. A2965:

Amend Title, page 1, line 2, by inserting after "Statutes," providing for protection from abuse; and

Amend Bill, page 2, by inserting between lines 8 and 9:

Section 2. Title 42 is amended by adding a chapter to read:

**CHAPTER 67
PROTECTION FROM ABUSE**

Sec.

6701. Short title of chapter.

6702. Definitions.

6703. Effect of departure to avoid abuse.

6704. Registration of order.

6705. Responsibilities of local law enforcement agencies.

6706. Commencement of proceedings.

6707. Hearings.

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6709. Service of orders.

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6711. Domestic violence counselor/advocate.

6712. Disclosure of addresses.

6713. Arrest for violation of order.

6714. Contempt for violation of order or agreement.

6715. Reporting abuse and immunity.

6716. Confidentiality.

6717. Procedure and other remedies.

§ 6701. Short title of chapter.

This chapter shall be known and may be cited as the Protection From Abuse Act.

§ 6702. Definitions.

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

"Abuse." The occurrence of one or more of the following acts between family or household members, sexual or intimate partners or persons who share biological parenthood:

(1) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury, serious bodily injury, rape, spousal sexual assault or involuntary deviate sexual intercourse with or without a deadly weapon.

(2) Placing by physical menace another in fear of imminent serious bodily injury.

(3) The infliction of false imprisonment pursuant to 18 Pa.C.S. § 2903 (relating to false imprisonment).

(4) Physically or sexually abusing minor children.

"Adult." An individual who is 18 years of age or older.

"Bail commissioners." Bail commissioners of the Philadelphia Municipal Court.

"Confidential communications." Information, whether written or spoken, transmitted between a victim and a domestic violence counselor or advocate in the course of the relationship and in confidence by a means which, insofar as the victim is aware, discloses the information to no third person other than to those who are present to further the interest of the victim in the consultation or assistance, to those who are coparticipants in the counseling service or to those to whom disclosure is reasonably necessary for the transmission of the information or an accomplishment of the purpose for which the domestic violence counselor or advocate is consulted. The term includes information received or given by the domestic violence counselor or advocate in the course of the relationship, as well as advice, reports or working papers given or made in the course of the relationship.

"Domestic violence counselor/advocate." An individual who is engaged in a domestic violence program, who provides ser-

VICES to victims of domestic violence, who has undergone 40 hours of training and who is under the control of a direct services supervisor of a domestic violence program, the primary purpose of which is the rendering of counseling or assistance to victims of domestic violence.

"Domestic violence program." A nonprofit organization or program whose primary purpose is to provide services to domestic violence victims which include, but are not limited to, crisis hotline; safe homes or shelters; community education; counseling systems intervention and interface; transportation, information and referral; and victim assistance.

"Family or household members." Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.

"Minor." An individual who is not an adult.

"Victim." A person who is physically or sexually abused by a family or household member.

§ 6703. Effect of departure to avoid abuse.

The right of plaintiff to relief under this chapter shall not be affected by plaintiff leaving the residence or household to avoid further abuse.

§ 6704. Registration of order.

(a) Registry.—The prothonotary shall maintain a registry in which it shall enter certified copies of orders entered by courts from other jurisdictions in this Commonwealth pursuant to this chapter.

(b) Registration of order in any county.—A plaintiff who obtains a valid order under this chapter may register that order in any county within this Commonwealth where the plaintiff believes enforcement may be necessary. A court shall recognize and enforce a valid order under this chapter which has been issued by another court but properly registered with a county within the judicial district of the court where enforcement is sought.

(c) Certified copy.—A valid order under this chapter may be registered by the plaintiff in a county other than the issuing county by obtaining a certified copy of the order of the issuing court endorsed by the prothonotary of that court and presenting that certified order to the prothonotary where the order is to be registered.

(d) Proof of registration.—Upon receipt of a certified order for registration, the prothonotary shall provide the plaintiff with a copy bearing the proof of registration to be filed with the appropriate law enforcement agency.

§ 6705. Responsibilities of local law enforcement agencies.

The police department of each municipal corporation shall insure that all its officers and employees are familiar with the provisions of this chapter. Instruction concerning protection from abuse shall be made a part of the training curriculum for all trainee officers.

§ 6706. Commencement of proceedings.

(a) General rule.—An adult or an emancipated minor may seek relief under this chapter for that person or any parent, adult household member or guardian ad litem may seek relief under this chapter on behalf of minor children, or a guardian of the person of an adult who has been declared incompetent under 20 Pa.C.S. Ch. 51 Subch. B (relating to appointment of guardian) may seek relief on behalf of the incompetent adult, by filing a petition with the court alleging abuse by the defendant.

(b) Affidavit of insufficient funds for fees.—If the plaintiff files an affidavit stating that plaintiff does not have funds available to pay the fees for filing and service, the petition shall be filed and service shall be made without payment of fees, and leave of court to proceed in forma pauperis shall not be required.

(c) Determination of indigency.—When the petition is filed without payment of fees, the court shall determine at the hearing

on the petition whether the plaintiff is able to pay the costs of filing and service. If the plaintiff is unable to pay the costs of filing and service, the court may waive the payment of costs or, if the plaintiff prevails in the action, assign them to the defendant. This subsection and subsection (b) apply to courts of common pleas, district justices, or, in Philadelphia County, to bail commissioners, Philadelphia Municipal Court Judges, or masters who are members of the Pennsylvania Bar and who are appointed by the President Judge of the Philadelphia Municipal Court.

(d) Court to adopt means of service.—The court shall adopt a means of prompt and effective service in those instances where the plaintiff avers that service cannot be safely effected by an adult individual other than a law enforcement officer or where the court so orders.

(e) Service by sheriff.—If the plaintiff files an affidavit stating that the plaintiff does not have funds available to pay the costs of filing and service or if the court so orders, the sheriff or other designated agency or individual shall serve the petition and order without prepayment of costs.

(f) Service of petition and orders.—The petition and orders shall be served upon the defendant, and orders shall be served upon the police departments with appropriate jurisdiction to enforce the orders. Orders shall be promptly served on the police. Failure to serve shall not stay the effect of a valid order.

(g) Assistance and advice to plaintiff.—The courts, district justices, or, in Philadelphia County, the bail commissioners, Philadelphia Municipal Court Judges, or masters who are members of the Pennsylvania Bar and who are appointed by the President Judge of the Philadelphia Municipal Court, shall:

(1) Provide simplified forms and clerical assistance in English and Spanish to help with the writing and filing of the petition for a protection order for an individual not represented by counsel.

(2) Advise a plaintiff not represented by counsel of the right to file an affidavit stating that the plaintiff does not have funds available to pay the costs of filing and service and assist with the writing and filing of the affidavit.

§ 6707. Hearings.

(a) General rule.—Within ten days of the filing of a petition under this chapter, a hearing shall be held before the court, at which the plaintiff must prove the allegation of abuse by a preponderance of the evidence. The court shall advise the defendant of the right to be represented by counsel.

(b) Temporary orders.—If a plaintiff petitions for temporary order for protection from abuse and alleges immediate and present danger of abuse to the plaintiff or minor children, the court shall conduct an ex-parte proceeding. The court may enter such a temporary order as it deems necessary to protect the plaintiff or minor children when it finds they are in immediate and present danger of abuse.

(c) Continued hearings.—If a hearing under subsection (a) is continued, the court may make or extend such temporary orders under subsection (b) as it deems necessary.

(d) Costs.—If the plaintiff prevails, the court shall assign costs to the defendant unless the parties agree otherwise. If the defendant is indigent, costs shall be waived.

§ 6708. Relief.

(a) General rule.—The court may grant any protection order or approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children. The order or agreement may include:

(1) Directing the defendant to refrain from abusing the plaintiff or minor children.

(2) Granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff when the residence or household is jointly owned or leased by the parties, is owned or leased by the entireties or is owned or leased solely by the plaintiff.

(3) When the defendant has a duty to support the plaintiff or minor children living in the residence or household and the defendant is the sole owner or lessee, granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff or, by consent agreement, allowing the defendant to provide suitable alternate housing.

(4) Awarding temporary custody of or establishing temporary visitation rights with regard to minor children. A defendant shall not be granted custody or partial custody where it is alleged in the petition, and the court finds after a hearing under this chapter, that the defendant abused the minor children of the parties or where the defendant has been convicted of violating 18 Pa.C.S. § 2904 (relating to interference with custody of children) within two calendar years prior to the filing of the petition for protection order. If a plaintiff petitions for a temporary order under section 6707(b) (relating to hearings) and the defendant has partial, shared or full custody of the minor children of the parties by order of court or written agreement of the parties, the custody shall not be disturbed or changed unless the court finds that the defendant is likely to inflict abuse upon the children or to remove the children from the jurisdiction of the court prior to the hearing under section 6707(a). Nothing in this paragraph shall bar either party from filing a petition for custody under 23 Pa.C.S. Ch. 53 (relating to custody) or under the Pennsylvania Rules of Civil Procedure. The court shall consider, and may impose on a custody award, conditions necessary to assure the safety of the plaintiff and minor children from abuse.

(5) After a hearing in accordance with section 6707(a), directing the defendant to pay financial support to those persons the defendant has a duty to support. The support order shall be temporary, and any beneficiary of the order must file a complaint for support under the applicable provisions of law within two weeks of the date of the issuance of the protection order. If a complaint for support is not filed, that portion of the protection order requiring the defendant to pay support is void. When there is a subsequent ruling on a complaint for support, the portion of the protection order requiring the defendant to pay support expires.

(6) Prohibiting the defendant from having any contact with the plaintiff, including, but not limited to, restraining the defendant from entering the place of employment or business or school of the plaintiff and from harassing the plaintiff or plaintiff's relatives or minor children.

(7) Ordering the defendant to temporarily relinquish to the sheriff the defendant's weapons which have been used or been threatened to be used in an incident of abuse against the plaintiff or the minor children. The court's order shall provide for the return of the weapons to the defendant subject to any restrictions and conditions as the court shall deem appropriate to protect the plaintiff or minor children from further abuse through the use of weapons.

(8) Directing the defendant to pay the plaintiff for reasonable losses suffered as a result of the abuse, including medical, dental, relocation and moving expenses; counseling; loss of earnings or support; and other out-of-pocket losses for injuries sustained. In addition to out-of-pocket losses, the court may direct the defendant to pay reasonable attorney fees.

(b) Duration and amendment of order or agreement.—A protection order or approved consent agreement shall be for a fixed period of time not to exceed one year. The court may amend its order or agreement at any time upon subsequent petition filed by either party.

(c) Title to real property unaffected.—No order or agreement under this chapter shall in any manner affect title to any real property.

§ 6709. Service of orders.

(a) Issuance.—A copy of an order under this chapter shall be issued to the plaintiff, the defendant and the police department with appropriate jurisdiction to enforce the order or agreement in accordance with the provisions of this chapter or as ordered by the court, district justice, or, in Philadelphia County, by a bail commissioner, Philadelphia Municipal Court Judge, or master who is a member of the Pennsylvania Bar and who is appointed by the President Judge of the Philadelphia Municipal Court.

(b) Placement in county registry.—Upon receipt of an order, the police department shall immediately place the order in a county registry of protection orders. The police department shall assure that the registry is current at all times and that orders are removed upon expiration thereof.

§ 6710. Emergency relief by minor judiciary.

(a) General rule.—When, in counties with less than four judges, the court is unavailable during the business day by reason of duties outside the county, illness or vacation, and when, in counties with at least four judges, the court deems itself unavailable from the close of business at the end of each day to the resumption of business the next morning or from the end of the business week to the beginning of the business week, a petition may be filed before a district justice, or, in Philadelphia County, before a bail commissioner, Philadelphia Municipal Court Judge, or master who is a member of the Pennsylvania Bar and who is appointed by the President Judge of the Philadelphia Municipal Court, who may grant relief in accordance with section 6(a)(1) and (2) or (1) and (3) of the act of October 7, 1976 (P.L. 1090, No. 218), known as the Protection From Abuse Act, if the district justice, or, in Philadelphia County, the bail commissioner, Philadelphia Municipal Court Judge, or master who is a member of the Pennsylvania Bar and who is appointed by the President Judge of the Philadelphia Municipal Court, deems it necessary to protect the plaintiff or minor children from abuse upon good cause shown in an ex parte proceeding. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause for the purposes of this subsection.

(b) Expiration of order.—An order issued under subsection (a) shall expire as of the resumption of business of the court at the beginning of the next business day, at which time the court shall schedule hearings on protection orders entered by district justices, or, in Philadelphia County, by bail commissioners, Philadelphia Municipal Court Judges or masters who are members of the Pennsylvania Bar and who are appointed by the President Judge of the Philadelphia Municipal Court, under subsection (a) and shall review and continue in effect protection orders that are necessary to protect the plaintiff or minor children from abuse until the hearing, at which time the plaintiff may seek a temporary order from the court.

(c) Certification of order to court.—An emergency order issued under this section and any documentation in support thereof shall be immediately certified to the court. The certification to the court shall have the effect of commencing proceedings under section 6706 (relating to commencement of proceedings) and invoking the other provisions of this chapter. If it is not already alleged in a petition for an emergency order, the plaintiff shall file a verified statement setting forth the abuse of defendant at least five days prior to the hearing. Service of the verified statement shall be made subject to section 6706.

(d) Instructions regarding the commencement of proceedings.—Upon issuance of an emergency order, the district justice, or, in Philadelphia County, the bail commissioner, Philadelphia Municipal Court Judge or master who is a member of the Pennsylvania Bar and who is appointed by the President Judge of the Philadelphia Municipal Court, commissioner or Philadelphia Municipal Court Judge shall provide the plaintiff instructions regarding the commencement of proceedings in the court of

common pleas at the beginning of the next business day and regarding the procedures for initiating a contempt charge should the defendant violate the emergency order. The district justice, or, in Philadelphia County, the bail commissioner, Philadelphia Municipal Court Judge or master who is a member of the Pennsylvania Bar and who is appointed by the President Judge of the Philadelphia Municipal Court, shall also advise the plaintiff of the existence of programs for victims of domestic violence in the county or in nearby counties and inform the plaintiff of the availability of legal assistance without cost if the plaintiff is unable to pay for them.

§ 6711. Domestic violence counselor/advocate.

A domestic violence counselor/advocate may accompany a party to a hearing under this chapter.

§ 6712. Disclosure of addresses.

During the course of a proceeding under this chapter, the court, district justice, or, in Philadelphia County, the bail commissioner, Philadelphia Municipal Court Judge or master who is a member of the Pennsylvania Bar and who is appointed by the President Judge of the Philadelphia Municipal Court, may consider whether the plaintiff or plaintiff's family is endangered by disclosure of the permanent or temporary address of the plaintiff or minor children. Neither in the pleadings nor during proceedings or hearings under this chapter shall the court, district justice, or, in Philadelphia County, the bail commissioner, Philadelphia Municipal Court Judge or master who is a member of the Pennsylvania Bar and who is appointed by the President Judge of the Philadelphia Municipal Court, require disclosure of the address of a domestic violence program.

§ 6713. Arrest for violation of order.

(a) General rule.—An arrest for violation of an order issued pursuant to this chapter may be without warrant upon probable cause whether or not the violation is committed in the presence of the police officer. The police officer may verify, if necessary, the existence of a protection order by telephone or radio communication with the appropriate police department, county registry or issuing authority.

(b) Seizure of weapons.—Subsequent to an arrest, the police officer shall seize all weapons used or threatened to be used during the violation of the protection order or during prior incidents of abuse. As soon as it is reasonably possible, the arresting officer shall deliver the confiscated weapons to the office of the sheriff. The sheriff shall maintain possession of the weapons until the court issues an order specifying the weapons to be relinquished and the persons to whom the weapons shall be relinquished.

(c) Procedure following arrest.—Subsequent to an arrest, the defendant shall be taken by the police officer without unnecessary delay before the court in the judicial district where the contempt is alleged to have occurred. When that court is unavailable, the police officer shall convey the defendant to a district justice designated as appropriate by local rules of court, or, in Philadelphia County, to a bail commissioner, Philadelphia Municipal Court Judge or master who is a member of the Pennsylvania Bar and who is appointed by the President Judge of the Philadelphia Municipal Court.

(d) Preliminary arraignment.—The defendant shall be afforded a preliminary arraignment without unnecessary delay.

(e) Other emergency powers unaffected.—This section shall not be construed to in any way limit any of the other powers for emergency relief provided in this chapter.

(f) Hearing.—A hearing on a charge or allegation of indirect criminal contempt shall not preclude a hearing on other criminal charges underlying the contempt, nor shall a hearing on other criminal charges preclude a hearing on a charge of indirect criminal contempt.

(g) Notice.—Notice shall be given to the defendant, in orders issued pursuant to section 6708 (relating to relief), of the

possible ramifications of resumption of residence in the family domicile contrary to court order. Resumption of co-residence on the part of the plaintiff and defendant shall not nullify the provisions of the court order directing the defendant to refrain from abusing the plaintiff or minor children.

§ 6714. Contempt for violation of order or agreement.

(a) General rule.—Upon violation of a protection order issued under this chapter or a court-approved consent agreement, the court may hold the defendant in indirect criminal contempt and punish the defendant in accordance with law.

(b) Trial and punishment.—A sentence for contempt under this chapter may include imprisonment up to six months or a fine not to exceed \$1,000, or both, and may include other relief set forth in this chapter. The defendant shall not have a right to a jury trial on such a charge; however, the defendant shall be entitled to counsel.

§ 6715. Reporting abuse and immunity.

(a) Reporting.—A person having reasonable cause to believe that a person is being abused may report the information to the local police department.

(b) Contents of report.—The report should contain the name and address of the abused person, information regarding the nature and extent of the abuse and information which the reporter believes may be helpful to prevent further abuse.

(c) Immunity.—A person who makes a report shall be immune from a civil or criminal liability on account of the report unless the person acted in bad faith or with malicious purpose.

§ 6716. Confidentiality.

Unless a victim waives the privilege in a signed writing prior to testimony or disclosure, a domestic violence counselor/advocate shall not be competent nor permitted to testify or to otherwise disclose confidential communications made to or by the counselor/advocate by or to a victim. The privilege shall terminate upon the death of the victim. Neither the domestic violence counselor/advocate nor the victim shall waive the privilege of confidential communications by reporting facts of physical or sexual assault under 23 Pa.C.S. Ch. 63 (relating to child protective services), a Federal or State mandatory reporting statute; or a local mandatory reporting ordinance.

§ 6717. Procedure and other remedies.

Unless otherwise indicated in this chapter, a proceeding under this chapter shall be in accordance with applicable general rules and shall be in addition to any other available civil or criminal remedies.

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

On the question,

Will the Senate agree to the amendment?

Senator FUMO. Mr. President, this amendment is agreed to also. It applies only to the City of Philadelphia, and it deals with battered and abused women. It allows the Philadelphia Municipal Court to appoint masters to hear these cases rather than have these women go down to sit in front of bail commissioners and have to wait in the Philadelphia roundhouse. It will go a long way toward helping battered women in Philadelphia. Thank you on behalf of Senator Salvatore and myself.

And the question recurring,

Will the Senate agree to the amendment?

It was agreed to.

The PRESIDENT. House Bill No. 2029 will go over in its order, as amended.

LEGISLATIVE LEAVE

Senator LOEPER. Mr. President, Senator Shaffer has been called from the floor and I would ask for a temporary Capitol leave on his behalf.

The PRESIDENT. Senator Loeper requests temporary Capitol leave for Senator Shaffer. The Chair hears no objection. The leave will be granted.

THIRD CONSIDERATION CALENDAR RESUMED

BILLS OVER IN ORDER

HB 2116, 2179 and 2470 — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

SPECIAL ORDER OF BUSINESS

ANNOUNCEMENT BY THE SECRETARY

The SECRETARY. The Majority and Minority Leaders have given their permission for the Committee on Appropriations to reconvene to consider House Bills No. 406, 2618 and 2710.

CONSIDERATION OF CALENDAR RESUMED

SECOND CONSIDERATION CALENDAR

BILL ON SECOND CONSIDERATION AMENDED AND RECOMMITTED

SB 1559 (Pr. No. 2094) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Department of Public Welfare for prescription products to assist persons who smoke to stop smoking and for use in smoking cessation programs for persons entitled to medical assistance

The bill was considered.

On the question,

Will the Senate agree to the bill on second consideration?

Senator PETERSON offered the following amendment No. A2597:

Amend Title, page 1, lines 1 through 4, by striking out all of said lines and inserting:

Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An act to consolidate, editorially revise, and codify the public welfare laws of the Commonwealth," further providing for certain medical reimbursement; providing for the reimbursement of prescription products designed to assist persons who smoke to stop smoking; and making an appropriation.

Amend Bill, page 1, lines 7 through 17, by striking out all of said lines and inserting:

Section 1. Section 443.3 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, amended November 28, 1973 (P.L.364, No.128), is amended to read:

Section 443.3. Other Medical Assistance Payments.—Payments on behalf of eligible persons shall be made for other services, as follows:

(1) Rates established by the department for outpatient services as specified by regulations of the department adopted under

Title XIX of the Federal Social Security Act consisting of preventive, diagnostic, therapeutic, rehabilitative or palliative services; furnished by or under the direction of a physician, chiropractor or podiatrist, by a hospital or outpatient clinic which qualifies to participate under Title XIX of the Federal Social Security Act, to a patient to whom such hospital or outpatient clinic does not furnish room, board and professional services on a continuous, twenty-four hour a day basis. Such services shall include reimbursement of prescription products designed to assist persons who smoke to stop smoking, for use in smoking cessation programs for persons entitled to medical assistance.

(2) [Rates] Except as provided in clause (3), rates established by the department for (i) other laboratory and X-ray services prescribed by a physician, chiropractor or podiatrist and furnished by a facility other than a hospital which is qualified to participate under Title XIX of the Federal Social Security Act, (ii) physician's services consisting of professional care by a physician, chiropractor or podiatrist in his office, the patient's home, a hospital, a nursing home or elsewhere, (iii) the first three pints of whole blood, (iv) remedial eye care, as provided in Article VIII consisting of medical or surgical care and aids and services and other vision care provided by a physician skilled in diseases of the eye or by an optometrist which are not otherwise available under this Article, (v) special medical services for school children, as provided in the Public School Code of 1949, consisting of medical, dental, vision care provided by a physician skilled in diseases of the eye or by an optometrist or surgical care and aids and services which are not otherwise available under this article.

(3) The reimbursement rate for maternity patients shall be six hundred dollars (\$600) for vaginal delivery and eight hundred dollars (\$800) for cesarean delivery.

Section 2. The sum of \$133,000, or as much thereof as may be necessary, is hereby appropriated to the Department of Public Welfare for the fiscal year July 1, 1990, to June 30, 1991, for the reimbursement of prescription products designed to assist persons who smoke to stop smoking, for use in smoking cessation programs.

Section 3. This act shall take effect as follows:

- (1) The amendments to section 443.3(2) and (3) shall take effect in 60 days.
- (2) The remainder of this act shall take effect immediately.

On the question,

Will the Senate agree to the amendment?

Senator FUMO. Mr. President, we would ask for a negative vote on this amendment, not that we do not necessarily agree with the meritorious aim of the sponsor. However, it is quite costly. We do not have a fiscal note on it. We are estimating it to cost in the millions of dollars, and it is more or less a subject for budget negotiations, rather than just to stick it into a bill and send it back over to the House. We would ask for a negative vote based on that reason, Mr. President.

Senator PETERSON. Mr. President, I rise to ask support from the Senate for this amendment, and I will try to quickly provide what information is necessary to make that decision.

In Pennsylvania we pay gynecologists, or any doctor, \$312 for a delivery of a baby or \$459 if it is a caesarean. We are the second lowest reimbursers on Medicaid in the nation. Most states pay from \$500 to \$600, \$700, \$800, \$900, \$1,000, over \$1,000—Nevada, \$1,100. I met with a group of doctors recently from my district and neighboring districts who are going to drop out of the Medicaid program. The \$312.50 does not pay their malpractice insurance. I think that is a disgrace

for a state like Pennsylvania. We are not a little mountain hill-billy state, we are a major state in this nation. We have hundreds of thousands of poor people who have their babies delivered here, and to ask doctors to deliver these babies at that fee I think is a disgrace. I talked to one doctor from one county and 45 percent of the babies he delivers are Medicaid. I talked to two doctors from another county. Forty percent of the babies they deliver are Medicaid. They told me if you do not fix it in the next couple of months, if you do not change that, we are not going to deliver Medicaid. We do not mind doing 10 or 20 or even 25 percent of our business and losing at that rate, but when it gets to be 40 and 45 percent, we are going to draw the line and we are going to get out of the Medicaid business. In both of those communities there will be no alternatives because there are no general practitioners who are delivering babies. If we are going to have access, as I said earlier today, for the poor, this is one line item, one payment schedule in Medicaid that should be changed.

Senator FUMO. Mr. President, the gentleman obviously talks to a lot more doctors than I do or anybody else in this Chamber, I guess. I have to honestly ask the gentleman to go back to those doctors and remind them of the Hippocratic oath, to remind those doctors about dedication and worrying about care for their patients. I cannot believe that if a doctor has 40 percent of the Medicare delivery in his area that he is not doing quite well. I would like to know what his salary is. Mr. President, there is no question we would like to pay these people more. We would like to pay pharmacists more for delivering prescriptions. We would like to pay a lot of people a lot more, but the plain and simple fact of the matter is we do not have the money to do it. As I have said on this floor many, many times before, I am prepared to raise taxes. I am prepared to introduce a bill to raise taxes to do all of these wonderful things and even more. If the Majority would give me the consent and assure me that that bill will be shot out of the Committee on Finance like a rocket ship, like some other stuff, I am ready to roll. I am prepared to put votes up on my side of the aisle for taxes. The fact of the matter is, Mr. President, these things cost money and we do not have that money, and we are painfully aware of that right now in budget negotiations. I would like to help every doctor in America and certainly everyone in Pennsylvania. I would like to help every citizen in Pennsylvania. I would even like to help the welfare patients who have to go to those doctors under this program, by maybe even increasing their cash grants. We simply do not have the money to do those things. I recognize the gentleman would like to spend a lot of money, not only on this but a number of other programs. I have sat around here for weeks and heard about the cry of the poor people in the rural areas, and in many instances I agree with the gentleman. I probably have more poor people in North Philadelphia than he has in all of his rural areas of Pennsylvania. I would like to help them all. When the gentleman is prepared to assure me that tax votes will be put up, when the gentleman is ready to assure me that his party will move a tax bill out, then we can talk about this and a lot of other programs, Mr. President. But it

does no good and you are not going to convince me about these poor suffering doctors. They will have to suffer just as much as the poor people whom they serve until your party is ready to put up tax votes.

Senator BELL. Mr. President, I am certain that the gentleman from Philadelphia, Senator Fumo, when he said "Medicare deliveries" did not mean Medicare deliveries, because you would have to be 62 years old to be under Medicare, and that would be a very strange age to deliver a baby.

Senator FUMO. I stand corrected, Mr. President. It is medical assistance but we all know it comes out of the same pot and, when the gentleman from Delaware, Senator Bell, is ready to vote for a tax increase, he can have something to say too.

Senator PETERSON. The facts are, Mr. President, that the people in Pennsylvania in many rural areas and many urban areas, almost 50 percent of the babies being born, are from welfare families, and those people who will need someone to deliver their babies are the ones that I am concerned about. If we do not put a fair fee on this program—I think it is one of the worst examples of how the Medicaid program has been totally, totally ignored by this administration—and if we do not change some of those fees, and we do not look over the ones that are the most inefficient, then we are going to have areas where health care is not going to be available. I think, on behalf of the children who are being born, we need to make sure they have a good doctor who will take them and deliver their babies and start them in life. My argument today is not for the doctors, but for the poor mothers and their children.

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

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

YEAS—27

Armstrong	Greenwood	Loeper	Salvatore
Baker	Helfrick	Madigan	Shaffer
Bell	Hess	Pecora	Shumaker
Brightbill	Holl	Peterson	Tilghman
Corman	Hopper	Punt	Wenger
Fisher	Jubelirer	Rhoades	Wilt
Greenleaf	Lemmond	Rocks	

NAYS—23

Afflerbach	Fumo	Mellow	Scanlon
Andrezeski	Jones	Musto	Stapleton
Belan	LaValle	O'Pake	Stewart
Bodack	Lewis	Porterfield	Stout
Dawida	Lincoln	Regoli	Williams
Fattah	Lynch	Reibman	

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

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

Senator LOEPER. Mr. President, I move that Senate Bill No. 1559, as amended, be recommitted to the Committee on Appropriations.

The motion was agreed to.

The PRESIDENT. Senate Bill No. 1559, as amended, will be recommitted to the Committee on Appropriations.

BILL LAID ON THE TABLE

HB 452 (Pr. No. 3769) — The Senate proceeded to consideration of the bill, entitled:

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for retirement of justices, judges and justices of the peace.

The bill was considered,

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

AMENDMENT OFFERED

Senator FUMO offered the following amendment No. A2774:

Amend Title, page 1, line 1, by striking out "an amendment" and inserting: amendments

Amend Title, page 1, line 3, by removing the period after "peace" and inserting: ; and authorizing expenditure of gasoline and other motor fuel taxes and vehicle registration and operator's license fees for mass transit capital projects.

Amend Sec. 1, page 1, line 6, by striking out "amendment" and inserting: amendments

Amend Sec. 1, page 1, line 7, by striking out "is" and inserting: are

Amend Sec. 1, page 1, line 8, by inserting before "That": (1)

Amend Sec. 1, page 2, by inserting between lines 8 and 9:

(2) That section 11(a) of Article VIII be amended to read:

§ 11. Gasoline taxes and motor license fees restricted.

(a) All proceeds from gasoline and other motor fuel excise taxes, motor vehicle registration fees and license taxes, operators' license fees and other excise taxes imposed on products used in motor transportation after providing therefrom for (a) cost of administration and collection, (b) payment of obligations incurred in the construction and reconstruction of public highways and bridges shall be appropriated by the General Assembly to agencies of the State or political subdivisions thereof; and used solely for urban and rural public transportation capital projects and for construction, reconstruction, maintenance and repair of and safety on public highways and bridges and costs and expenses incident thereto, and for the payment of obligations incurred for such purposes, and shall not be diverted by transfer or otherwise to any other purpose, except that loans may be made by the State from the proceeds of such taxes and fees for a single period not exceeding eight months, but no such loan shall be made within the period of one year from any preceding loan, and every loan made in any fiscal year shall be repayable within one month after the beginning of the next fiscal year. The General Assembly may designate for urban and rural public transportation capital projects only portions of the proceeds that can be attributed to increases in tax rates and fees enacted subsequent to the adoption of this provision of the Constitution of Pennsylvania.

Amend Sec. 2, page 2, line 9, by striking out "This proposed amendment shall be submitted" and inserting: The amendments proposed in section 1(1) and (2) shall be submitted separately

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

Senator LOEPER. Mr. President, this bill was marked to go over today on today's Calendar and, therefore, I would suggest that amending this bill today would not be in order.

Senator FUMO. Mr. President, I did not understand what the gentleman requested.

The PRESIDENT. The Chair would indicate to the gentleman that the offering of an amendment on second consideration is in order. If the gentleman wants the bill to go over, he can move to that effect.

MOTION TO TABLE

Senator LOEPER. Mr. President, I move that House Bill No. 452 be laid on the table.

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. The gentleman from Philadelphia, Senator Fumo, will state it.

Senator FUMO. Mr. President, I have an amendment before the Body that I would like to discuss. If the gentleman does not like the amendment, he can vote it down and then he can do what he wants with the bill, I understand.

Senator LOEPER. Mr. President, I believe a motion to table takes precedence.

The PRESIDENT. The Chair thanks both gentlemen for their input. The fact of the matter is that the motion to table does have precedence over an amendment which is offered.

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

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

PARLIAMENTARY INQUIRY

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

The PRESIDENT. The gentleman from Philadelphia, Senator Fumo, will state it.

Senator FUMO. Mr. President, I would like to know why I cannot offer my amendment to this bill to give capital funding to SEPTA? I thought the gentleman made a motion to go over and we were going to consider it and the next thing I heard, it was tabled.

POINT OF ORDER

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

The PRESIDENT. The gentleman from Delaware, Senator Loeper, will state it.

Senator LOEPER. Mr. President, the bill was marked to go over today. That was the only request that should have been in order. That request could have been denied or appealed for the gentleman to offer any kind of amendment. We were not aware of any amendment after the gentleman insisted he wished to offer an amendment. It was then that I made the motion to table, and I believe that motion is not debatable.

The PRESIDENT. The gentleman from Delaware has, in fact, summarized the situation very well. There is before us a motion to table and that motion, the Chair must remind everybody, is nondebatable.

PARLIAMENTARY INQUIRY

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

The PRESIDENT. The gentleman from Philadelphia, Senator Fumo, will state it.

Senator FUMO. Mr. President, the Majority Leader seems to indicate that the marked Calendar is some sort of official document. That is merely what I assume the Majority would like to do. I got the floor first, and I should be able to offer my amendment on SEPTA. The fact that the Calendar says "Over" has nothing to do with what is reality.

The PRESIDENT. First, let the Chair clarify that the gentleman from Philadelphia is correct that the marked Calendar is an internal document, that any Member can offer an amendment on second consideration at any time, but the motion to amend falls subservient to the motion to lay on the table. Therefore, both gentlemen are in order in their actions.

Senator FUMO. Does that mean we can do my amendment, Mr. President?

The PRESIDENT. However, the gentleman from Philadelphia will not be able to offer his amendment today unless the motion to lay on the table fails, which is where we are.

Senator FUMO. I want my caucus to vote no, Mr. President, however I do that. May I say that? I object to it being laid on the table and ask for a roll call.

The PRESIDENT. The gentleman is permitted to ask his caucus to vote a certain way and beyond that it is nondebatable.

LEGISLATIVE LEAVES

Senator LOEPER. Mr. President, I would request legislative leaves on behalf of Senator Shaffer, Senator Rocks, Senator Wenger and Senator Wilt.

The PRESIDENT. Senator Loeper requests temporary Capitol leave on behalf of Senator Wenger, Senator Shaffer, Senator Rocks and Senator Wilt. The Chair hears no objection. Those leaves will be granted.

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

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

YEAS—27

Armstrong	Greenwood	Loeper	Salvatore
Baker	Helfrick	Madigan	Shaffer
Bell	Hess	Pecora	Shumaker
Brightbill	Holl	Peterson	Tilghman
Corman	Hopper	Punt	Wenger
Fisher	Jubelirer	Rhoades	Wilt
Greenleaf	Lemmond	Rocks	

NAYS—23

Afflerbach	Fumo	Mellow	Scanlon
Andrezeski	Jones	Musto	Stapleton
Belan	LaValle	O'Pake	Stewart
Bodack	Lewis	Porterfield	Stout
Dawida	Lincoln	Regoli	Williams
Fattah	Lynch	Reibman	

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

The PRESIDENT. House Bill No. 452 will be laid on the table.

BILLS OVER IN ORDER

HB 502, 1023, 1220, 1221, SB 1284, 1325 and 1528 — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILL ON SECOND CONSIDERATION

SB 1585 (Pr. No. 2150) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 19, 1931 (P. L. 589, No. 202), entitled, as amended, "Barbers' License Law," providing for a temporary period to serve as a barber while awaiting examination results.

Considered the second time and agreed to,

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

BILL OVER IN ORDER

SB 1621 — Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILLS ON SECOND CONSIDERATION

HB 1665 (Pr. No. 3682) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 29, 1953 (P. L. 304, No. 66), known as the "Vital Statistics Law of 1953," requiring parents to furnish Social Security numbers; and providing for missing children registration.

Considered the second time and agreed to,

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

HB 1831 (Pr. No. 3426) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 19, 1988 (P. L. 1262, No. 156), known as the "Local Option Small Games of Chance Act," further providing for local option referenda.

Considered the second time and agreed to,

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

SB 1272 CALLED UP

SB 1272 (Pr. No. 2320) — Without objection, the bill, which previously went over in its order, was called up, from page 1 of the Calendar, under Bill on Concurrence in House Amendments As Amended, by Senator LOEPER.

SENATE CONCURS IN HOUSE AMENDMENTS
AS AMENDED BY THE SENATE

SB 1272 (Pr. No. 2320) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for the Catastrophic Loss Benefits Continuation Fund; creating the offense of trespass by motor vehicles; and further providing for fines, penalties and suspension of driver's license for unauthorized operation of motor vehicles on private real property.

Senator LOEPER. Mr. President, I move the Senate do concur in the amendments made by the House as amended by the Senate to Senate Bill No. 1272.

On the question,

Will the Senate agree to the motion?

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

YEAS—50

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

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.

SECOND CONSIDERATION CALENDAR RESUMED

BILLS OVER IN ORDER

HB 1912 and 2178 — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILL ON SECOND CONSIDERATION
AND REREFERRED

HB 2350 (Pr. No. 3162) — The Senate proceeded to consideration of the bill, entitled:

A Supplement to the act of June 12, 1931 (P. L. 575, No. 200), entitled, "An act providing for joint action by Pennsylvania and New Jersey in the development of the ports on the lower Delaware River, and the improvement of the facilities for transportation across the river; authorizing the Governor, for these purposes, to enter into an agreement with New Jersey; creating The Delaware River Joint Commission and specifying the powers and duties thereof, including the power to finance projects by the issuance of revenue bonds; transferring to the new commission all the powers of the Delaware River Bridge Joint Commission; and making an appropriation," authorizing certain projects of the Delaware River Port Authority pursuant to Article XII of the Compact or agreement between the Commonwealth of Pennsyl-

vania and the State of New Jersey creating the Delaware River Port Authority.

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.

SB 374 CALLED UP

SB 374 (Pr. No. 387) — Without objection, the bill, which previously went over in its order temporarily, was called up, from page 3 of the Third Consideration Calendar, by Senator LOEPER.

BILL ON THIRD CONSIDERATION AMENDED

SB 374 (Pr. No. 387) — The Senate proceeded to consideration of the bill, entitled:

An Act relating to certain payments by the Commonwealth.

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 No. A2930:

Amend Sec. 1, page 1, line 11, by striking out "60" and inserting: 30

Amend Sec. 1, page 1, line 12, by striking out "60" and inserting: 30

Amend Sec. 1, page 1, lines 15 and 16, by striking out all of line 15 and "was due." in line 16 and inserting: same rate as determined by the Secretary of Revenue for interest payments on overdue taxes or the refund of taxes pursuant to sections 806 and 806.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

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.

SB 1396 CALLED UP

SB 1396 (Pr. No. 1798) — 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 LOEPER.

BILL ON THIRD CONSIDERATION AMENDED AND RECOMMITTED

SB 1396 (Pr. No. 1798) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), entitled "Tax Reform Code of 1971," further providing for the definition of "farming" and for sales tax on the sale of horses in certain circumstances; and exempting feed for horses from sales tax.

Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

Senator HESS, by unanimous consent, offered the following amendment No. A2958:

Amend Title, page 1, line 12, by inserting after "feed": and other items

Amend Sec. 1 (Sec. 201), page 4, line 3, by striking out "racing purposes," and inserting: commercial purposes, including, but not limited to, pleasure riding, drafting and racing,

Amend Sec. 1 (Sec. 201), page 4, line 5, by striking out "propagating" and inserting: propagation

Amend Sec. 2 (Sec. 204), page 4, lines 12 and 13, by striking out "bred or raised" in line 12, all of line 13, and inserting: by the purchaser or user for breeding, racing, commercial or investment purposes.

Amend Sec. 2 (Sec. 204), page 4, lines 15 and 16, by striking out all of said lines and inserting:

(47) The sale at retail or use of feed, tack, harnesses, supplies, equipment, farming implements and farming equipment used or consumed in the care, feeding, raising and selling of all horses and mules.

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 LOEPER. Mr. President, I move that Senate Bill No. 1396, as amended, be recommitted to the Committee on Appropriations.

The motion was agreed to.

The PRESIDENT. Senate Bill No. 1396, as amended, will be recommitted to the Committee on Appropriations.

HB 1810 CALLED UP

HB 1810 (Pr. No. 3751) — Without objection, the bill, which previously went over in its order temporarily, was called up, from page 6 of the Third Consideration Calendar, by Senator LOEPER.

BILL OVER IN ORDER

HB 1810 — Without objection, the bill was passed over in its order at the request of Senator LOEPER.

HOUSE MESSAGE

HOUSE BILLS FOR CONCURRENCE

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

June 27, 1990

HB 2556, 2618 and 2710 — Committee on Appropriations.

HB 59 AND HB 612 TAKEN FROM THE TABLE

Senator LOEPER. Mr. President, I move that House Bill No. 59, Printer's No. 61, and House Bill No. 612, Printer's No. 3059, be taken from the table and placed on the Calendar.

The motion was agreed to.

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

RECESS

Senator LOEPER. Mr. President, at this time I would ask for a very brief recess of the Senate for the purpose of a meeting of the Committee on Appropriations in order to convene in the Rules room immediately.

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

AFTER RECESS

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

UNFINISHED BUSINESS REPORTS FROM COMMITTEES

Senator TILGHMAN, from the Committee on Appropriations, reported the following bills:

HB 317 (Pr. No. 2106) (Rereported)

An Act to promote the health, safety and welfare of the people of this Commonwealth by supporting and expanding the network of Neighborhood Housing Services Programs which work to halt the deterioration of homes and the decline of neighborhoods, and to broaden the availability of the programs and services offered by Neighborhood Housing Services Programs, especially to persons of low and moderate income, by establishing within the Department of Community Affairs a State Neighborhood Housing Services Program.

HB 406 (Pr. No. 3894) (Amended) (Rereported)

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), known as "The Administrative Code of 1929," prohibiting the incarceration of civilian prisoners at military installations; requiring the Department of Transportation to do certain work on manhole covers, drains and other devices at the time a road is repaired or resurfaced at the cost of the utility, municipality or authority owner; and further providing for the powers of the Department of General Services.

HB 2492 (Pr. No. 3416)

An Act amending the act of July 11, 1985 (P. L. 209, No. 54), entitled "An act authorizing the incurring of debt for the purpose of financing the Federal share of construction of interstate highways," further providing for the power to incur debt.

HB 2556 (Pr. No. 3831)

A Supplement to the act of (P. L. , No.), entitled "An act providing for the capital budget for the fiscal year 1990-1991," itemizing public improvement projects, furniture and equipment projects, transportation assistance projects, flood control projects and redevelopment assistance projects to be constructed or acquired or assisted by the Department of General Services, the Department of Transportation, the Department of Environmental Resources or the Department of Community Affairs, together with their estimated financial costs; authorizing the incurring of debt without the approval of the electors for the purpose of financing the projects to be constructed or acquired or assisted by the Department of General Services, the Department of Transportation, the Department of Environmental Resources or the Department of Community Affairs; stating the estimated useful life of the projects; making appropriations; and making repeals.

HB 2579 (Pr. No. 3554)

An Act amending the act of December 17, 1988 (P. L. 2242, No. 69A), entitled "An act appropriating money from the Sunny Day Fund to the Department of Commerce for various projects throughout this Commonwealth for fiscal year 1988-1989," further providing for the award of funds for certain projects.

HB 2618 (Pr. No. 3826)

An Act amending the act of June 2, 1915 (P. L. 762, No. 340), referred to as the "State Workmen's Insurance Fund Law," providing for the transfer of money from the State Workmen's Insurance Fund to the General Fund, the Sunny Day Fund and the Tax Stabilization Reserve Fund; establishing an Advisory Council to the State Workmen's Insurance Board; requiring the State Workmen's Insurance Fund to undergo an independent actuarial study annually; and making repeals.

HB 2710 (Pr. No. 3772)

An Act amending the act of October 5, 1972 (Sp. Sess. No. 1, P. L. 2019, No. 4), entitled, as amended, "An act implementing the provisions of clause (1) of subsection (a) of section 7 of Article VIII of the Constitution of the Commonwealth of Pennsylvania authorizing the incurring of debt for the rehabilitation of areas affected by the Great Storm and Floods of September, 1971 and June, 1972, and the Great Flood of July, 1977 through urban redevelopment assistance; imposing duties upon the Governor, the Auditor General and State Treasurer; prescribing the procedures for the issuance, sale and payment of general obligations bonds, the funding of debt and refunding of bonds; exempting said bonds from State and local taxation; creating certain funds; and making an appropriation," further providing for the disposition of funds in the Disaster Relief Fund.

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

HB 2480 (Pr. No. 3771)

An Act authorizing the Department of Aging to license and inspect older adult daily living centers; imposing additional powers and duties on the Department of Aging; and making repeals.

Senator SALVATORE, from the Committee on Military and Veterans Affairs, reported the following bills:

HB 1960 (Pr. No. 2711)

An Act requiring the superintendent of every public school district to make available, upon request, lists of graduating seniors to armed forces recruiters; and providing a penalty for the misuse of any such lists.

HB 2362 (Pr. No. 3199)

An Act amending the act of July 13, 1987 (P. L. 348, No. 67), known as the "Vietnam Veterans Health Initiative Act," extending the expiration date.

Senator RHOADES, from the Committee on State Government, reported the following bill:

HB 200 (Pr. No. 3890) (Amended) (Rereported)

An Act declaring and adopting the song "Pennsylvania," lyrics and music by Eddie Khoury and Ronnie Bonner, as the State song of the Commonwealth of Pennsylvania.

Senator CORMAN, from the Committee on Transportation, reported the following bill:

HB 1796 (Pr. No. 2250)

An Act designating a certain bridge in Everett Borough, Bedford County, Pennsylvania, as the Ellis R. Weicht Bridge.

RESOLUTION REPORTED FROM COMMITTEE

Senator CORMAN, from the Committee on Transportation, reported the following resolution:

SR 165 (Pr. No. 2198)

A Concurrent Resolution commemorating the 50th anniversary of the opening of the Pennsylvania Turnpike.

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

CONGRATULATORY RESOLUTIONS

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

Congratulations of the Senate were extended to Zhao Hongshen by Senator Armstrong.

Congratulations of the Senate were extended to James R. Taylor by Senator Belan.

Congratulations of the Senate were extended to Mr. and Mrs. Walter Snyder by Senator Corman.

Congratulations of the Senate were extended to Mr. and Mrs. J. Murel Lee, Mr. and Mrs. Jay W. Hess, Mr. and Mrs. Alfred Rando, Mr. and Mrs. Michael Wallace, Mr. and Mrs. Miller Buck and to Mr. and Mrs. Frank F. Miller by Senator Helfrick.

Congratulations of the Senate were extended to the West Philadelphia High School Class of 1965 by Senator Jones.

Congratulations of the Senate were extended to Center High School Baseball Team by Senator LaValle.

Congratulations of the Senate were extended to the graduating students of the Fayette County Community Action Education Center by Senator Lincoln.

Congratulations of the Senate were extended to Mr. and Mrs. Glenn Hoffman, Mr. and Mrs. LaRue Harman, Mr. and Mrs. Clifford L. Waltz and to Judge and Mrs. Charles F. Greevy by Senator Madigan.

Congratulations of the Senate were extended to Margaret Cloes Greenwald by Senator Musto.

Congratulations of the Senate were extended to Mr. and Mrs. Paul Palmer and to Thomas C. Strait by Senator Peterson.

Congratulations of the Senate were extended to Robert Arnold and to Harry L. Davis by Senator Regoli.

Congratulations of the Senate were extended to Mr. and Mrs. Floyd A. Warnke by Senator Reibman.

Congratulations of the Senate were extended to Mr. and Mrs. Andrew F. Wargo by Senator Rhoades.

Congratulations of the Senate were extended to Mr. and Mrs. Lloyd Goddard by Senator Shaffer.

Congratulations of the Senate were extended to Michael J. Bunk by Senator Williams.

BILLS ON FIRST CONSIDERATION

Senator HOPPER. 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:

HB 1796, 1960, 2362, 2480, 2492, 2556, 2579, 2618 and 2710.

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

COMMUNICATIONS FROM THE GOVERNOR**NOMINATIONS BY THE GOVERNOR
REFERRED TO COMMITTEE**

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

**MEMBER OF THE STATE BOARD
OF FUNERAL DIRECTORS**

June 27, 1990.

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, Clifford E. DeBaptiste, 601 East Miner Street, West Chester 19382, Chester County, Nineteenth Senatorial District, for reappointment 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.

ROBERT P. CASEY.

**MEMBER OF THE STATE BOARD
OF PODIATRY**

June 27, 1990.

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, Stanley E. Boc, D.P.M., 12315 Medford Road, Philadelphia 19154, Philadelphia County, Fifth Senatorial District, for appointment as a member of the State Board of Podiatry, to serve for a term of four years or until his successor is appointed and qualified, but not longer than six months beyond that period, vice Richard G. Stuempfle, D.P.M., Lock Haven, whose term expired.

ROBERT P. CASEY.

MEMBER OF THE STATE BOARD OF
EXAMINERS IN SPEECH-LANGUAGE
AND HEARING

June 27, 1990.

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, Lewis Degennaro, M.D., Medical Arts Building, 327 North Washington Avenue, Scranton 18503, Lackawanna County, Twenty-second Senatorial District, for appointment as a member of the State Board of Examiners in Speech-Language and Hearing, to serve for a term of three years and until his successor is appointed and qualified, but not longer than six months beyond that period, vice Neal E. Mann, North East, whose term expired.

ROBERT P. CASEY.

DISTRICT JUSTICE

June 27, 1990.

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, Jay A. Young, R. D. 4, Box 295A, Kittanning 16201, Armstrong County, Forty-first Senatorial District, for appointment as District Justice in and for the County of Armstrong, Magisterial District 33-3-02, to serve until the first Monday of January, 1992, vice Homer D. Crytzer, resigned.

ROBERT P. CASEY.

HOUSE MESSAGES

HOUSE CONCURS IN SENATE BILLS

The Clerk of the House of Representatives returned to the Senate **SB 1544** and **1549**, with the information the House has passed the same without amendments.

HOUSE CONCURS IN SENATE AMENDMENTS
BY AMENDING SAID AMENDMENTS
TO HOUSE BILL

The Clerk of the House of Representatives informed the Senate that the House has concurred in amendments made by the Senate by amending said amendments to **HB 1374**, in which the concurrence of the Senate is requested.

The PRESIDENT. Pursuant to Senate Rule XV, Section 5, this bill will be referred to the Committee on Rules and Executive Nominations.

SENATE BILL RETURNED WITH AMENDMENTS

The Clerk of the House of Representatives returned to the Senate **SB 1547**, with the information the House has passed the same with amendments in which the concurrence of the Senate is requested.

The PRESIDENT. Pursuant to Senate Rule XV, Section 5, this bill will be referred to the Committee on Rules and Executive Nominations.

BILLS INTRODUCED AND REFERRED

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

June 26, 1990

Senators JONES, FATTAH, DAWIDA, MUSTO, REGOLI, SALVATORE, WILLIAMS, SHUMAKER, WILT, RHOADES, BELAN, GREENWOOD, STEWART, BELL, MELLOW, LEWIS, ANDREZESKI, PORTERFIELD, O'PAKE, LINCOLN, LaVALLE, LYNCH and PECORA presented to the Chair **SB 1706**, entitled:

An Act providing for payments for continuation coverage under group health plans for persons with AIDS or HIV-related illnesses.

Which was committed to the Committee on BANKING AND INSURANCE, June 26, 1990.

Senators GREENLEAF, LEMMOND, STOUT, PORTERFIELD, AFFLERBACH, HELFRICK, SALVATORE and SHUMAKER presented to the Chair **SB 1707**, entitled:

An Act amending the act of April 12, 1842 (P. L. 262, No. 91), entitled "A supplement to an act, entitled 'An act authorizing the Governor to incorporate the Tioga Navigation Company,' passed the twenty-six day of February, one thousand eight hundred and twenty-six, and for other purposes," further providing for the recovery of the value of improvements to lands subject to tax sale.

Which was committed to the Committee on LOCAL GOVERNMENT, June 26, 1990.

Senators GREENLEAF, BELL, SALVATORE, O'PAKE, PORTERFIELD, REIBMAN, BRIGHTBILL, HOLL, STOUT, LEMMOND, HELFRICK, ROCKS and FISHER presented to the Chair **SB 1708**, entitled:

An Act amending the act of December 13, 1988 (P. L. 1192, No. 147), entitled "Special Ad Hoc Municipal Police and Fire-fighter Postretirement Adjustment Act," further providing for the amount of the special ad hoc adjustment.

Which was committed to the Committee on FINANCE, June 26, 1990.

Senators SCANLON, REGOLI, BELAN, DAWIDA and FISHER presented to the Chair **SB 1709**, entitled:

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), entitled "Tax Reform Code of 1971," further providing for cooperation with other governmental agencies.

Which was committed to the Committee on FINANCE, June 26, 1990.

Senators GREENWOOD, SHUMAKER, HELFRICK, JUBELIRER and REIBMAN presented to the Chair **SB 1710**, entitled:

An Act amending the act of June 23, 1970 (P. L. 419, No. 140), entitled "Renal Disease Treatment Act," requiring the Renal Disease Advisory Committee to comply with the Sunset Act.

Which was committed to the Committee on PUBLIC HEALTH AND WELFARE, June 26, 1990.

BILLS SIGNED

The PRESIDENT (Lieutenant Governor Mark S. Singel) in the presence of the Senate signed the following bills:

SB 430, 1544, 1549, HB 247, 1921 and 2469.

MOTION FOR ADJOURNMENT

Senator LOEPER. I was going to move that the Senate do now adjourn until 11:00 a.m. Eastern Daylight Time. For the information of the Members, it would be my intent, Mr. President, that that would be a token Session simply to move bills tomorrow, and the Members of the Senate would be on a six hour return call.

The PRESIDENT. Senator Loeper moves that the Senate do now adjourn until 11:00 a.m., Thursday, June 28.

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

Senator FUMO. Mr. President, I rise to oppose the motion to adjourn. I would ask the gentleman to give me the courtesy to address some remarks in Petitions and Remonstrances, because if he does not do it today, we are going to do it eventually and it is going to be in a more hostile fashion. I am just befuddled by what he is attempting to do today. I would hope he would recede from his motion and allow me time to make remarks in Petitions and Remonstrances, a courtesy which we have afforded his caucus on a continuing basis with some of the nonsense they have been putting out every week.

The PRESIDENT. The Chair would advise the gentleman from Philadelphia that the Senator from Delaware is within his rights to make a motion to adjourn.

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

MOTION WITHDRAWN

Senator LOEPER. Mr. President, I will withdraw my motion to adjourn.

The PRESIDENT. Senator Loeper withdraws his motion to adjourn.

PETITIONS AND REMONSTRANCES

Senator FUMO. Mr. President, earlier today I attempted to amend House Bill No. 452 with the provisions of Senate Bill No. 1579 which was introduced by the gentlemen from Philadelphia, Senator Rocks and Senator Salvatore, two months

ago, on April 25, 1990 to be exact. Senator Rocks' bill is identical to, and appears to be modeled on, House Bill No. 1376, introduced by Representative Gordon Linton and 47 other sponsors more than a year ago. The Rocks-Salvatore bill is a proposed constitutional amendment that would keep open the option of using motor license fund revenues to fund capital projects for public transportation. As we know from our discussions of other proposed constitutional amendments during the last few months, this legislation must be passed before the summer recess or we will lose the motor license fund option until 1993 at the earliest.

Even if we were to have given this amendment first-round approval this week, it would still have to be approved again in the next Session of the General Assembly and then by the voters on a referendum. Finally, no proceeds of the motor license fund could be used for public transportation until the General Assembly approved special legislative proposals.

I moved to amend House Bill No. 452 because it is becoming apparent that neither the Rocks-Salvatore bill nor the Linton bill in the House is in position to achieve final passage by the end of this week when, unless things go wrong, we will recess for the summer. House Bill No. 452, which already proposes a constitutional amendment, is in position to be moved more quickly and is an appropriate bill for such an amendment.

In case any of the Members have questions about whether a single bill can include two different proposed constitutional amendments, I have researched the question and found a strong precedent. In the 1980 and 1981 Sessions, the General Assembly adopted identical legislation containing proposed constitutional amendments that dealt with the motor license fund and with the state retirement system. In each case the second subject was added to the legislation by amendment in the Senate, once by the gentleman from Montgomery, Senator Tilghman's Committee on Appropriations, and once by Senator O'Connell's Committee on State Government. So our Constitution has already been amended in this fashion.

My amendment was identical in purpose to that proposed by the Rocks-Salvatore bill, but I want to call attention to some changes I made in the language. First, my amendment specifies that motor license funds could only be used for capital projects. Second, it clearly states that the proceeds are to be used for urban and rural public transportation projects, and I might add that the Lancaster City Council last night unanimously passed a resolution endorsing House Bill No. 1376 which is very similar to our bill. Finally, it clearly states that the General Assembly may not divert any existing funds for highways to public transportation. It had those safeguards.

Mr. President, this amendment attempted to deal with one of the most crucial issues facing not only SEPTA but dozens of other public transportation agencies, urban and rural, large and small, across the Commonwealth. That issue is the lack of an adequate, predictable and stable source of funding. This problem has been aggravated by the federal government's retreat from its responsibilities to help fund public transporta-

tion. The lack of predictable funding for capital has forced SEPTA, as just one example, to shift capital budgeting expenditures to its operating budget, further increasing the pressure on fares.

SEPTA is one of the few large metropolitan transit systems in the United States that lacks a dedicated source of funding. The Bush Administration has made it clear that future federal aid to transit systems will depend on the level of state and local government support. Just last week, President Bush's Secretary of Transportation, Samuel Skinner, came to Philadelphia and urged Pennsylvania to get moving on a dedicated funding source. Indeed, to be very frank, Secretary Skinner criticized Governor Casey for failing to support the constitutional amendment and suburban House Republicans for delaying its passage in the House.

Congressman Bill Gray, a Democrat from Philadelphia, has been joined by Congressman Curt Weldon and Larry Coughlin, Republicans from the suburbs, in warning Pennsylvania that, without a dedicated tax for transit, it may lose federal highway funds.

SEPTA'S need for dedicated funding and a substantial capital program has been documented by a study by Peat Marwick on behalf of the elected officials of Philadelphia and the four suburban counties. The dangers of ignoring this issue were underscored by last winter's tragic accident.

This need is widely understood. The Southeastern Pennsylvania Area Coalition for Transportation, which includes hundreds of business, labor, environmental, civic, senior citizen, consumer and neighborhood organizations, has endorsed the constitutional amendment proposed by Senator Rocks and Representative Linton. The Philadelphia Inquirer and other news organizations also have endorsed this proposal.

But the issue is not just important to southeastern Pennsylvania. Public transportation moves hundreds of thousands of workers to and from the workplace across this Commonwealth. Last year alone, more than 465 million passengers used public transportation in Pennsylvania.

In Philadelphia, 81 percent of the people traveling to the central business district use mass transit, and I-95 and the Schuylkill Expressway are still jammed during rush hour.

The Port Authority of Pittsburgh carries 90 million passengers a year, or 60 percent of all workers and 50 percent of all shoppers arriving in its central business district.

The Lehigh and Northampton Transportation Authority estimates that 60 percent of the 15,000 riders a day use the system to get to work.

Similar stories can be told about the public transportation systems in Harrisburg, Johnstown, Altoona, Reading, Lancaster, York, Erie and in Lackawanna and Luzerne Counties. Almost four million trips a year are provided by the 18 rural systems.

Improved public transportation is vital to our economy, but it is also important for environmental reasons. I understand that a savings of 10 to 15 gallons of gasoline results every time 40 automobile drivers take a 10 mile trip to work on a bus. When one commuter leaves the car behind and takes public

transportation for one year, it has the effect of removing 9 pounds of hydrocarbons, 63 pounds of carbon monoxide, 5 pounds of nitrogen oxides and 1 pound of other particulates from the atmosphere.

Obviously, there are other ways to fund public transportation capital projects besides the Motor License Fund. We all know that the next Session of the General Assembly will have to deal with severe funding problems for a variety of pressing issues such as schools and universities, children and youth programs, Medicaid reimbursement, community development and special education, as well as highway construction and maintenance. I am not prepared to say at this time what is the best plan for addressing these funding problems. But I am prepared to say now that I believe we should keep open the options of addressing public transportation's needs, or at least its capital needs, from the Motor License Fund. If we fail to act now to keep this option open, we will have not only limited our options for dealing with public transportation but we will have ensured that all of the vital programs supported by the General Assembly will be under increased pressure.

Voting for my amendment would not have been a vote for higher taxes, it would not have been a vote for diluting funding for highway projects, it would not have been a vote for allocating funds between highway projects and public transportation. But it simply would have been a vote for good judgment, for keeping our options open so we could make a better decision later on when we have more information and the issue is really joined as to what is in the best interests of the public.

Mr. President, given the crucial deadline that we face, I do not know why Senator Rocks has not moved his bill out of the Committee on Transportation where it has been sitting for the last two months. I do know that he and Senator Salvatore can demonstrate their support for public transportation and their ability as leaders within their caucus by helping us to pass this amendment within this week's confines. We have sufficient votes from our caucus and we had them today. All we would have needed from the other side were Senator Salvatore and Senator Rocks' votes, and we could have gotten this amendment passed into this bill.

Mr. President, I am deeply distressed that the leadership has voted their temporary Capitol leaves today against their own interests, and I am deeply distressed that they did not see fit to stay on this Senate floor to help us with this problem. The fault and responsibility for us not funding SEPTA clearly now lies on their shoulders. We were prepared to move today. We had a full caucus prepared to vote for this amendment, only to be gagged and rebuffed by the Republican leadership with a motion to table.

But, Mr. President, the bill is still on the table. We will still be in Session for two more days, and this caucus is still prepared to move. All it takes is some leadership from Senator Rocks and Senator Salvatore to come back to this Chamber and do what they promised to do back home in Philadelphia, and that is to get their leadership to move or to join this caucus in a motion to remove that bill from the table and get

on with the agenda. I would urge them wherever they are today or tonight to come back here as soon as possible and tend to their responsibilities and do what they were elected to do, and that is be honest with their constituents back home. There is no mileage in introducing bills that languish in committee, and there is no excuse when you have the opportunity to move those bills on the floor and not to be here to vote for them. I am deeply distressed and disappointed that my two colleagues from Philadelphia did not see fit to stick around for the tough vote that we saw avoided tonight.

Senator BAKER. Mr. President, I can assure my colleague from Philadelphia that his colleagues from Philadelphia are very interested in this issue and, in fact, have introduced legislation on this point. I rise, however, to respond by stating that in contradistinction to the rhetorical terms that the previous speaker has used and that this issue has primarily been discussed by editorial writers and others, I would want to call to his attention a few facts that I think give rise to some serious questions about this particular concept which, of course, is not before us at this moment, and that is that there is a lot of talk about how action is necessary to save SEPTA or, in some cases, to save mass transit or however it might be described in general terms. That is usually what it boils down to. Unfortunately, this particular concept sets two very dramatic necessities of transportation in conflict with each other. Rarely do we hear the proponents of a constitutional amendment talk about what such an amendment would actually raise in terms of revenue. We currently have a 12 cent gas tax in Pennsylvania. It is in the sort of medium range among all states in terms of gasoline taxes. If you add the franchise tax to it, you can say that we probably technically have an 18 cent gas tax. That puts us in the upper range, but not in the highest range of states that have gasoline taxes to fund, in most cases, roads, but in five other cases a mass transit in some degree as well.

When those who propose this idea discuss it, it is usually stated that it is not in conflict with the road building needs that we have so dramatically faced in Pennsylvania. This is not the place to talk about the previous speaker's Governor whose myopic position with respect to gasoline taxes has placed this state firmly behind in terms of our transportation needs. That is a subject for another time. However, suffice it to say that, because we have a politically depressed gasoline tax at this time, to talk about opening it up to further uses, rather than arguing about it rhetorically, let us just look at the numbers. If we take the figures provided by the state, for each new cent of gasoline tax the state will realize \$50 million worth of revenue. We can figure fairly easily that if we took a hypothetical five cent gas tax increase, which would put us up to 23 cents, which would put us up at the very top of all the states' gasoline taxes and said, how much of that would go for mass transit? To me, the previous question has to be addressed, and that is how much would we have raised? The answer, of course, by multiplication, is \$250 million. That probably sounds like a lot of money. In today's transportation world that is almost a drop in the bucket, whether it is for roads or mass transportation.

Should we have a constitutional amendment that opens the door to an unrealistic solution? To me, that would be a bromide only to satisfy those who like symbolism. In fact, if we want to talk about the need for infrastructure, we need to go a lot deeper. We need to spend a lot more time and, instead of rushing pell-mell from one sort of nostrum to another as has been done by SEPTA this year, we need to face up to the whole question of infrastructure for both roads and mass transit. It will not be solved by the proposed constitutional amendment which, if it did raise \$250 million a year, would be about enough for one entire road project for most of the projects we have. Certainly, if you look at the 12-year plan that PennDOT has and look at the total of \$16 billion that is currently on the 12-year plan, and the fact that there is somewhat less than \$8 billion funded, it means that that \$250 million is not going to go very far in terms of meeting an \$8 billion hole, much less get into the \$3 billion to \$5 billion—yes, billion dollar—infrastructure repair program just for SEPTA, let alone any other mass transit needs in the state. That is why I think, rather than looking at the counties' regional sales tax, which was the first magic solution that was proposed this year, or this constitutional amendment which appears not to appear before us at this time, I would simply raise the question. If we are going to talk about things that are the solutions to problems, let us not look at band-aids that are latched onto, but rather let us look more deeply into the total problem that we face and talk creatively about how to find the sacrifices that we are all going to have to make in the future, both for roads and mass transit.

Senator FUMO. Mr. President, in response to the gentleman's remarks, he confuses me greatly. He does not offer solutions. All he says is that the problem is too great, let us walk away and think about it. Mr. President, the opportunity was there today, and not for the gentleman from Chester, Senator Baker, because I recognize his constituency does not need mass transit the way the constituencies of us from Philadelphia need it, particularly the way the district of the gentleman from Philadelphia, Senator Rocks, needs it. I believe it is the most traveled public transportation district in the City of Philadelphia, and we did not need Senator Baker's vote. What we needed today were Senator Rocks' and Senator Salvatore's votes and we could have moved this amendment. At least we could have gotten into a debate, but because the Majority gagged us and cut us off and would not even let us discuss the issues, we are here now on Petitions and Remonstrances just talking to the world about it. But, Mr. President, even if I take the gentleman's figures as being accurate, and I agree with him that his numbers are right on his projections, one penny for \$50 million, he fails to recognize that the 12 cents under his formula currently generates \$600 million a year for road construction, and that may not be enough. There is never enough money, and I have learned that from the very first day I was elected Chairman of the Committee on Appropriations. There never was, there is not now and there never will be tomorrow. You can never fully fund everyone's dream, but you can try to help some people somewhere. My

amendment, had we been permitted and privileged enough for the Majority to let us look at it and consider it, would not have touched one penny of that 12 cents. It would not have touched one penny of any increase in gas tax until we passed the amendment finally before the voters. I agree with the gentleman that we should probably do something more in the gasoline tax, and my prognostication is that next year is the year we will do something. Even if we were to raise that tax a nickel next year, still not one penny would be able to be diverted to SEPTA, because by the time the constitutional amendment took place, it would be much further down the road. My amendment was very clearly restricted. It said you could not go backwards ever, and only in the future could we make a decision, if we so choose, to raise gasoline taxes that a portion of that, if anything, would go to mass transit, and it might not be enough. But it is a step in the right direction and it is a step that we have to take. It is not just Philadelphia's problem. I hear employers in the suburbs crying out for the labor market from Philadelphia to come to the suburbs. That labor market is not the highly skilled \$60,000 a year job, but it is the lowest skilled job, a hamburger flipper, if you will, at McDonalds. That person has to get to that job from the city. They do not have the money to travel otherwise, and unless there is adequate mass transportation, the labor needs of the suburbs are not going to be met. I know that Senator Baker's constituents do not want all of my citizens from North Philadelphia moving out to his area and living there and causing the density problems that would be caused in those areas. He would have to build a lot more schools. It is a lot cheaper to send my people back and forth on the bus than it is for you to house them and build schools for them.

Mr. President, we have to wake up and come into the 20th Century. We have to realize the value of mass transportation. We have to recognize that we can no longer continue to pollute the air with our vehicles and jam our highways. The suburbs in particular—maybe not as far out as the gentleman from Chester, Senator Baker's, but certainly around the gentleman from Delaware, Senator Loeper's, and some of those other areas closer to the city—are dying of gridlock on their highways. It is more difficult to go from a suburban job to a suburban home than it is to go from an urban job to an urban home. I warn you, if that keeps up, people may move back to the city and there goes your tax base. People will not use vehicles if there is adequate, reasonable and comfortable mass transit. The only way to do that is for us to begin to take a step in the right direction.

Pennsylvania is light years behind where it should be with this problem. We simply choose to bury our heads in the sand and say it will go away. To say that it is not enough does not mean we should not start. As was said by John Kennedy when he paraphrased Confucius, "Every journey of a thousand miles begins with the first step." Today we had the opportunity to take that first step. Regrettably, my colleagues on the Republican side of the aisle from Philadelphia chose not to be here to help us help their city and help their region take that first step. That is my complaint and that is my petition

tonight, that those people come back to this Capitol and go to work and help us remove this bill from the table in time to get it to the House so they can at least fulfill their campaign promises to the public that they so desperately want their votes from.

ANNOUNCEMENT BY THE SECRETARY

The following announcement was read by the Secretary of the Senate:

SENATE OF PENNSYLVANIA

COMMITTEE MEETING

THURSDAY, JUNE 28, 1990

11:00 A.M.	JUDICIARY (to consider House Bill No. 539)	Room 8E-B Hearing Room East Wing
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ADJOURNMENT

Senator BRIGHTBILL. Mr. President, I move the Senate do now adjourn until Thursday, June 28, 1990, at 11:00 a.m., Eastern Daylight Saving Time.

The motion was agreed to.

The Senate adjourned at 6:22 p.m., Eastern Daylight Saving Time.