

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

WEDNESDAY, JUNE 9, 1993

SESSION OF 1993

177TH OF THE GENERAL ASSEMBLY

No. 36

SENATE

WEDNESDAY, June 9, 1993

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

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

PRAYER

The Chaplain, Reverend ALLAN R. VIVONA, Pastor of Grace Bible Fellowship Church, Harrisburg, offered the following prayer:

Shall we pray.

O Lord our Lord, how excellent is Thy name in all the earth. Father, we recognize that You are the all holy and righteous God, the sovereign God who rules the universe. And as we come into Your presence today, we are mindful of the fact that as sovereign you reign alone and you reign supreme. Now, Father, we invoke your blessing upon this session today. We ask that You grant wisdom, we ask that You lead us in righteousness. We know, Father, that you have told us that righteousness exalts the nation, but sin is a reproach to any people. Open our hearts, Father, to be led in order to lead. We ask these things in the name of our God and Savior, the Lord Jesus Christ. Amen.

The PRESIDENT. The Chair thanks Pastor Vivona, who is the guest this day of Senator Shumaker.

LEGISLATIVE LEAVES

The PRESIDENT. Let us proceed immediately to the business of leaves of absence. The Chair recognizes the gentleman from Allegheny, Senator Bodack.

Senator BODACK. Mr. President, I ask for temporary Capitol leaves for Senator Bortner and Senator Williams.

The PRESIDENT. Senator Bodack requests temporary Capitol leaves for Senator Bortner and Senator Williams. The Chair hears no objection. Those leaves will be granted.

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, I request a legislative leave for today's session on behalf of Senator Brightbill.

The PRESIDENT. Senator Loeper requests a legislative leave for Senator Brightbill. The Chair hears no objection. That leave will be granted as well.

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of June 8, 1993.

The Clerk proceeded to read the Journal of the preceding Session.

Senator BODACK. Mr. President, I move that further reading of the Journal be dispensed with and that the Journal be approved.

On the question,

Will the Senate agree to the motion?

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

YEAS—48

Afflerbach	Fisher	Loeper	Robbins
Andrezeski	Fumo	Madigan	Salvatore
Armstrong	Greenleaf	Mellow	Scanlon
Baker	Hart	Mowery	Schwartz
Belan	Helfrick	Musto	Shaffer
Bell	Holl	O'Pake	Shumaker
Bodack	Jones	Pecora	Stapleton
Bortner	Jubelirer	Peterson	Stewart
Brightbill	LaValle	Porterfield	Stout
Corman	Lemmond	Punt	Tilghman
Dawida	Lewis	Reibman	Wenger
Fattah	Lincoln	Rhoades	Williams

NAYS—0

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

The PRESIDENT. The Journal is approved.

COMMUNICATIONS FROM THE GOVERNOR

RECALL COMMUNICATIONS LAID ON THE TABLE

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 laid on the table:

MEMBER OF THE PENNSYLVANIA
GAME COMMISSION

June 9, 1993

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 February 23, 1993 for the appointment of Robert J. Gilford (District 1), P. O. Box 69, Lickingville 16332, Clarion County, Twenty-first Senatorial District, as a member of the Pennsylvania Game Commission, to serve until October 23, 1997, vice Roger J. Wolz, Meadville, deceased.

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

ROBERT P. CASEY
Governor

MEMBER OF THE PENNSYLVANIA
GAME COMMISSION

June 9, 1993

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 February 23, 1993 for the appointment of Eugene P. Nelson (District 5), HC 64, Box 372A, Trout Run 17771, Lycoming County, Twenty-third Senatorial District, as a member of the Pennsylvania Game Commission, to serve for a term of eight years, vice Mary Jane Kuziak, Danville, whose term expired.

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

ROBERT P. CASEY
Governor

MEMBER OF THE PENNSYLVANIA
GAME COMMISSION

June 9, 1993

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 February 23, 1993 for the appointment of Vernon K. Shaffer (District 8), 3711 Stoudts Ferry Bridge Road, Reading 19605, Berks County, Eleventh Senatorial District, as a member of the Pennsylvania Game Commission, to serve for a term of eight years, vice Clair W. Clemens, whose term expired.

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

ROBERT P. CASEY
Governor

LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Fayette, Senator LINCOLN.

Senator LINCOLN. Mr. President, I request a temporary Capitol leave for Senator Andrezeski.

The PRESIDENT. The Chair doesn't seem to hear any problems with that, and the Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, Senator Baker, Senator Jubelirer, and Senator Holl have been called to their offices

and I would request temporary Capitol leaves for them.

The PRESIDENT. Senator Loeper requests temporary Capitol leaves for Senator Baker, Senator Jubelirer, and Senator Holl. Those leaves will be granted, without objection.

HOUSE MESSAGES

HOUSE BILLS FOR CONCURRENCE

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

June 9, 1993

HB 52 -- Committee on Appropriations.

HB 82 -- Committee on State Government.

HB 437 -- Committee on Local Government.

HB 919 -- Committee on Law and Justice.

HB 1009, 1010 and 1416 -- Committee on Consumer Protection and Professional Licensure.

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 8, 1993

Senators WILLIAMS, MUSTO and SCHWARTZ presented to the Chair **SB 1198**, entitled:

An Act amending Title 40 (Insurance) of the Pennsylvania Consolidated Statutes, providing for health insurance reforms and protections to consumers by limiting reasons of cancellation of insurance, coverage for dependent children, contestability, continuation of coverage of consumers in instances of total disability, replacement of group coverage by another insurer in continuity of coverage of the consumers who change groups.

Which was committed to the Committee on PUBLIC HEALTH AND WELFARE, June 8, 1993.

Senators WILLIAMS, SCHWARTZ and DAWIDA presented to the Chair **SB 1199**, entitled:

An Act providing for reform of health care malpractice arbitration; further providing for the Office of Administrator for Health Care Arbitration Panels, for operation of health care arbitration panels and for judicial review; and making repeals.

Which was committed to the Committee on PUBLIC HEALTH AND WELFARE, June 8, 1993.

Senators WILLIAMS, MUSTO and SCHWARTZ presented to the Chair **SB 1200**, entitled:

An Act reenacting and amending the act of July 8, 1986 (P. L. 408, No. 89), entitled "Health Care Cost Containment Act," further providing for legislative findings and declarations, for the Health Care Cost Containment Council and its powers and duties, for data submission and collection, for data dissemination and publication, for health care for the medically indigent, for access to council data, for special studies and reports, for enforcement, for penalties, for contracts with vendors and for termination; eliminating provisions on appropriations; and making editorial changes.

Which was committed to the Committee on PUBLIC HEALTH AND WELFARE, June 8, 1993.

Senators WILLIAMS, SCHWARTZ and DAWIDA presented to the Chair **SB 1201**, entitled:

An Act regulating self-referrals by health care practitioners; requiring disclosure of financial or ownership interests of health care providers in health care facilities; imposing civil penalties; conferring powers and duties on the Department of Health, the State Health Facility Hearing Board, various State licensing boards and the Department of State; and making a repeal.

Which was committed to the Committee on PUBLIC HEALTH AND WELFARE, June 8, 1993.

Senators WILLIAMS, MUSTO, SCHWARTZ and DAWIDA presented to the Chair **SB 1202**, entitled:

An Act providing for a Statewide health care insurance system; establishing the Health Security Corporation as a body corporate and politic and providing for its powers and duties; providing for the Pennsylvania Health Security Plan, for benefits and exclusions, for reporting, data collection, auditing and cost control; establishing health service regions; providing for additional duties of the Department of Health and the Insurance Department; establishing Health Care Networks and providing for their functions; providing for rates and premiums and for their approval, modification, payment and collection; providing for low-income assistance, for small employer assistance, for assistance for the unemployed, for medical education and research assistance; establishing the Clinical Advisory Council and providing for its powers and duties; providing for the Community Health Care Partnerships and for their functions; establishing financial and budget procedures; establishing the Health Security Payment Fund, the Health Security Account and other accounts; transferring certain responsibilities; providing penalties; making an appropriation; and making repeals.

Which was committed to the Committee on PUBLIC HEALTH AND WELFARE, June 8, 1993.

Senators HELFRICK, BAKER, SHUMAKER, SHAFFER, ARMSTRONG, PUNT, WENGER, FISHER, MOWERY, BRIGHTBILL, PETERSON, JUBELIRER, ROBBINS, CORMAN, MADIGAN, LOEPER, SALVATORE and TILGHMAN presented to the Chair **SB 1203**, entitled:

An Act repealing the act of _____, 1993 (P. L. _____, No. _____), entitled "Public Employee Fair Share Fee Law".

Which was committed to the Committee on LABOR AND INDUSTRY, June 8, 1993.

Senators HART, FISHER, AFFLERBACH, SALVATORE, HELFRICK and MOWERY presented to the Chair **SB 1204**, entitled:

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), entitled "Tax Reform Code of 1971," further defining "compensation" for personal income tax.

Which was committed to the Committee on FINANCE, June 8, 1993.

Senators BRIGHTBILL, AFFLERBACH, O'PAKE, WENGER, CORMAN, HELFRICK and SCHWARTZ presented to the Chair **SB 1205**, entitled:

An Act amending the act of October 20, 1966 (3rd Sp. Sess., P. L. 96, No. 6), entitled "Mental Health and Mental Retardation Act of

1966," repealing provisions relating to county liability; and discharging certain county liability.

Which was committed to the Committee on PUBLIC HEALTH AND WELFARE, June 8, 1993.

Senators BRIGHTBILL and FISHER presented to the Chair **SB 1206**, entitled:

An Act amending Titles 18 (Crimes and Offenses) and 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, providing a civil penalty for dealing in infant children; providing for licensing of intermediaries; providing for voidability of certain consent agreements; and conferring powers and duties on the Department of Public Welfare.

Which was committed to the Committee on JUDICIARY, June 8, 1993.

Senators BRIGHTBILL and FISHER presented to the Chair **SB 1207**, entitled:

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for investigations in adoptions.

Which was committed to the Committee on JUDICIARY, June 8, 1993.

Senators PECORA, ROBBINS, AFFLERBACH, FISHER and FATTAH presented to the Chair **SB 1208**, entitled:

An Act amending the act of October 20, 1966 (3rd Sp. Sess., P. L. 96, No. 6), entitled "Mental Health and Mental Retardation Act of 1966," providing for a model program that maximizes utilization of the unique competence of Western Center, a State facility for the mentally retarded, integrating its multidisciplinary first step habilitation services with those of public and private community service providers, enabling transition, incrementally, to higher levels of independent employment and residential placements for individual Pennsylvanians disabled by retarding developmental disorders and preserving Western Center's extended care and treatment capability for those with most severely incapacitating disabilities; and making an appropriation.

Which was committed to the Committee on PUBLIC HEALTH AND WELFARE, June 8, 1993.

Senators PORTERFIELD and ROBBINS presented to the Chair **SB 1209**, entitled:

An Act amending Title 30 (Fish) of the Pennsylvania Consolidated Statutes, further providing for complimentary fishing licenses.

Which was committed to the Committee on GAME AND FISHERIES, June 8, 1993.

RESOLUTION INTRODUCED AND REFERRED

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

June 8, 1993

REQUESTING THE PRESIDENT OF THE SENATE TO ISSUE A CERTAIN WRIT OF ELECTION

Senators JUBELIRER, LOEPER, FISHER, CORMAN, WENGER, PETERSON, BELL, HART, RHOADES, HOLL, MADIGAN, SHAFFER, ARMSTRONG, SALVATORE, HELFRICK, SHUMAKER, GREENLEAF, TILGHMAN, BAKER, MOWERY, ROBBINS, PUNT, LEMMOND and BRIGHTBILL offered the following resolution (**Senate Resolution No. 65**), which was read and referred to the Committee on Rules and Executive Nominations:

In the Senate, June 8, 1993

A RESOLUTION

Requesting the President of the Senate to issue a certain Writ of Election.

WHEREAS, The Second Senatorial District is vacant as a result of the death of Senator Francis Lynch; and

WHEREAS, The Lieutenant Governor Mark Singel, as the President of the Senate, is charged with calling a special election to fill the vacancy; and

WHEREAS, The Election Code requires that at least 60 days intervene between the issuance of the Writ of Election and the special election; and

WHEREAS, The residents of the Second Senatorial District are entitled to the resumption of representation in the Senate at the earliest possible time; therefore be it

RESOLVED, That the Senate requests that the President of the Senate, the Honorable Mark Singel, issue a writ calling a special election to fill the vacancy in the Second Senatorial District on August 10, 1993.

COMMUNICATIONS FROM THE GOVERNOR TAKEN FROM THE TABLE

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

MEMBER OF THE PENNSYLVANIA GAME COMMISSION

June 9, 1993

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 February 23, 1993 for the appointment of Eugene P. Nelson (District 5), HC 64, Box 372A, Trout Run 17771, Lycoming County, Twenty-third Senatorial District, as a member of the Pennsylvania Game Commission, to serve for a term of eight years, vice Mary Jane Kuziak, Danville, whose term expired.

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

ROBERT P. CASEY
Governor

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ROBERT P. CASEY
Governor

MEMBER OF THE PENNSYLVANIA GAME COMMISSION

June 9, 1993

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

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

ROBERT P. CASEY
Governor

NOMINATIONS RETURNED TO THE GOVERNOR

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

The motion was agreed to.

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

LEGISLATIVE LEAVE CANCELLED

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

CALENDAR

FINAL PASSAGE CALENDAR

HB 461 (Pr. No. 512) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, regulating child passenger restraint systems.

On the question,
Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentleman from Centre County, Senator Corman.

Senator CORMAN. Mr. President, would the gentleman

from Washington County, Senator Stout, stand for brief interrogation?

The PRESIDENT. Will the gentleman from Washington, Senator Stout, stand for interrogation?

Senator STOUT. I will, Mr. President.

The PRESIDENT. He indicates that he will. The gentleman may proceed.

Senator CORMAN. Mr. President, this bill deals with requiring children from ages 0 through 4 to have child restraining seats in the back seat as well as the front seat of a car. I want it to be known that I have six grandchildren, ages about 1 through 9, and I want them adequately protected as well. I am not trying to defeat a good measure, but I have not seen any statistics that would prove children are any more at risk in the back seat of a car wearing seatbelts than they would be safer riding in a child restraining seat, and I am wondering if you can indicate if there are any statistics that would indicate that this is a needed State policy.

Senator STOUT. Mr. President, in responding to the question from the gentleman from Centre County, Senator Corman, this measure before us, House Bill No. 461, in the information that has been provided to me from Representative Coy's office, the need for this legislation came out of a traffic safety council meeting that was held about 18 months ago which focused on transportation issues for children, issues from school buses to private automobiles, and it was the recommendation of this group that improvements were needed in the safety of children being transported in cars and the safety seats in which the children are sitting.

Current law, prior to House Bill No. 461 becoming law, states that only under 1 year do you have to keep that child in a car seat. This legislation will eliminate that exemption for children between the ages of 1 to 4 and require children being transported in the rear seat of a vehicle to be in a child restraining seat. The data that has been provided to me shows that as the child grows older, for children from age 1 and below in most cases, at least 88 percent of the time that child is transported in a restraining seat, but as the child grows older, by age 2, it drops to 79 percent, and at age 3 it stays about the same, at 80 percent, and by age 4 only approximately three-quarters of the children in that age group are in a child safety seat. My statistics, the most recent for calendar year 1992, shows that 13 vehicle occupants under the age of 4 were killed in crashes, and it is hard to determine exactly how many were in a child safety seat or not in a child safety seat. Other accidents in which there was no fatality, there were approximately 1,770 accidents that involved children age 4 and under. In about 1,200 of those cases the child was in a child restraining seat, and in approximately 240 cases the child was not in a child restraining seat.

What happens when a child is being transported in the rear seat of a vehicle and is not in a child restraining seat—obviously, the size of the children vary. Some 2-year-olds look like they are 4 years old; a 4-year-old might look like he is 2 years old, depending upon the size, and the lap belts that come in the vehicles are not made to fit children. A lap belt

should be around one's hips in order to protect them in an accident. What happens is that a child slips down in and it actually takes action around the child's waist. The shoulder strap, which keeps us from really going forward, in most cases people put them behind the child and it really has no benefit. So there is definitely a need for a child in the rear seat to be in a specially designed seat to hold him in place. Most of the accidents, I am told, that involve children age 4 and under are when they are in the rear seat and are not in the car-type seats and just have the lap or shoulder belts in place. They slide out and go through the back window of the car. As the car impacts, then the opposite reaction is to throw the child out the back window, and that causes much more severe injuries.

So I think that this legislation is reasonable. It is supported by the American College of Pediatrics and many of the police officers associations in the Commonwealth. It is responsible legislation, and we should pass House Bill No. 461.

Senator CORMAN. Mr. President, I wonder if the gentleman is familiar with the PennDOT statistics that have been gathered in the years 1990 and 1991 dealing with automobile accidents.

Senator STOUT. Yes, Mr. President. I have some information before me called the Pennsylvania Highway Safety Statistics for 1991. I do not have the specific details. Maybe the gentleman from Centre, Senator Corman, could enlighten me on the statistics for those time periods.

Senator CORMAN. Mr. President, I would be delighted, and I wish my colleagues would listen to these numbers. I think they would be surprised by the numbers.

Mr. President, in 1991, according to PennDOT statistics, there were a total of 387 people killed in automobile accidents. The occupants who were from 0 to 4 years of age, the total amount killed in accidents were 9, which is about 2.3 percent. The highest percentage killed, about 33 percent, were from the ages of 14 through 24. This is really the number of people—there were 63 killed from age 15 through 19, and 64 killed from age 20 through 24. So that is really the group who are at risk, not the 0 to 4 age group.

If we look at the total who suffered major injuries in accidents in 1991, we find that there were 10,049 people injured. One percent, or 104, were in that age group of 0 through 4. If we look at moderate injuries, we find there were 20,687 with moderate injuries, and 1.5 percent were in the age group of 0 through 4. And if we look at very minor injuries, we find that it was less than 1 percent, it was three-tenths of a percent, who were injured in those accidents with automobiles. In each case we find the majority of the people who were injured, either killed, major injuries, minor injuries, or moderate injuries, were all in the age group of 15 through 24. And looking at this 0 through 4 age group, it further does not break it down as to who was wearing a back seat seatbelt or who was in the front seat, or whether they were in a child restraining seat or whether they were not, but it seems to me we are talking about a very, very minor percentage of the people who were injured, some of whom may have been in the child restraining seats. And if we look at the statistics for the year 1990, we find them

very similar to 1991.

So it seems to me, Mr. President, what we are doing with this legislation is requiring people to purchase multiple seats. If you have many children, as I did—I have five children—to have to buy multiple seats at a cost of somewhere in the neighborhood nowadays, if you look, it can be anywhere from \$50 to \$80 to find an appropriate seat. When there are no statistics that bear out the need for these seats, I really think this is too much government that is really not needed, and I am wondering if anyone has any statistics to challenge this information provided by PennDOT.

Senator STOUT. Mr. President, I do not dispute the statistics of the gentleman from Centre County, Senator Corman, and he focused correctly on the high percentage of injuries of young people between, I believe, the age of 15 to 24 is the most significant. Like you, I have six children. They have all been teenagers, and particularly between the ages of about 16 to 21, they started to drive. They knew just about everything, and all of a sudden they realized, when they got to be about 21 or 22 and they got their first job, that maybe the old man knew a little bit. But, again, those in an age group of where there are children on the road much more, they are traveling around in their own cars or with their friends, and we know the insurance rates reflect that. As an insurance agent, the gentleman knows the statistics as they relate to safe driving and unsafe driving. That is why many of them are on an assigned risk. But at that age we at least hope that they have the common sense to buckle up and to apply their safety belt. This legislation focuses on the children basically from 1 to 4 who really are not at that age where they can make a decision to buckle up or not to buckle up, and the way the cars are constructed with the rear lap belts and shoulder harnesses, because of the varying size of children, they are not really doing the job anyway. And I know, having five grandchildren myself, I think all of us who have children and grandchildren will admit that we do not want our children or grandchildren out on the road if they are not buckled up safely. And, again, the cost where you are talking maybe \$50 or \$60 for one of these seats, it is really a good investment, even if there is a small number of children injured, as your statistics indicate. What does it cost for one life-flight helicopter? Maybe \$2,000 or \$3,000 in my area to take them to a trauma center, where the costs are \$5,000 or \$10,000 per accident just to bring them into the emergency room and so forth.

I think it is good, responsible legislation to make people aware of the necessity of protecting a child because they are not at the age to be able to make that decision themselves. I think that the parents or the operator of that vehicle has the responsibility to see that that child is safely protected inside that automobile. And I would agree with you, there are no real hard statistics to show exactly, as you look at other statistics, to document a need for this. But, nevertheless, that does not make a case that we should not support this type of legislation. I think that investment of \$50 or \$60 per seat is not an unreasonable amount and it is overshadowed. One accident or one fatality is too many, Mr. President.

Senator CORMAN. I thank the gentleman, Mr. President. I would like to make some concluding comments.

Like the gentleman from Washington County, Senator Stout, I, too, have about 6 8/9, I believe, grandchildren at the moment. If they need child restraining seats, certainly grandfather is going to provide them. That is not a problem. But there are a whole lot of families out there that do not have a grandfather who can or will provide the child restraining seats. There are no statistics that indicate that these child restraining seats in the back seat of a car are truly needed.

There are a lot of people who, for emotional reasons, think they want to do good. Some people keep pushing to try to have seatbelts required in school buses, but yet it has been proven time and again by various experiments that seatbelts on school buses just do not work.

And I think we have another emotional issue here where some people have said, my goodness, we should have child restraining seats in the back seat as well as the front seat, but when you are talking about charging many young families who do not have it \$50 to \$80 a seat, and if you have gone shopping, as I have recently, and saw the high cost of these seats, I think when we do not have any evidence, this is wrong State policy. We ought to remand this bill back to the Committee on Transportation and let us examine what we can do where 33 percent of the accidents occur where people are severely injured, and that is age 15 through 24.

Thank you, Mr. President.

Senator STOUT. Mr. President, I rise to urge support of final passage of House Bill No. 461, and I respect the views of the gentleman from Centre, Senator Corman, because we have worked together for many years in areas involving the Committee on Transportation of this Chamber. And, again, I know how much opposition there was a few years ago when we passed mandatory seatbelts for the operator and passengers of vehicles regardless of what their age was, and again we heard the same story, Mr. President, that it is government getting in your car, it is government getting in your bedroom, or whatever place you wanted to put government. But I think as responsible lawmakers here, we see that there is a need to have these child safety seats in the rear seat because of what is causing the accidents. The size of the children vary. Maybe a child 4 years old of a large stature would be somewhat protected by the lap belt. In most cases, when parents buckle up a 2-year-old or a 4-year-old in the rear seat, the one that comes across—your shoulder harness—is usually hitting the child in the face or around the neck, so they will buckle that behind the child in the seat. So, really, the only restraint that is protecting the child is the lap belt, and as I mentioned earlier, Mr. President, the lap belt is designed to contact you around the hips and keep you from going forward, but in a child it will slide down and that lap belt may be hitting the child in the chest or even around the neck and do damage to the child if they are involved in an accident.

The cost of a seat in the \$50 or \$60 range, I do not minimize that that is not significant, but it pales with the cost of a child being injured or a fatality. I have found that people have

money for what they want to have money for, no matter what it is. They may be playing \$30 or \$35 CDs in their player, yet will say, well, I cannot afford a car safety seat for a child. To me, that is being irresponsible.

This legislation is endorsed by the various police officers associations that have been involved in investigations of accidents where children were involved. It is supported by the medical profession and the pediatrics association, the people who treat children who are injured in these types of accidents.

So, Mr. President, I think that this is responsible legislation. Many of you know that I do not embrace everything that comes along, but I know that people have a responsibility. I know that people have a responsibility. I think in this case when we are talking about children from ages 1 to 4, we as adults and as operators of vehicles have the responsibility to see that the children we transport are safely protected, Mr. President, and again, I urge an affirmative vote on House Bill No. 461.

The PRESIDENT. The Chair recognizes the gentleman from Bradford, Senator Madigan.

Senator MADIGAN. Mr. President, would the gentleman from Washington, Senator Stout, stand for brief interrogation?

The PRESIDENT. Would the gentleman from Washington, Senator Stout, stand for brief interrogation?

Senator STOUT. Mr. President, I will.

Senator MADIGAN. Mr. President, as I look at the bill, it includes Class I and Class II trucks. I admit I am not familiar with this. Does that include a pickup truck?

Senator STOUT. Mr. President, yes, I believe it will cover a pickup truck if it is a pickup truck that has a rear seat. Some people have a pickup truck that has a front seat and a back seat, so if they are in the back seat of that pickup truck, it will be a problem.

Senator MADIGAN. Mr. President, I guess my real concern is for the family whose vehicle is a pickup truck. There is only one seat and you have four or five children riding in the back of that pickup with absolutely no restraints, and certainly in my area I have had a number of tragedies where children have lost their lives toppling out of the back of a truck and with no seatbelt, no safety seats, whatever. Would this impact on that?

Senator STOUT. Mr. President, I do not believe this legislation would apply to someone transporting passengers in the rear body of a pickup truck. I see that all the time, Mr. President, but this does not speak to that. We are talking about a vehicle where there is a rear seat and where there are manufacturer installed seatbelts and you would fasten them onto the child restraint seat.

And I might just take this opportunity, Mr. President, to say that this language is embraced by all 50 States, and, you know, this is legislation that I think is responsible. But the issue of transporting passengers in the rear of a pickup truck is a different issue, Mr. President.

Senator MADIGAN. Mr. President, well, I agree with the gentleman and I do not agree with him, and I thank him for his response. But I do have a concern because I am not sure that there are figures, I would hope that there might be, but I am sure a significant number are involved in those pickup

trucks with children riding in the rear, and certainly some that I am aware of have been children under the age of 4. I think we are leaving a gaping hole there, certainly with the vehicle of choice being pickup trucks across this Commonwealth and across this nation. I am not objecting particularly to the legislation itself, but I feel that we are perhaps kidding ourselves that we are protecting these children when there are many children who are left with no protection whatever in the rear cargo area of pickup trucks.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Washington, Senator Stout.

Senator STOUT. Mr. President, if the gentleman from Bradford County, Senator Madigan, would care to introduce some legislation in the future to correct that situation with regard to transporting passengers in the rear of a pickup truck, I assure him that the Senate Committee on Transportation would put that on the agenda and we could discuss that and it may have merit.

The PRESIDENT. The Chair recognizes the gentleman from Bradford, Senator Madigan.

Senator MADIGAN. Mr. President, that was introduced last Session and I may have reintroduced it this Session. If not, I certainly will and I would appreciate its prompt consideration.

Thank you.

LEGISLATIVE LEAVE

The PRESIDENT. The Chair recognizes the gentleman from Fayette, Senator Lincoln.

Senator LINCOLN. Mr. President, I request a temporary Capitol leave for Senator Jones.

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

LEGISLATIVE LEAVE CANCELLED

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

LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, Senator Salvatore and Senator Shumaker have been called from the floor and I request temporary Capitol leaves on their behalf.

The PRESIDENT. Senator Loeper requests temporary Capitol leaves for Senator Salvatore and Senator Shumaker. The Chair hears no objection. Those leaves will be granted as well.

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—34

Afflerbach	Fisher	Lincoln	Salvatore
Andrezeski	Fumo	Madigan	Scanlon
Baker	Greenleaf	Mellow	Schwartz
Belan	Helfrick	Musto	Shumaker
Bodack	Holl	O'Pake	Stewart
Bortner	Jones	Pecora	Stout
Brightbill	LaValle	Reibman	Tilghman
Dawida	Lemmond	Rhoades	Williams
Fattah	Lewis		

NAYS—14

Armstrong	Jubelirer	Porterfield	Shaffer
Bell	Loeper	Punt	Stapleton
Corman	Mowery	Robbins	Wenger
Hart	Peterson		

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

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

BILL OVER IN ORDER

SB 713 -- Without objection, the bill was passed over in its order at the request of Senator LINCOLN.

THIRD CONSIDERATION CALENDAR

BILLS REREPORTED FROM COMMITTEE AS AMENDED OVER IN ORDER

SB 308, SB 309 and SB 627 -- Without objection, the bills were passed over in their order at the request of Senator LINCOLN.

PREFERRED APPROPRIATION BILL OVER IN ORDER

SB 1192 -- Without objection, the bill was passed over in its order at the request of Senator LINCOLN.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 3 (Pr. No. 2053) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 18 (Crimes and Offenses) and 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, providing for the crime of stalking, for penalties and for robbery of motor vehicle; and further providing for protective orders and warrantless arrests relative to victim and witness intimidation and for relief relative to protection from abuse.

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 PRESIDENT. The Chair recognizes the gentleman from Berks, Senator O'Pake.

Senator O'PAKE. Mr. President, I urge support for this bill, and for the benefit of my colleagues, what we have done is we have taken the House Bill and essentially inserted most of the substance of the Senate Bill that we have already passed. We have all heard stories and read accounts of women who are being stalked and terrorized and threatened by misguided individuals. This bill is aimed at preventing an ugly crime, even murder, before it happens. The time has come—it is long overdue—to try to address this problem, and this bill represents a consensus now between the House version and the Senate version, and I urge support for this bill on behalf of victims and potential victims throughout the Commonwealth.

The PRESIDENT. The Chair recognizes the gentleman from Chester, Senator Baker.

Senator BAKER. Mr. President, I would like to thank the previous speaker, the gentleman from Berks, Senator O'Pake, for his comments, which I agree with, and just slightly add to them to say that I appreciate his cooperation in adding the language having to do with severe mental distress because I think this is the essence of the stalking crime that separates it from acts of physical violence or the threat of physical violence, and I think that greatly strengthens the bill. I have been told by prosecutors that this will greatly strengthen the bill in terms of prosecution and also preventive action that can take place prior to an act of stalking or violence that might prevent it from happening.

Thank you, Mr. President.

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—48

Afflerbach	Fisher	Loeper	Robbins
Andrezeski	Fumo	Madigan	Salvatore
Armstrong	Greenleaf	Mellow	Scanlon
Baker	Hart	Mowery	Schwartz
Belan	Helfrick	Musto	Shaffer
Bell	Holl	O'Pake	Shumaker
Bodack	Jones	Pecora	Stapleton
Bortner	Jubelirer	Peterson	Stewart
Brightbill	LaValle	Porterfield	Stout
Corman	Lemmond	Punt	Tilghman
Dawida	Lewis	Reibman	Wenger
Fattah	Lincoln	Rhoades	Williams

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.

BILLS OVER IN ORDER

HB 6, HB 213, SB 314, SB 601 and SB 625 -- Without objection, the bills were passed over in their order at the request of Senator LINCOLN.

BILL ON THIRD CONSIDERATION AMENDED

SB 653 (Pr. No. 694) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of July 31, 1941 (P. L. 616, No. 261), entitled "Employment Agency Law," further providing for the advertisement of fees.

On the question,

Will the Senate agree to the bill on third consideration?

Senator ANDREZESKI, by unanimous consent, offered the following amendment No. A2471:

Amend Sec. 1 (Sec. 20), page 1, line 22, by inserting after "charges": an applicant

Amend Sec. 1 (Sec. 20), page 2, line 1, by striking out "subsections (m) and (n)" and inserting: subsection (m)

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 LINCOLN.

BILLS OVER IN ORDER

SB 683, SB 684, SB 689, SB 839, SB 845 and SB 863 -- Without objection, the bills were passed over in their order at the request of Senator LINCOLN.

BILL REREFERRED

SB 955 (Pr. No. 1046) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 27, 1966 (1st Sp. Sess., P. L. 31, No. 1), entitled "The Bituminous Mine Subsidence and Land Conservation Act," providing for the restoration or replacement of water supplies materially affected by mining; further providing for the replacement or repair of certain structures affected by mine subsidence; further providing for appeals and departmental action; and making repeals.

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

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 958 (Pr. No. 1404) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of September 30, 1983 (P.L.160, No.39), known as the Public Official Compensation Law, providing for the salaries of members of the Pennsylvania Public Utility Commission; and making repeals.

Considered the third time and agreed to,

On the question,

Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentlewoman from Allegheny, Senator Hart.

Senator HART. Mr. President, for those who may not have had the chance to review House Bill No. 958, it does include a pay increase for the commissioners of the Public Utility Commission of approximately \$21,000 annually.

I rise to encourage my colleagues to vote against this bill, and part of the reason that I do so is the continuing problems that we have fiscally in the Commonwealth. As a person in the Commonwealth who chooses to be an elected official, chooses to serve the public as a commissioner on one of our boards or commissions, that person does so as a public servant. It is not a position in which a salary should be competitive with the private sector. I think the salaries that they are presently paid are adequate. I think that in this time of economic difficulty in the Commonwealth it would not be right for us representing our constituencies to vote for such an increase at this time.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Fayette, Senator Lincoln.

Senator LINCOLN. Mr. President, I think that those comments about adequate pay for the PUC commissioners who have taken on the responsibility of protecting every one of the constituents of the gentlewoman from Allegheny, Senator Hart, from the big, bad people in the utilities, and we have a consumer-oriented PUC right now with talented people who are there for the purpose of being fair, I cannot believe anybody can say that they are making enough money for the full-time positions that they hold. And if you look at the talent that we have over there right now, from the top to the bottom, there has never been a PUC that has ever sat together like these five members, with the kind of ability, the kind of talent, and the kind of dedication, and they well deserve the pay raise that is in House Bill No. 958. I think that maybe the gentlewoman from Allegheny, Senator Hart, might want to go back to the old days where they did not pay them anything and let the utilities run rather than have good, competent people getting paid a fair salary.

The PRESIDENT. The Chair recognizes the gentleman from Lehigh, Senator Afflerbach.

Senator AFFLERBACH. Mr. President, evidently the gentlewoman from Allegheny, Senator Hart, and perhaps other Members of this particular body, are not aware of the fact that the Public Utility Commission Act and the code of ethics for the commissioners is among the strictest affecting any employee of State government. The commissioners are prohibited from receiving compensation or income from any other source whatsoever. So unlike those of us who choose to serve in the legislature who can, in fact, have income from other sources to supplement the salary of a legislator, if we so choose, the PUC commissioners cannot. They cannot even hold a job as a professor at a university or college in Pennsylvania.

They are absolutely prohibited from any other sources of income. Consequently, if they choose to serve as a commissioner, they accept that salary with a very limited expense account. I have personally tried to recruit competent people from various walks of life to serve on the Public Utility Commission and have been turned down almost entirely by those individuals because they could not afford to take the salary cut to serve under the restrictions to which PUC commissioners are limited.

I do not think it behooves this Commonwealth to have a board of commissioners that is either all attorneys or all utility retirees who can afford to serve at that salary. If we are truly to have a board of directors, which is what the PUC is, it seems to me that we should have a board of directors that is made up of people from various walks of life in the Commonwealth and who can afford to serve at that salary using the expertise that they have gained in the private sector. That is the dilemma we face. That is why I support this bill.

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Bell.

Senator BELL. Mr. President, I am supporting this bill, despite the remarks of the gentleman from Fayette, Senator Lincoln.

LEGISLATIVE LEAVE CANCELLED

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

And the question recurring,
Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentleman from York, Senator Bortner.

Senator BORTNER. Mr. President, I intend to be brief, perhaps not that brief, but I think there are a few things that need to be said, and I did not intend to speak on this issue. Two points, I guess. One is that it is really unfair, I think, to use the good, dedicated public officials, whether they are at the Public Utility Commission or whether they serve in other agencies of State government, for us to score our political points. I think that the remarks of the gentleman from Lehigh, Senator Afflerbach, were very appropriate to this issue. We need good, qualified, competent people to serve on those commissions, and we are not going to get them unless we pay them an adequate, and I use the word "adequate," and reasonable salary.

Secondly, I would really like to underscore the importance of those commissioners and of that commission. As the new chairman of the Committee on Communications and High Technology, issues are going to come before that commission that are going to be even more complicated, in my view, and more important than perhaps any that they have dealt with for a long, long time. They and their staff have been invaluable to me and to the members of my staff, and I think to the Minority chairman of this committee as well, in providing us with information and backup and assistance as we try to

prepare ourselves and try to prepare the other Members of this body to embrace and take up some very, very important issues.

I am not in favor of spending a lot of money unwisely. I think that their situation is completely different from that as Members of the General Assembly, as the gentleman from Lehigh, Senator Afflerbach, has pointed out. I intend to support this legislation because I think it is fair and because I think it is reasonable and because I think they deserve it.

Thank you.

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—38

Afflerbach	Fisher	Madigan	Scanlon
Andrezeski	Fumo	Mellow	Schwartz
Belan	Greenleaf	Musto	Shaffer
Bell	Holl	O'Pake	Stapleton
Bodack	Jones	Pecora	Stewart
Bortner	LaValle	Peterson	Stout
Brightbill	Lemmond	Porterfield	Tilghman
Corman	Lewis	Reibman	Wenger
Dawida	Lincoln	Salvatore	Williams
Fattah	Loeper		

NAYS—10

Armstrong	Helfrick	Punt	Robbins
Baker	Jubelirer	Rhoades	Shumaker
Hart	Mowery		

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

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

LEGISLATIVE LEAVES CANCELLED

The PRESIDENT. The Chair recognizes the presence on the floor of Senator Holl and Senator Shumaker, and their temporary Capitol leaves will be cancelled.

LEGISLATIVE LEAVES

Senator LINCOLN. Mr. President, I request temporary Capitol leaves for Senator Mellow and Senator Afflerbach, who have been called to their offices.

The PRESIDENT. Senator Mellow and Senator Afflerbach have been called to their offices, and Senator Lincoln asks for temporary Capitol leaves for them. The Chair hears no objection. Those leaves will be granted.

THIRD CONSIDERATION CALENDAR RESUMED**BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE**

SB 974 (Pr. No. 1440) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 24 (Education) and 71 (State Government) of the Pennsylvania Consolidated Statutes, revising provisions relating to investments of the Public School Employees' Retirement Board and the State Employees' Retirement Board, respectively; excepting such boards from terms, conditions, limitations and restrictions imposed on other administrative boards of the Commonwealth in making investments; and adopting prudent-person rule in lieu of specific "legal list" of authorized investments.

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 PRESIDENT. The Chair recognizes the gentleman from Lancaster, Senator Armstrong.

Senator ARMSTRONG. Mr. President, would it be possible to interrogate the prime sponsor, the gentlewoman from Philadelphia, Senator Schwartz?

The PRESIDENT. Will the gentlewoman from Philadelphia, Senator Schwartz, permit herself to be interrogated?

Senator SCHWARTZ. Mr. President, I will.

Senator ARMSTRONG. Mr. President, overall, I guess I am in support of the legislation and have always favored the prudent-man or prudent-person rule. However, after looking into the actual bill itself, on page 12, I guess mainly lines 4 through 9, there is a kind of caveat as far as what is a prudent person. I would like to know, Mr. President, what do they mean on line 4 when it says after you invest money, you should invest it for the maximum return, but it should also include, but not limit it to, investments that increase and enhance the employment of Pennsylvania residents, encourage the construction or retention of adequate housing and stimulate further investment and economic activity in the Commonwealth? What types of investments are we looking at when we consider those criteria?

Senator SCHWARTZ. Mr. President, well, without getting into the specifics, this language was included in the original bill and then redrafted through a request by some of my Republican colleagues to assure that the issue of prudence takes precedence, that the fiduciary responsibility of the boards is clearly the first line of responsibility, but that they could take into consideration whether, in fact, the investments would enhance economic development and the creation of jobs in Pennsylvania. There was no specific discussion about what those might be, but I am sure that my colleague is aware of the fact that other funds in the Commonwealth, particularly out of the Treasurer's Office, have been used very prudently to make investments in first-time homeowners, and those kinds of loans and investments that, in fact, have given a good return, so we did not specify but we did want the board to have some

direction from us that while not absolute, they could and should look into whether in fact there would be a positive impact on job creation and economic development in the Commonwealth.

Senator ARMSTRONG. Mr. President, the Treasurer also has, I believe, just as an example, I think it is a \$50 million pool of funds that they use for, for instance, low-income housing, and I believe that even in my own district in Lancaster city a million dollars was allocated for a project in downtown Lancaster that, if I am not mistaken, it was a relatively low percentage, maybe 2 percent or maybe no percent, for 5 years. Would this type of investment qualify under this bill as an investment for the pension?

Senator SCHWARTZ. Mr. President, it is difficult for me to speak to that specific kind of investment. I think that in here it is very clear and the language speaks to it very clearly that the primary responsibility of the boards is their fiduciary responsibility to keep up the kind of return that is expected from investments to assure the retirees of the money that they need for those payments. So I cannot respond to that specific investment. I think we have to look at whether, in fact, they would be able to get the kind of return they expect to keep their fiduciary responsibility intact, and that was clearly stated that that is the primary concern and that only a project that would, in fact, assist in that would be even considered.

Senator ARMSTRONG. Mr. President, if those lines 4 through 9 were not included, I guess I could support it, but I am afraid of what this does. It opens a door for investing in social programs, so to speak, and forsaking the total overall return of the investment. I happen to sit on one of the boards, and, in fact, we have a meeting right now, but it bothers me when we start considering other things other than the total overall return to, in this case the State Employees' Retirement System, and say, well, this is good for Pennsylvania, it will create jobs, or it is a good social program, it will be housing for low-income individuals, and so instead of getting maybe a 7- or 8-percent yield on a 10-year investment, we will be getting maybe a 2-percent yield. I think, based on your legislation, this is now possible, whereas before it was not.

Senator SCHWARTZ. Mr. President, if I may, the gentleman is correct that it is possible; however, I point out that it says "may," and also includes wording right up front that says: "The board may, when possible and consistent with its fiduciary duties...including its obligation to invest and manage the fund for the exclusive benefit of the members of the system...." I can tell you there is no intention here to turn this around in any way to make it, quote, a "social program." It is clear that the fiduciary responsibility of looking out for the investment return is the primary responsibility, but it is not mutually exclusive that there would be investments that could be made that would have the same rate of return, then the choice would be, should we do this investment in Pennsylvania or should we make the investment in some other State or community? And in that case, we are asking the board to consider the impact on Pennsylvania. There is nothing in here, we are very, very clear. I agree with my colleague that, in fact, we

have to make sure that the intent and that the retirement boards are very clear about their fiduciary responsibility. There is no intention here to subvert the use of these funds for other programs. It is not intended as a development program for the Commonwealth in housing or in other kinds of economic development that we have other funds for, and I certainly am supportive of those efforts. But the idea here is that if it is possible to make a prudent investment with a rate of return consistent with what they would expect, that they may consider the impact on jobs in Pennsylvania. That is really the only purpose of this section, and I cannot state strongly enough that this is not in any way intended to undermine the investment for the retirement funds. And in other communities and other States it has been shown that the institution of the prudent-person rule rather than the legal list has, in fact, increased the rate of return dramatically for many of those funds.

Thank you, Mr. President.

Senator ARMSTRONG. Mr. President, I thank the gentlewoman.

What I am afraid of, Mr. President, is that we are now opening the door. It sounds good, but I think we are going to have political pressure put on the fund to start investing in other areas. The prudent-man or prudent-person rule is basically that you want to get the highest maximum return for your investment without taking any undue risk. That is basically the rule. And I can kind of personalize it. It is like investing money for your own family. You would just do everything you can to maximize the return without taking any undue risk, and it varies under the circumstances. When someone is older, they would invest a certain way, they want maybe cash flow coming in, where if someone is younger, they do not want cash flow, they want investments maybe in stocks or zero-coupon bonds. So your investment philosophy, the prudent person invests the money accordingly. You do not put a retiree in zero-coupon bonds, where conversely, you may put a child in zero-coupon bonds. So different criteria influence the way you invest. Bankers, trust officers, brokers, they always invest the money to get the total overall maximum return, and they do not invest for social programs or to even create jobs. It sounds nice, but I think what we are doing is opening a door.

Just to give you an instance, if you had \$100,000 to invest and someone said to you, do you want to invest that money for the next 10 years at 7 percent in a government bond or do you want to invest it at 2 percent but it is going to create jobs in Lancaster County, or it is going to have a program that will help senior citizens for low-income housing and you are only going to get 2 percent but you feel good in your heart because you are helping somebody, which one do you want? Well, I do not think anybody in here, unless they had a lot of money, would take the 2-percent return, because over a 10-year period, your money would grow to \$200,000 for the one investment, whereas the other investment would only grow to \$125,000.

I think the problem in Pennsylvania is we are looking at ways to maybe help create jobs because the business climate in the State is extremely lousy. I just left 40 people in my office who were complaining about the workers' compensation

rates, how they are driving their businesses out of the State and they are actually laying people off, and also about the high corporate net income tax that they are paying. I think for us to say now we can use the pension funds open, maybe, and anytime you say "may," we all know what "may" means up here, you are opening the door and saying, well, let us look at this type of investment.

If anybody in here wants to invest their money in social programs, I think that is great. If I want to invest my money in a social program, I think that is fantastic. People invest for different reasons. Some people will not invest in gambling stocks or liquor companies, or people will not invest in South Africa or Russia or China. They have different criteria. That is up to them. But for the pension funds, we want an overall return that is the highest we could possibly get.

Just in closing, and perhaps this is not a prudent-person rule, maybe it would be considered now a political prudent-person rule. I just think the door is being opened, and I urge a "no" vote.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Cumberland, Senator Mowery.

Senator MOWERY. Mr. President, I will not take a lot of time because I think the gentleman from Lancaster, Senator Armstrong, presented many of the thoughts that I would present myself. However, I also have no problem with the prudent-person rule. I think it is most appropriate today in the investment market. However, I do have concerns with the additional language pointed out by the gentleman from Lancaster, Senator Armstrong. I, too, had an opportunity to serve on a pension board for two terms, and during that time I think that with many of the investments that were made, the pension board already considered whether or not it could help Pennsylvania job wise, and so forth. It was always the first consideration. I think by spelling it out and putting it in the language that we now have, however, does give it an opportunity to be interpreted by the legal staff to say, yes, we can do it. I think it is extremely important that we preserve the pension reserves as we now have them so that we are not faced down the road with putting in additional moneys and trying to make up for losses that could occur.

Thank you very much.

The PRESIDENT. The Chair recognizes the gentleman from Fayette, Senator Lincoln.

Senator LINCOLN. Mr. President, I really do not think there is any reason for debating this any further. I think that the gentlewoman from Philadelphia, Senator Schwartz, very clearly in her interrogation answered the questions that were raised by the two previous speakers. I do not know how much clearer you can be when you say, "The board may, when possible and consistent with its fiduciary duties imposed by this section or other law...." I mean, how much clearer can you be? We are not giving anyone an opportunity to do anything other than what the law says and what the fiduciary duties imposed by any law are. And I think it is interesting that the gentleman from Lancaster, Senator Armstrong, would bring this into a

political perspective, and that was part of his remarks, not of mine, that it is political, maybe, because anybody who does not want to vote to provide employment for Pennsylvania residents when it is completely consistent with existing law, whenever it is a "may" provision and it says, "...including, but not limited to, increasing and enhancing the employment," if that is a social program, if that is a human services program, then I think there is something wrong with how we are considering what our responsibilities are as legislators to every citizen in this Commonwealth, not on a political basis.

I believe this is very consistent with the practices of this General Assembly through the 1980s and into the 1990s when we are trying to make Pennsylvania more competitive, we are trying to provide employment, we are trying to provide a basis for future growth so that our young men and women can stay in Pennsylvania when they graduate from high school or college. That is as basic as I see this issue. You are in favor of helping people who live in Pennsylvania find employment, have steady employment, have employment that will last forever, and you do that within the constraints of the law that exists. You do not ask them for any exemptions from that law, no exceptions, nothing. It is simply an opportunity to do it when it is possible within the fiduciary duties and existing law to help provide badly needed jobs in our economy in Pennsylvania. That is all it is. I do not see anything else in this bill, and I do not know why anybody would be concerned about that unless it does come down to where it is nothing but politics. If that is the case, then I think that the arguments used against this bill to set up a "no" vote are as weak as anything I have ever heard.

The PRESIDENT. The Chair recognizes the gentlewoman from Philadelphia, Senator Schwartz.

Senator SCHWARTZ. Mr. President, just possibly in conclusion, I would just really like to point out both the State Employees' Retirement System and the Public School Employees' Retirement System support instituting this prudent-person language and have no objection to the additional language which encourages the consideration of a prudent investment being made, and I think there is, again, no intention that they should in any way overlook their fiduciary responsibilities and invest in a lower investment in order to create jobs. It is just a notion that, in fact, has been used in other ways that has both increased the investment return and also helped Pennsylvania. They are not mutually exclusive. This is important legislation. The prudent-person rule has been instituted in other States quite effectively. The Public School Employees' Retirement System wrote to me that they would expect an additional \$227 million in return on their \$22.7 billion fund. That is very substantial to think about, that by passing this legislation we would help the Public School Employees' Retirement System be able to put \$227 million back into the fund.

I fully expect that the boards of both of these funds would continue quite seriously their legal fiduciary responsibility to do all that they can to invest prudently. Lifting the legal list will do that. It will allow them timely changes in their invest-

ments without changing that legal list. They now feel very constrained by the 10 percent basket and have requested that we do this. I certainly hope that the notion that we would invest in the economy in Pennsylvania would, in fact, be seen as an advantage for all of the General Assembly and not as a disadvantage. Investment in the economy of Pennsylvania is not social programs, although I do not consider it quite the dirty word that my colleague, the gentleman from Lancaster, Senator Armstrong, does. There are, I think, ways that we can meet our public responsibility as Senators to invest in those social programs, which I do believe that we should do, but I am not in any way trying to do that in some underhanded or sly way in this case.

So I would really urge my colleagues to vote for this prudent-person legislation and to make it happen as soon as possible so that our retirement boards can see the highest rate of return possible to assure safe payment for the retirees.

I thank my colleagues on the committee for their assistance in suggesting some changes to reassure them about this. The gentleman from Lancaster, Senator Wenger, in particular, was helpful in redrafting some language to provide that assurance. I thought that was a perfectly reasonable thing to do. I would point out that yesterday, at the request of the gentleman from Blair, Senator Jubelirer, we also made some adjustments in the language in this bill, so I think that we do, in fact, have fairly wide support for this legislation, and I thank all of my colleagues for their assistance on this and I look forward to its passage.

Thank you, Mr. President.

LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Fayette, Senator Lincoln.

Senator LINCOLN. Mr. President, I request a temporary Capitol leave for Senator Fattah.

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

The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, Senator Armstrong and Senator Hart have been called from the floor and I request temporary Capitol leaves on their behalf.

The PRESIDENT. Senator Loeper requests temporary Capitol leaves for Senator Armstrong and Senator Hart. The Chair hears no objection. Those temporary Capitol leaves will be granted as well.

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—37

Afflerbach	Hart	Mellow	Scanlon
Andrezeski	Jones	Musto	Schwartz
Baker	Jubelirer	O'Pake	Shaffer
Belan	LaValle	Pecora	Stapleton
Bodack	Lemmond	Peterson	Stewart
Bortner	Lewis	Porterfield	Stout
Dawida	Lincoln	Reibman	Tilghman
Fattah	Loeper	Robbins	Wenger
Fumo	Madigan	Salvatore	Williams
Greenleaf			

NAYS—11

Armstrong	Corman	Holl	Rhoades
Bell	Fisher	Mowery	Shumaker
Brightbill	Helfrick	Punt	

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

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator LOEPER.

Senator LOEPER. Mr. President, Senator Shumaker has been called from the floor and I request a temporary Capitol leave on his behalf.

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

THIRD CONSIDERATION CALENDAR RESUMED

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1014 (Pr. No. 1240) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 17, 1921 (P. L. 789, No. 285), entitled, as amended, "The Insurance Department Act of 1921," authorizing the licensing of lending institutions and bank holding companies to sell credit unemployment insurance.

Considered the third time and agreed to,

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

On the question,

Shall the bill pass finally?

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

YEAS—46

Afflerbach	Greenleaf	Mellow	Salvatore
Andrezeski	Hart	Mowery	Scanlon
Armstrong	Helfrick	Musto	Schwartz
Baker	Holl	O'Pake	Shaffer
Bell	Jones	Pecora	Shumaker
Bortner	Jubelirer	Peterson	Stapleton

Brightbill	LaValle	Porterfield	Stewart
Corman	Lemmond	Punt	Stout
Dawida	Lewis	Reibman	Tilghman
Fattah	Lincoln	Rhoades	Wenger
Fisher	Loeper	Robbins	Williams
Fumo	Madigan		

NAYS—2

Belan	Bodack
-------	--------

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 1016, SB 1032, SB 1066, SB 1067, SB 1091, SB 1132 and HB 1261 -- Without objection, the bills were passed over in their order at the request of Senator LINCOLN.

SPECIAL ORDER OF BUSINESS ANNOUNCEMENTS BY THE SECRETARY

The SECRETARY. Consent is given for the Committee on Appropriations to meet during today's Session to consider House Bill No. 41, and Senate Bills No. 182 and 565; also, the Committee on State Government to consider Senate Bill No. 1172 and House Bill No. 450.

RECESS

The PRESIDENT. The Chair recognizes the gentleman from Fayette, Senator LINCOLN.

Senator LINCOLN. Mr. President, at this time, I would ask for a brief recess of the Senate for a meeting of the Committee on Appropriations to be held in the Rules room at the rear of the Chamber, to be followed immediately upon the completion of the meeting of the Committee on Appropriations with a meeting of the Committee on State Government. I would expect, Mr. President, that these two meetings will be very brief.

The PRESIDENT. For purposes of a meeting of the Committee on Appropriations, followed by a meeting of the Committee on State Government, the Senate will stand in brief recess.

AFTER RECESS

The PRESIDENT. The time of recess having expired, the Senate will come to order.

CONSIDERATION OF CALENDAR RESUMED

SECOND CONSIDERATION CALENDAR

BILLS ON SECOND CONSIDERATION

HB 85 (Pr. No. 478) -- The Senate proceeded to consideration of the bill, entitled:

An Act authorizing and directing the Department of General Services, with the approval of the Governor and the Department of

Corrections, to convey a tract of land in Lower Allen Township, Cumberland County, Pennsylvania, to Lower Allen Township.

Considered the second time and agreed to,

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

HB 143 (Pr. No. 1201) -- The Senate proceeded to consideration of the bill, entitled:

An Act authorizing and directing the Department of Corrections, with the approval of the Governor, to convey to The Pennsylvania State University a tract of land situate in Benner Township, Centre County, Pennsylvania.

Considered the second time and agreed to,

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

BILL OVER IN ORDER

HB 163 -- Without objection, the bill was passed over in its order at the request of Senator LINCOLN.

BILL ON SECOND CONSIDERATION

SB 320 (Pr. No. 336) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, authorizing the Department of Transportation to enter into multijurisdictional permit agreements for oversize or overweight vehicles or loads.

Considered the second time and agreed to,

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

BILL OVER IN ORDER

SB 340 -- Without objection, the bill was passed over in its order at the request of Senator LINCOLN.

BILL ON SECOND CONSIDERATION AND REREFERRED

HB 353 (Pr. No. 1624) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for the payment of interest on purchases by political subdivisions.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

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

BILLS OVER IN ORDER

SB 519, SB 661, HB 695 and HB 696 -- Without objection, the bills were passed over in their order at the request of Senator LINCOLN.

BILLS ON SECOND CONSIDERATION AND REREFERRED

HB 697 (Pr. No. 761) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for the licensing of public weighmasters and defining their powers and duties; regulating the sale and delivery of solid fuel and other commodities sold or priced by weight; providing for certain powers and duties of the Department of Agriculture; imposing penalties; and making repeals.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

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

HB 698 (Pr. No. 762) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 1, 1965 (P.L.988, No.368), known as the Weights and Measures Act of 1965, further providing for the types of weights and measures governed by the act; authorizing the regulation of persons engaged in selling, installing and repairing commercial weighing and measuring devices; and further providing for certain standards, for testing and for the sale and packaging of certain commodities.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

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

BILL OVER IN ORDER

HB 699 -- Without objection, the bill was passed over in its order at the request of Senator LINCOLN.

BILLS ON SECOND CONSIDERATION

HB 712 (Pr. No. 1631) -- The Senate proceeded to consideration of the bill, entitled:

An Act authorizing and directing the Department of General Services, with the approval of the Governor and the Secretary of Environmental Resources, to convey to the County of Northumberland, land situate in the City of Shamokin, Northumberland County, Pennsylvania.

Considered the second time and agreed to,

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

SB 740 (Pr. No. 803) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, providing for improper use of criminal investigative material.

Considered the second time and agreed to,

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

SB 818 (Pr. No. 891) -- The Senate proceeded to considera-

tion of the bill, entitled:

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, providing procedures for the consolidation or merger of municipalities; and making repeals.

Considered the second time and agreed to,

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

SB 838 (Pr. No. 911) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, adding revised, codified and compiled provisions relating to local government; and making repeals.

Considered the second time and agreed to,

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

BILL OVER IN ORDER

HB 838 -- Without objection, the bill was passed over in its order at the request of Senator LINCOLN.

BILL ON SECOND CONSIDERATION AND REREFERRED

HB 986 (Pr. No. 2054) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for definitions, for correcting certificates of title, for revocation or suspension of operating privilege, for judicial review of licensing, for required financial responsibility, for certification of mechanics, for display of unauthorized indicators, for court reports on transmission of funds, for snowmobile and all-terrain vehicle registration exemptions and reciprocity and for snowmobile and all-terrain vehicle penalties; regulating certain Motor License Fund expenditures; and making a repeal.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

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

BILL OVER IN ORDER

HB 1011 -- Without objection, the bill was passed over in its order at the request of Senator LINCOLN.

BILL ON SECOND CONSIDERATION

SB 1018 (Pr. No. 1124) -- The Senate proceeded to consideration of the bill, entitled:

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

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

BILL ON SECOND CONSIDERATION AND REREFERRED

SB 1046 (Pr. No. 1437) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 22, 1931 (P. L. 682, No. 249), entitled, as amended, "Diseased Animal Condemnation Law," further defining "domestic animal" or "animal"; defining "herd or flock of animals" and "wild or semiwild animal"; and further providing for compensation of owners of domestic animals.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

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

BILL OVER IN ORDER

SB 1047 -- Without objection, the bill was passed over in its order at the request of Senator LINCOLN.

BILL ON SECOND CONSIDERATION

SB 1103 (Pr. No. 1259) -- The Senate proceeded to consideration of the bill, entitled:

An Act mandating health insurance coverage of annual gynecological examinations and routine pap smears; and making repeals.

Considered the second time and agreed to,

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

BILLS ON SECOND CONSIDERATION AND REREFERRED

SB 1126 (Pr. No. 1434) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of August 23, 1967 (P. L. 251, No. 102), entitled, as amended, "Industrial and Commercial Development Authority Law," further providing for definitions, for applicable elected representatives, for purposes and powers, for powers of the financing authority, for financing authority indebtedness, for financing authority loans, for industrial and commercial development authorities, for bonds and for competition in award of contracts.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

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

SB 1190 (Pr. No. 1433) -- 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 defining "taxable in-

come"; reducing the rate of corporate net income tax; further defining "average net income" for capital stock and franchise tax computations; including electric utilities on the increased gross receipts tax and additional surtax; and further providing for the taxation of title insurance companies under Article IX.

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

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

BILL OVER IN ORDER

SB 1193 — Without objection, the bill was passed over in its order at the request of Senator LINCOLN.

UNFINISHED BUSINESS REPORTS FROM COMMITTEES

Senator SCHWARTZ, from the Committee on State Government, reported the following bills:

SB 1172 (Pr. No. 1450) (Amended)

An Act authorizing Commonwealth and municipal government entities to enter into guaranteed energy savings contracts.

HB 450 (Pr. No. 2064) (Amended)

An Act amending Title 5 (Athletics and Sports) of the Pennsylvania Consolidated Statutes, providing for the licensing of athletic agents; and imposing a penalty.

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

SB 182 (Pr. No. 1244) (Rereported)

An Act authorizing counties to impose earned income and net profits, personal income or sales and use taxes; providing for the levying, assessment and collection of such taxes; providing for the reduction of real property taxes and other taxes; establishing the Local Government Real Property Tax Relief Fund; providing for the powers and duties of the Department of Community Affairs and the Department of Revenue; and making repeals.

SB 565 (Pr. No. 1449) (Amended) (Rereported)

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), entitled "Tax Reform Code of 1971," providing an additional exclusion from sales tax.

HB 41 (Pr. No. 1696) (Rereported)

An Act amending the act of July 2, 1984 (P.L.561, No.112), known as the Pennsylvania Conservation Corps Act, further providing for definitions, for duties of the Secretary of Labor and Industry, for projects, for eligibility for program, for compensation, for supervisors, for appropriations and for expiration of the Pennsylvania Conservation Corps and the act; making a repeal; and making editorial changes.

CONGRATULATORY RESOLUTIONS

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

Congratulations of the Senate were extended to Senator

Jeanette F. Reibman, Nathan L. Reibman and to the Heidecker Collision Center, Incorporated of Allentown by Senator Afflerbach.

Congratulations of the Senate were extended to the Colerain Baptist Church of Kirkwood by Senator Armstrong.

Congratulations of the Senate were extended to William H. Kralowetz, Jr., by Senators Armstrong and Bortner.

Congratulations of the Senate were extended to Peirce Middle School Science Olympiad Team by Senator Baker.

Congratulations of the Senate were extended to William Mihaly by Senator Dawida.

Congratulations of the Senate were extended to Presbyterian University Hospital of Pittsburgh by Senators Dawida, Bodack and Scanlon.

Congratulations of the Senate were extended to the Mount Lebanon Police Department, Officer Kevin Nemeck, Sergeant Stanley Butkus and to Tom Walsh by Senator Fisher.

Congratulations of the Senate were extended to Anthony DiSandro by Senator Fumo.

Congratulations of the Senate were extended to Sally Durrant's Political Science Class, Hampton High School of Allison Park by Senator Hart.

Congratulations of the Senate were extended to Mr. and Mrs. Keith L. Hayman, Sr., Mr. and Mrs. George Rohrbach and to Frederick W. Bisbee by Senator Helfrick.

Congratulations of the Senate were extended to Anthony F. Campeggio, Mr. and Mrs. Lawrence Waltman and to the Volunteer Medical Service Corps of Lansdale by Senator Holl.

Congratulations of the Senate were extended to Ruth H. Johnson and to Darrell M. Nixdorf by Senator Jubelirer.

Congratulations of the Senate were extended to Dorothy Colella by Senator LaValle.

Congratulations of the Senate were extended to Drew Wilson Morrow by Senator Lemmond.

Congratulations of the Senate were extended to Theresa Gladden by Senator Lincoln.

Congratulations of the Senate were extended to Mr. and Mrs. Leland Chandler, William Kaucher Lockhart III, Mike Pennella, Adam F. Yacovissi and to the Reverend Cheryl Herman by Senator Madigan.

Congratulations of the Senate were extended to James Giordina by Senators Mellow and Musto.

Congratulations of the Senate were extended to Daniel J. Distasio, Emory Kish and to Jean Kelly by Senator Musto.

Congratulations of the Senate were extended to Gerard M. Musto by Senators Musto and Mellow.

Congratulations of the Senate were extended to Reverend Edward Domin by Senator O'Pake.

Congratulations of the Senate were extended to Scott Heath, Jason Ken Hou and to Joshua Piemme by Senator Peterson.

Congratulations of the Senate were extended to Leonard Battaglini and to Joseph A. Scarfi by Senator Porterfield.

Congratulations of the Senate were extended to Good Shepherd by Senators Reibman and Afflerbach.

Congratulations of the Senate were extended to District Justice Mary Jane Fuller, Betty Gilson, Ken Larsen, Kyle

Waite, Kerry Francisco, Tom Wise and to Wattsburg Hose Company by Senator Robbins.

Congratulations of the Senate were extended to Gerald F. Schwam, Evelyn Berger, Harry Mark Perks and to Louise B. Sperber by Senator Schwartz.

Congratulations of the Senate were extended to Mr. and Mrs. Pierre Grosclaude by Senator Shaffer.

Congratulations of the Senate were extended to Mr. and Mrs. Clarence O. Hoffman, Larry L. Neal and to Dr. Shirley Alexander Hart by Senator Shumaker.

Congratulations of the Senate were extended to Irene Boyer by Senators Shumaker and Brightbill.

Congratulations of the Senate were extended to Mr. and Mrs. Paul Inghram and to Mr. and Mrs. William Anthony by Senator Stout.

Congratulations of the Senate were extended to Ethel K. Brown and to Andre L. Dennis by Senator Williams.

CONDOLENCE RESOLUTION

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

Condolences of the Senate were extended to the family of the late Joseph Pilzer by Senator Schwartz.

BILLS ON FIRST CONSIDERATION

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

The motion was agreed to.

The bills were as follows:

SB 1172 and HB 450.

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

ANNOUNCEMENTS BY THE SECRETARY

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

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

FRIDAY, JUNE 11, 1993

9:30 A.M.	URBAN AFFAIRS AND HOUSING (to consider the Homeowner's Emergency Mortgage Assistance Program)	Temple Univ. Kiva Aud. Phila.,PA
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THURSDAY, JUNE 15, 1993

10:00 A.M.	FINANCE (to consider Senate Bill No. 887)	Room 461 4th Floor North Wing
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PETITIONS AND REMONSTRANCES

The PRESIDENT. The Chair recognizes the gentleman from Blair, Senator Jubelirer.

Senator JUBELIRER. Mr. President, I guess the Senate Chamber is nearly empty, except for you, the Democratic Leader, and Senator Bell, and I guess that is about it for Members of the Senate.

I think it is important to note that the declaration of the special election in the Second Senatorial District has been set by you. Just 2 short days ago the Senate Republican Caucus all authored a resolution, which I offered on their behalf, suggesting that the people of Philadelphia in the Second Senatorial District have the opportunity to have representation in the Senate of Pennsylvania as quickly as possible, much as we did in the 10th Senatorial District when Senator Greenwood resigned to take up his seat in the United States Congress.

Mr. President, I know that you had some comments to make when we offered that resolution just 2 days ago that it was not timely, as did Senator Lincoln at the time, yet less than 24 hours later, the declaration was set. And when is it set for? It is set for November 2, some 5 months after the vacancy due to the sad and untimely death of Senator Francis Lynch.

Mr. President, I must say, as I said at the time when you delayed the representation of the people of Bucks County some 6 months, that this, too, is an unfortunate disenfranchisement of the people of the Second Senatorial District in Philadelphia to have representation in the Senate. What is even more unfortunate is the reason that is being assigned to it as set forth by the Lieutenant Governor, which is completely opposite of what happened in Bucks County, completely opposite of what happened when the seat of then State Senator Mark Singel was vacated because he was elected to the office of Lieutenant Governor. And I would repeat once again the quote that was made when the people of Cambria County had every right to be enfranchised in the Senate, when the Lieutenant Governor said at that time it would be a tremendous, and I quote, disservice to the constituents in his former district if he waited until primary day to elect his successor. If it was good for the people of Cambria County, it certainly was good for the people of Bucks County, and certainly good for the people of Philadelphia County in the Second Senatorial District.

As I read the release offered by the Lieutenant Governor, the President of the Senate, that setting the special election to coincide with the general election would save the taxpayers money, that certainly had no play in the special election in Bucks County, when it would have been possible to set it in the primary municipal election of 1993. Ironically, one of the defenses that was offered by the Democrats and used during the court case which was filed by the people of Bucks County before Judge DuBois in March, one of the ironies that the defense used during the court case on the special election date for Bucks County was that a legislative election should not be timed with judicial and municipal elections. Now that the President of the Senate has set this election to coincide with the municipal election of November 2, 1993, that is a complete

reversal, and it would certainly be fair to draw the conclusion that whatever fits works and that the only considerations given to the people of Pennsylvania, and particularly the Second Senatorial District, are political considerations. In a 2 to 1 Democratic district, I would think that the Democrats would go in as a heavy favorite no matter when that election would be, recognizing that if you chose not to set it on August 10, that is your prerogative. But certainly there was time after September, after Labor Day, some 2 months away from the general election of 1993, to set that election, so that this body could have a full complement of Senators after the election of July 13—a strange date, to say the least, in Bucks County to have that election—and that we would, indeed, have a full fall agenda, as we have had every fall in modern Senate history when there are certainly no legislative races being considered.

Everything is done for political convenience, Mr. President, and I think that it is unfortunate that 237,000 people in Philadelphia have to wait until November 2 to determine who is going to be the State Senator from that district. They do not get consideration. The consideration is purely control of the Senate. The consideration is what happens in July in Bucks County. There are not going to be any chances taken to generate a higher turnout in Philadelphia on November 2 so that the larger Democratic registration will have an opportunity to come into play.

Mr. President, I read the editorials, as I am sure you did, with much disdain after you set the election in Bucks County and there was not any editorial in any paper that I saw anywhere, including your own hometown, that did anything but criticize the disenfranchisement for that long a period of time of a group of people who deserve to be represented. And I have read your comments about, well, the Governor and the House of Representatives are Democrats and this is the Democrats' time, that they can have their say through the budget process, and if we had elected a Republican Senator in Bucks County who would have been seated during the budget process, we would not have that over and there is no more gridlock in Harrisburg.

I have listened to this term "gridlock" for quite a bit. It is a favorite term of the press in Washington and in Harrisburg. And I suppose, Mr. President, that we could get rid of gridlock if we could get rid of the Constitution and have a king in Pennsylvania or have only one party rule. And we, as a party, regardless of whether it is us now or whether we are Republicans or Democrats, I think that the two-party system has served very well in this country and has been one of the linchpins of democracy, and there is no reason why reasonable people cannot sit down and negotiate and compromise where everyone has a seat at the table in order to make sure that their point of view, everyone's point of view, is heard. Well, the people of the 10th Senatorial District did not have their point of view represented in the Senate of Pennsylvania in this last budget process and the people of the Second Senatorial District will not have anyone to represent them, not only whether it be in Session but represent them at the time when certainly this Senate should be at a full complement.

I wonder why sometimes the movement of people, whether it be through the United We Stand America Party headed by Ross Perot, or others who campaign on reforms, are constantly criticizing us because of the manner in which the process seems to be run that is less than fair, and I would suggest, Mr. President, that the action you took yesterday setting that election as you did some 6 months later in Bucks County, now 5 months into Philadelphia County, reinforces the opinion of people of what is wrong with the legislature. What is going on in Harrisburg? More political games are being played. The only thing that matters is political and partisan considerations, but disenfranchisement of people does not seem to make any difference. And I can imagine how disgusted they are with us, and as I read the comments of the Democratic Leader that there does not need to be a fall session, that we are going to accomplish everything that we need to, well, Mr. President, I do not think the people of Pennsylvania feel that way. I think that they are going to feel that there are a lot of things that can be accomplished, and you can only do those things when you are in Session.

I do not know what we are going to get done in the next several weeks, and I look forward to working with him and everybody else to try to accomplish a great deal, but there is no reason why this Senate should not be called back into Session, as I understand the House of Representatives will be back in Session in the fall, and I cannot imagine that the House is going to be able to do anything if the Senate is not in Session, which now puts the entire Commonwealth in gridlock because, frankly, if nothing gets done and the Senate cannot be in Session because of political considerations, then indeed the people of Pennsylvania, the taxpayers and citizens of this great Commonwealth, are indeed penalized because of pure partisan, political considerations that once again have been offered under the guise of we do not need to do this now, or we do not need to spend that kind of money. It was not a consideration in Bucks County. Whatever fits, that seems to be the reason why things get done.

And I know, Mr. President, that as we leave here and we have to respond to the press and the media, there certainly is no reason that I could think of other than the political considerations that you offered up in Bucks County as your reason for setting it then that there can be now. If you cannot win a 2 to 1 Democratic district any day of the week, then you ought not be in the Majority, frankly. But you have every reason to believe that you can do that, and I do not believe that any excuse of any kind is available that has any credibility whatsoever other than hardball politics, we are going to be in control at any juncture, and that is the reason being given. You may not like my logic for having it on August 10, and I do not suggest that you have to listen to me, but by any means, there are plenty of dates available in August or early September that would have at least been reasonable and would have at least given the people of that district the representation that they had.

Mr. President, the last time that I spoke, and it was to a full Senate, you indicated that you had no opportunity to respond.

I would make the motion, even though there are only a few of us here, and ask for unanimous consent to suspend the rule that prohibits you from participating in debate, and I would certainly like to hear your justification, far more than just a press release put out by a press office suggesting the reasons you do and how you respond to the people of the Second Senatorial District. As I indicated earlier, if you want to go down and campaign in Bucks County for Tom Lingenfelter on the issue of you did the right thing by disenfranchising them for 6 months, certainly there is a new issue in the Senate race in Philadelphia, and that is 5 months now. It just seems that we are heading in the wrong direction, that we ought to be thinking about people, about the governmental process, about posterity, about places in history and not partisanship and suggesting that we cloak it in the name of "I am doing the right thing." Posterity and the future will do much to judge how each of us acts, and I recognize, Mr. President, you have been involved in many issues, but I suggest that the issue that perhaps is going to be the hallmark of your tenure is the calling of the two special elections, one in Bucks County and one in Philadelphia County, and anybody who writes the history of Pennsylvania can only believe that that was done purely for partisan political purposes and to deny the people of those respective districts their just right to be represented in this Senate.

MOTION TO SUSPEND RULES

Senator JUBELIRER. Mr. President, I move that we suspend the rule that prohibits you from taking part in debate and would urge my colleagues to do the same and give you the opportunity to respond.

Senator LINCOLN. Mr. President, I would object to that, and if there is going to be a roll-call vote on this, I will call for a constitutional quorum and send the State Police out to bring every Member of the Senate in so we can vote on this. If that is what the Minority Leader wants, I think that this is about as low as I have seen anyone sink in trying to criticize somebody who cannot defend himself.

Mr. President, I am adequately prepared to answer his diatribe.

The PRESIDENT. If both gentlemen would desist and allow cooler heads to prevail here.

The Chair appreciates the gesture of the gentleman from Blair, Senator Jubelirer, and is intrigued by the notion of engaging in debate. Indeed, there are countless times when I wished I had the microphone to engage in any number of issues, but the Chair will state that even if given the opportunity to discuss this issue, the Chair is not going to be goaded into a debate on this subject before an empty Senate Chamber. I have issued my statement and I am not going to have anything further to say anyway.

That being the case, the gentleman from Fayette, Senator Lincoln, is correct, it would require a constitutional majority to effect the gentleman's motion, and in the judgment of the Chair, that would be highly difficult and disruptive at this point.

The gentleman from Blair, Senator Jubelirer, has made a motion, and the gentleman from Fayette, Senator Lincoln, has objected. The Chair is now in a position of putting that to a vote of the Senate or suggesting to the gentleman that the motion be withdrawn at this point.

Senator JUBELIRER. Mr. President, the Democratic Leader has already objected, so there is no unanimous consent. He does not have to call the State Police or anybody else. He has already objected. There is no unanimous consent, so the issue is moot.

The PRESIDENT. The Chair would point out that the gentleman has made a motion to suspend the rules.

MOTION WITHDRAWN

Senator JUBELIRER. I did not. Oh, I will withdraw the motion.

Senator LINCOLN. Oh, okay. That is a little different. It is a motion that had to be voted on that has to be withdrawn now. That is a little different story.

The PRESIDENT. The Chair thanks the gentleman from Blair, Senator Jubelirer, for his cooperation in this matter.

Senator JUBELIRER. Mr. President, I resent the remarks over there. I have no problem with suspending the rule. I wanted to give you the opportunity. You have already answered that, and that is the reason for it—

Senator LINCOLN. Mr. President, this is not in order. Mr. President, a point of parliamentary inquiry.

Senator JUBELIRER. —not by the remarks of the Democratic Leader, who seems to want to speak for you.

Senator LINCOLN. Mr. President, a point of parliamentary inquiry.

The PRESIDENT. The gentleman evidently has completed his remarks, and again, the Chair appreciates the gesture and respectfully declines the opportunity at this point, and instead would recognize the gentleman from Fayette, Senator Lincoln.

Senator LINCOLN. Mr. President, before I start to make my prepared remarks, I would like to make it very clear that there is no process available that I am aware of that the Republican Leader attempted to interject into this particular procedure today. It is either a motion to suspend or not. You do not need unanimous consent. In fact, if he would like to have that be the precedent and I could object from now on when he makes a motion to suspend, and that would be his position, he would stand by me objecting, I would be very happy to do that.

But in this case, Mr. President, I think the interesting thing about what is taking place here today is the continual reference by the Minority Leader to fairness and political partisanship and political advantage, and all the other things that were included in his statement. I want to set the record very clearly before we go into this any further. The law, the law which we all abide by, which we come here and make, which people before us made and people after us will make, is the foundation of the American society. Without law, we have nothing. The law very clearly says that the President of the Senate has the sole authority to set the date for special elections. You, Mr.

President, have acted very expeditiously in this manner, you have acted fairly, and you have acted in the best interest of the people of Philadelphia by holding this election on the same day that we have the general election, and that is at least a \$100,000 savings to a city that has experienced some financial difficulties over the past few years.

I would suggest to the gentleman from Blair County, Senator Jubelirer, that if he has a problem with the system as the law is written now, that it might be in his best interest to introduce a piece of legislation that would change the law to allow him to personally set the special election whenever he felt it was in his best interest or in his party's best interest.

Now, what is on record with regard to the Bucks County case? I heard a lot of criticism of Lieutenant Governor Singel for his decision on the date that he set. As we know, the Republicans in the Senate took that particular decision to court, and it was amazing that when the court upheld the Lieutenant Governor's decision as being the sole individual with the authority to do that, the court also wrote a very clear and concise consensus in that they said that the only person who acted rationally in this issue was Lieutenant Governor Singel. Now, if we have a problem with the court or some individual judge making a decision that the Lieutenant Governor acted rationally in this matter, then I think there could have been an appeal to that decision, although the history of the Republican court cases this year has not been one that has had a great deal of success behind it.

Interesting, interesting, interesting. How quick we forget. Last summer, when the Republican Party controlled the Senate of Pennsylvania and we had a Member who had switched parties in February to become a Democrat, who the Republicans were absolutely so fearful of him coming over here where he belonged, that on July 1 there was an adjournment motion passed here, and I do not have the votes and I do not know whether everybody voted for that adjournment or not, but that is neither here nor there. It was offered by the Republican Majority at that time, and we left here from July 1 until November 9. November 9 we came back. All those intervening days, that same 5 months, we did nothing for the people of Pennsylvania. And why were we not here in September or October, which is a traditional Session time? Because it was in the best interest of the Republican Party in the Senate not to be here because they did not have to have the fear of the gentleman from Montgomery, Frank Pecora, switching parties, as he did after the November election, coming over here to his home, where he belongs, and allowing the Majority to change from the Republicans to the Democrats. That was why we were not in Session from July 1 to November 9. That is the only reason why there was absolutely no consideration given to the people's business. It was the Republican Party's business in the Senate that was only, solely, completely at the front burner. There is no other reason. In fact, Governor Casey called a Special Session of the General Assembly on October 5 so that we could deal with a very serious problem in Pennsylvania, children's health care, and what did the Republican Majority do? They came in, they opened Session,

and they recessed to the call of the Chair with no agenda. We never had a bill on the Calendar. We did nothing, because they were even fearful, in a Special Session, of the gentleman from Montgomery, Senator Pecora, doing the right thing and coming over to our Caucus. So do not give me this baloney about how we are the party that does all the wrong things, us bad Democrats.

I can give you a further example, Mr. President. Let us go back to 1982, when we had an election for Governor coming up in this Commonwealth between the incumbent, Dick Thornburgh, who was the leader of a State that had a 30-percent unemployment rate in many pockets of the State, we had the economy falling down, and Dick Thornburgh, at his best, was turning his head looking the other way. And what happened in that year? The Republican Party controlled the General Assembly completely - they controlled the House, they controlled the Senate, and they had the Governor's Office. They jammed a budget through here in May that was so bad, it was so intolerable that they could not afford to be here and be questioned about it at any time between May and November, and they did not want us to have an opportunity to question the terrible, terrible leadership of Governor Thornburgh at that time. So what did we do? We left here not in adjournment, we recessed to the call of the President pro tempore of the Senate at that time, who happened to be a very good friend of mine, Henry Hager, and we never returned until after the November election, and I am not sure of the date but it was sometime after Veterans Day in 1982. We were not in Session in May, June, July, August, September, October, and half of November, to protect the Republican interest in the General Assembly and in the interest of getting Governor Dick Thornburgh reelected. That was the prime purpose, the only purpose. There was no other reason for not being here to do the people's business.

So believe me, if you want to do history, I will do history with you anytime you want. I love it. It is fascinating how the end seems to justify the means, and it does not seem to make a difference whether you have an "R" tattooed on your heart or a "D" tattooed on your heart. In this case, there is adequate justification for the decision that our excellent Lieutenant Governor made. There is a savings of money, there is justification in the courts already upholding one of his decisions this year saying it was a rational decision. There is absolutely going to be a fair election. There will be adequate time to campaign. There will be adequate time to pick the special election candidates in both parties, and I absolutely do not understand how anyone could be so bitterly critical of a decision that has been made that has not been tested anywhere yet, anywhere other than on the Monday after the funeral of the Senator, the burial of the Senator, in a resolution offered, dictating from this Chamber, and contrary to law, even if it was just something that would have been advisory, which a resolution is, dictating that a certain date be picked. Not, Lieutenant Governor Singel, we think you should pick August 10, 11, 12, 13, 18, 20, 31, whatever the date may be. We say that we should have an election on August 10. Thank God we

do not have that kind of a system. Thank God neither Bill Lincoln nor the gentleman from Blair, Bob Jubelirer, have the authority or the power to do those kinds of things. And I believe that my good friend Bob Jubelirer would agree with me that neither one of us should ever have that kind of ability and power. That is vested in someone who is elected to that position, someone who has to answer to those decisions, and in this case and in the case of Bucks County, Lieutenant Governor Singel has answered adequately. The courts have tested one of his decisions and found it to be a rational, good decision. The decision was upheld. The reasons for this particular decision - the savings of money, combining one election and having it done in a proper and orderly manner - prove this is absolutely, unquestionably the wisest, fairest, and most rational and reasonable way of progressing, and I do not know that we will be out of Session between now and November because we have not even come to that point yet, but I do have, in the last 10 or 12 years, two very clear examples of the Republicans, when they controlled this Senate, leaving here for less than the highest ethical reasons. They left here to protect their backs, and there is no other reason for it. It is history.

The one thing that sometimes my good friend, the gentleman from Blair, Senator Jubelirer, forgets is that things that happen in this Chamber are recorded for the rest of time, and you cannot dispute those. And he cannot tell me that we were in Session last year from July 1 to November 9 and that we came in here on October 5 and paid attention to a Special Session call from Governor Casey to do something about child care, plus the first thing that the Democratic Majority did, the first thing that we did after taking over the Majority, at 10 o'clock at night we came to this floor and we passed child health care, which was waiting on the Calendar here for 6 months. Not only did we take control of the Senate, we acted decisively at the same time. Those are the kinds of things that are a matter of record.

The 1982 election process, leaving here in May and coming back in November, that is a little bit fuzzier in my mind. I mean, I was here, I remember the bad budget. I remember the bad budget in 1981. I would have been ashamed to have been here trying to answer for that budget too. I did not vote for either one of them. They were the worst budgets in my 21 years in the General Assembly, and they were passed by Republicans in the House and Senate and signed by a Republican Governor. I would have been ashamed and I probably would have tried to protect my Governor if he would have been a Democrat and protect myself from being here and answering questions on a continual basis as to why I jammed that kind of a budget through and forced the people of Pennsylvania to suffer because we did not have adequate time to debate, adequate time to amend, adequate time to have input. That is a part of life. That is a part of what we deal with here, but it also is a part of life that everything we do is recorded for history, and I have given you two good examples of how the Republican Party here in the Senate used their power to their advantage on two different occasions, and if I had a little bit more time to go over the last 12 years whenever

the Majority party in the Senate was Republican, I could probably find one or two more cases that I could put into the record here to prove my point.

I think it is foolish to carry this any further. I think Lieutenant Governor Singel should be commended for taking the very difficult task of having to make two of these decisions in one year. I think he should be commended for what the court said about him in the Bucks County case, and I am comfortable and confident that if the same type of challenge is raised in the decision in Senator Lynch's district, that the courts will uphold the same decision in the same manner and probably maybe even chastise those who challenge that, rather than just say it was a rational decision. And I say to you that we are prepared to do battle on July 13 at the polls, where we should be more partisan and where we ought to be political, and we will be more than adequately prepared on November 2 to run an election and let the people in that district make a decision as to who should be representing them in the Senate from that point on.

Senator JUBELIRER. Mr. President, these things never seem to end, but nevertheless, with all due respect to the gentleman, the issue is not questioning the Constitution as to who can call the special election. That is not the issue before us at all. It is a matter of the disenfranchisement of over a half a million people for a total of 11 months - 6 months in Bucks County, 5 months in Philadelphia. That is the issue, and quoting the Democratic Leader, who has already been quoted, as has been the President pro tempore, they will not be back here until November 2. They know very well that if the Republican candidate in the 10th Senatorial District wins that special election on July 13, there will be 25 Republicans and 24 Democrats, and that is really the issue we have before us. There is nothing else involved here. There is no way that we ever suggested or ever said that the court should have the authority to change the Constitution. It was a matter of the timing, the fact that there is no mention in the Constitution of any time when that special election has to be called, other than the fact that the President of the Senate cannot call it until 60 days has elapsed from the date of the vacancy. Our resolution urged, urged you to call, Mr. President, the election at the earliest possible time. As was indicated in a letter by Senator Loeper and me to you prior to that time, we believe, to be consistent--and again, it is a 2 to 1 Democratic district, for crying out loud. We do not have that kind of a registration in the 10th District--we urged the earliest possible time, just as you did in the Cambria County seat when it was vacant.

What we are trying to figure out here, if we are going to be consistent, is why is Cambria County treated differently from Bucks County and Philadelphia County? That is what is before us. And too, I think the gentleman ought to be aware that a special election is not paid for by the people in the county, it is paid for by the State. We changed that several years ago. That does not mean that it is not real money, it is. But it was different when we got to Bucks County, when there was an indication prior to the July 13 date, a date pulled out of nowhere, in the middle of the summer, that that election was

going to be held in conjunction with the primary election. I mean, you just cannot have it both ways. And it was not done that way and it was done because of partisan considerations in here.

And what I said about being out to November, and you are right, there is a record and it is here today, is that in no election in the fall where there was not an election for the General Assembly has there been a Senate that has been out. That is what I said. In the odd years. That is what was said. She is here to read it back if you did not hear it, and that is a fact. To nobody's knowledge, historically, has this Senate ever been out in the odd years. There is no reason to set this kind of precedent. And certainly, Senator Lincoln ought to know that he voted for adjournment. Senator Lincoln was one who voted for adjournment, as did every other Democrat and every Republican, when we left here last July 1. There was no argument on when we were going to leave. There was a unanimous voice vote to do that. And as far as the Special Session goes, that was worked out in agreement with the then Minority Leader, Senator Mellow, as to the manner in which that Session was going to be handled, and again, the recess was done on a voice vote with all Members of the Senate. I mean, that is much ado about nothing.

The only question is should the people of Pennsylvania, all of them, be disenfranchised for the entire fall, with all the issues that are going to be concerned? Is it not really the issue of if the Republican candidate who is favored in the Bucks County election wins that election there will be 25 Republicans and 24 Democrats, and he knows very well that nobody is going to call the Senate back into Session and risk a change in control of this Senate, now that they have set the date on November 2. If this election had been held in August, or early September, at the latest, then we would have had a resolution of that and we would not have had to be concerned about it, but because of the insistence of the Democratic Members of this Senate, and the leadership, in particular, prevailing upon the Lieutenant Governor, without a doubt, one can only conclude that they do not feel comfortable with their 2 to 1 Democratic district by reason of turnout and need to at least hope that on November 2 there will be a larger turnout and that that might give them even more of an edge. Well, as they take the political edge and as they take the partisan move, the people of Pennsylvania are told, just sit aside, just stay put. We are not going to deal with the people's business until we decide after November 2 because control of the Senate is far more important than the business of the people. And that holds up the House of Representatives as well, without question, because the House cannot act unless the Senate is in Session. Nothing can go to the Governor's desk unless the Senate is in Session.

So, Mr. President, we can bandy this thing all about and anybody who knows anything, perhaps there is no question that you have the right to call that special election. That is your constitutional right. I do not know who is reading what, but as I have read every editorial after the Bucks County special election was set, it was all negative. And as I expect, it will be

the same way. Now, we do not always go by editorials, but as far as the courts go, it was nothing praiseworthy. It is the fact that you have the right to do it, and yes, the law should be changed to make it tighter. Not that I set it or Senator Lincoln sets it, but there should be a time when a vacancy occurs that not only should there be a 60-day waiting period until you can do it, but there should be some timeframe on the ceiling that it has to be called and that political games cannot be played the way they are.

So, Mr. President, I appreciate the opportunity to make these remarks. I think we are probably just going to repeat ourselves and the ultimate decision is going to be made not only by the people of that district but by the people of Pennsylvania, who have a right to be outraged that their General Assembly is going to take a walk while partisan politics and control politics are being played in here, and that is certainly something that is going to continue to be said time after time. It is not going to go away. It is going to be an issue in every election. It is going to be an issue as the summer goes on, as the fall goes on, and as issues come forth that we do not even know about because we are not going to be here. We are not going to be here because it is more important to play political games and partisan politics than it is to give the vote and the representation to the people of the Second Senatorial District and not repeat the history of what happened in the 10th Senatorial District.

The PRESIDENT. The Chair recognizes the gentleman from Fayette, Senator Lincoln.

Senator LINCOLN. Mr. President, I love the way the Republican Leader can separate apples and oranges. I really wish I had that ability. What is happening this year is partisan politics, protection politics; last summer, when we left here on July 1 and did not come back until November 9 to protect the Majority from being lost by Senator Pecora switching parties, that had nothing to do with partisan politics. There was nothing to do from July 1 to November 9 in this State that merited the Senate being in Session. How many times over the last 12 years have we had an adjournment motion that I may not have agreed with but the rules of the Senate say very clearly that it is not a debatable motion? How many times have I disagreed, in the 12 years that the Republican Party was in the Majority in this Senate, and I saw 26 to 24, I saw 27 to 23, whatever the vote was that it took for Republican power politics to win, they did it? So what does that have to do with the Democratic Party being a little bit more reasonable about accepting certain things, not standing here railing and wailing about how awful the other side is because they want to go home from July 1 to November 9? I do not know how you can possibly stand on this floor and dismiss what you did last summer as being in the best interest of the people of this State, and I am not sure how you would put into debate anything saying that the gentleman from Lackawanna, Senator Mellow, agreed that we could come in here, totally ignore a Governor's call for a Special Session on one of the most vital issues we had before us, children's health care, and put that into the record without having any way of justifying it whatsoever. I was part of our

leadership and I guarantee you one thing, I did not take part in any decision that was made to allow you to come in and ignore the Governor's call for a Special Session. I did not take part in anything whatsoever that said we could open Session just to comply with the constitutional requirement and leave at the call of the Chair. I had nothing to do with that. Your party controlled that. Your party did not want to face the issue. Your party did not want to be here because you were afraid of losing the Majority.

Now, to go back to the decision made by Senator Singel -- I am sorry, I have a great deal of respect for former Senators, and my young colleague and friend, Lieutenant Governor Singel, made an excellent decision in the case of the people of Bucks County, which has, as a matter of record, been held in good stead by the court, and, in fact, in their decision they actually complimented Lieutenant Governor Singel for making a rational decision, probably the only one made this whole year revolving around these two particular Senate elections.

But just a little bit more history for my good friend, the gentleman from Blair, Senator Jubelirer. In 1953--and I know that was a long time ago, but history is history and the record is the record, and this is a matter of record--we had a Lieutenant Governor who was Republican, we had a Senate that was Republican, and we had a vacancy come about on September whatever, in 1953. Do you know when the Republican Lieutenant Governor called that Special Election? November of 1954. One whole year. I know, I know, you had nothing to do with 1953. You had nothing to do with leaving here in 1992. You were only the President pro tempore. You had nothing to do with leaving here in 1982 for 6 months. You were only the Majority Leader then. You had nothing to do with that.

I am saying to you that the Republican Party is no less partisan or politically protective of their own backs than anybody else, and you do not have a decision that you could stand in front of me and say, the court said that last summer when we left on July 1 and did not come back until November 9, the court said that I made a good decision as the President pro tempore in leaving here. Henry Hager, back in 1982, does not have anybody who could say on the record, public record anywhere, here or in the courts, that would say, Senator Hager, as President pro tempore you made a rational decision in leaving on May 7 and not coming back until November 15. That was a reasonable, rational decision you made in the best interest of the people of Pennsylvania.

You have nothing to stand on in making these accusations about what is taking place here, even as far as going to projecting the recess for this summer. I mean, we do not even know for sure whether we are going to be here the week of June 14, the week of June 21, the week of June 28, or the first week of July. Until an adjournment resolution is presented to this body to say a date certain, how can you possibly be critical of us leaving for this summer simply because in an interview I was asked a question about what we have done and I said we have accomplished a great deal. We have a budget that has no tax. It has adequate funds. We have faced a number of

other issues. We are going to deal with workers' compensation, something that the Republican Majority could not accomplish in 12 years of being in the Majority. Before we leave here, we are going to do something about workers' compensation, and I said to the same reporter that we have a number of other issues that are going to be handled in a responsible manner and when we leave here at the end of June, if all those issues are resolved, there is no need to be back here until November. Now, if that is not a rational, reasonable, solid, responsible way of handling a question. I do not know that those things are all going to be done by June 28 or 30 or June 24, or whatever time we get out of here, but how can you project that into this debate and be critical of us wanting to leave for the summer when we have not even thought about doing that yet? We are trying to deal with issues on the Calendar, issues before us, issues that are of importance to the people of Pennsylvania. If those issues are not resolved, then I believe we will have to come to a different consensus, and if that means losing the Majority of the Senate in September or October, so be it. But I guarantee you one thing, we are not going to have someone like Senator Hager leave here to keep from answering questions in May and June. We are here, and we are going to be here next week, and we are going to be here the next week, and we are going to be here the next week. But you cannot speak of your record, even as recently as last year, of staying here in the same period of time that you are being critical of me for leaving, you cannot point to a record that says, I was here facing the issues, and you cannot project that we are not going to do that or we are going to do that until the time comes. Then if we do it and you want to criticize, so be it, because I think the one thing I have found in the last 6 months is that the people who I have met in my life who are most capable of dealing out criticism have been the Republican Caucus in this Senate.

The PRESIDENT. The Chair recognizes the gentleman from Blair, Senator Jubelirer.

Senator JUBELIRER. Mr. President, just very briefly, the young people left, I think just as a matter of history, the Democratic Leader certainly knows that there were 2-year Sessions in 1953. And the second thing is, again, I think it is important to understand that you have the constitutional authority, Mr. President, but I think it is important to read from the record of that case in Bucks County before the Federal courts, and I quote: "The court holds only that the reason given by the Lieutenant Governor for scheduling the special election on July 13, 1993 is constitutional. The court expresses no other opinion as to the propriety of the Lieutenant Governor's statements."

That is really what I have been saying all along. I do not think there is any question about it. The people in Bucks County tested that and the court came down with the decision, frankly, that I would have expected. Again, last year we all joined in an adjournment resolution. We all agreed on the Special Session, and it is easy to throw stones, but I think I just wanted to make those points of clarification.

The PRESIDENT. The Chair recognizes the gentleman from

Fayette, Senator Lincoln.

Senator LINCOLN. Mr. President, I mean, how can you play with words? The court decision, and a very fine lawyer named Steve MacNett just handed that statement to you. The court made a rational decision. That is what the legal terminology is. It was a rational decision. That is the point that we are talking about. They did not write a speech saying, gee, Mark, you made a rational decision. They did it by their legal action, by upholding the decision that he made, which, in the terminology of the court, is a rational decision.

ADJOURNMENT

Senator LINCOLN. Mr. President, I move that the Senate do now adjourn until Monday, June 14, 1993, at 2 p.m., Eastern Daylight Saving Time.

The motion was agreed to.

The Senate adjourned at 1:22 p.m., Eastern Daylight Saving Time.