

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

MONDAY, DECEMBER 6, 1993

SESSION OF 1993

177TH OF THE GENERAL ASSEMBLY

No. 45

SENATE

MONDAY, December 6, 1993

The Senate met at 2 p.m., Eastern Standard Time.

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

PRAYER

The Chaplain, Reverend Dr. PAUL GEHRIS, of American Baptist Churches of U.S.A., Harrisburg, offered the following prayer:

We will pray.

Almighty and everlasting God, who declares Your glory and shows Your handiwork in the heavens and in the earth, by the power of Your spirit and the understanding of our hearts declare Your might and show Your compassion through these Members of the Senate of Pennsylvania. Encourage each of these women and men in fidelity to truth and commitment to justice. May they look beyond self and Caucus and party to the totality of our Commonwealth, striving in study, deliberation, and action to extend the dream and work of our founder.

Keep the families and staff persons of these, Your servants, and bless our Commonwealth that we, as the beneficiaries of Your grace, may be benefactors to the world. Amen.

The PRESIDENT. The Chair thanks Reverend Gehris, the guest this week of Senator Mowery and Senator Reibman.

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of November 23, 1993.

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

COMMUNICATIONS FROM THE GOVERNOR

APPROVAL OF SENATE BILLS

The PRESIDENT laid before the Senate communications in writing from the office of His Excellency, the Governor of the Commonwealth, advising that the following Senate Bills had been approved and signed by the Acting Governor:

SB 565, SB 845, SB 1015 and SB 1099.

NOMINATIONS REFERRED TO COMMITTEE

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

JUDGE, COURT OF COMMON PLEAS, CLEARFIELD COUNTY

November 23, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Frederic J. Ammerman, Esquire, 129 South West Third Avenue, Clearfield 16830, Clearfield County, Thirty-fifth Senatorial District, for appointment as Judge of the Court of Common Pleas of Clearfield County, to serve until the first Monday of January, 1996, vice The Honorable Joseph S. Ammerman, resigned.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

JUDGE, COURT OF COMMON PLEAS, DAUPHIN COUNTY

November 23, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Todd A. Hoover, Esquire, 511 Stoney Creek Road, Dauphin 17018, Dauphin County, Fifteenth Senatorial District, for appointment as Judge of the Court of Common Pleas of Dauphin County, to serve until the first Monday of January, 1994, vice The Honorable John C. Dowling, mandatory retirement.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

JUDGE, COURT OF COMMON PLEAS, MONTGOMERY COUNTY

November 23, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, William R. Carpenter, Esquire, 8 Bridge Street, Oreland 19075, Montgomery County, Twenty-fourth

Senatorial District, for appointment as Judge of the Court of Common Pleas of Montgomery County, to serve until the first Monday of January, 1994, vice The Honorable William H. Yohn, Jr., resigned.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

JUDGE, COURT OF COMMON PLEAS,
SCHUYLKILL COUNTY

November 23, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, John E. Domalakes, Esquire, 128 South Third Street, Frackville 17931, Schuylkill County, Twentieth Senatorial District, for appointment as Judge of the Court of Common Pleas of Schuylkill County, to serve until the first Monday of January, 1994, vice The Honorable Wilbur H. Rubright, mandatory retirement.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

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

November 29, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Jean E. Brannon, 116 Locust Way, Dillsburg 17019, York County, Thirty-third Senatorial District, for appointment as a member of the Council of Trustees of Bloomsburg University of Pennsylvania of the State System of Higher Education, to serve until the third Tuesday of January 1995, and until her successor is appointed and qualified, vice Howard B. Johnson, Exton, resigned.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

MEMBER OF THE STATE BOARD
OF EDUCATION

December 3, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Helen Caffrey, 151 Smithfield Circle, State College 16801, Centre County, Thirty-fourth Senatorial District, for appointment as a member of the State Board of Education, to serve until October 1, 1999 or until her successor is appointed and qualified, vice Judith S. Eaton, Washington, D.C., whose term expired.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

MEMBER OF THE STATE BOARD
OF EDUCATION

December 3, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Samuel E. Hayes, R. D. #1, Box 589, Tyrone 16686, Huntingdon County, Thirtieth Senatorial District, for appointment as a member of the State Board of Education, to serve until October 1, 1998 or until his successor is appointed and qualified, vice Madge K. Benovitz, Kingston, whose term expired.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

MEMBER OF THE STATE BOARD
OF EDUCATION

December 3, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Robert Hendershot, 250 Blacksmith Road, Camp Hill 17011, Cumberland County, Thirty-first Senatorial District, for appointment as a member of the State Board of Education, to serve until October 1, 1998 or until his successor is appointed and qualified, vice Keith Doms, Philadelphia, whose term expired.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

MEMBER OF THE STATE BOARD
OF EDUCATION

December 3, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Earl H. Horton, Ed.D., 321 North Homestead Drive, Landisville 17538, Lancaster County, Forty-seventh Senatorial District, for reappointment as a member of the State Board of Education, to serve until October 1, 1998 or until his successor is appointed and qualified.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

MEMBER OF THE STATE BOARD
OF EDUCATION

December 3, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Thomas J. O'Donnell, 1505 Madison Avenue, Dunmore 18509, Lackawanna County, Twenty-

second Senatorial District, for appointment as a member of the State Board of Education, to serve until October 1, 1999 or until his successor is appointed and qualified, vice R. Gerard Longo, Ph.D., Pittsburgh, whose term expired.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

**RECALL COMMUNICATION
REFERRED TO COMMITTEE**

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

**JUDGE, SUPERIOR COURT
OF PENNSYLVANIA**

November 23, 1993

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

In accordance with the power and authority vested in me as Acting Governor of the Commonwealth, I do hereby recall my nomination dated July 19, 1993 for the appointment of John Pushinsky, Esquire, 1312 Sheridan Avenue, Pittsburgh 15206, Allegheny County, Thirty-eighth Senatorial District, as Judge of the Superior Court of Pennsylvania, to serve until the first Monday of January, 1994, vice The Honorable Frank J. Montemuro, resigned.

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

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

**CORRECTION TO NOMINATION
REFERRED TO COMMITTEE**

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

**MEMBER OF THE STATE BOARD
OF NURSING**

November 23, 1993

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

Please note the nomination dated June 28, 1993 for the appointment of Betty McFarland, R. D. #1, Box 56, Volant 16156, Lawrence County, Twenty-first Senatorial District, as a member of the State Board of Nursing, to serve for a term of six years or until her successor is appointed and qualified, but not longer than six months beyond that period, vice H. Jean Bruhn, Lancaster, resigned, should be corrected to read:

Betty McFarland, 1757 Perry Highway, Volant 16156, Mercer County, Fiftieth Senatorial District, as a member of the State Board of Nursing, to serve for a term of six years or until her successor is

appointed and qualified, but not longer than six months beyond that period, vice H. Jean Bruhn, Lancaster, resigned.

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:

November 29, 1993

HB 411 -- Committee on Judiciary.

HB 659 and **1738** -- Committee on Finance.

HB 666, 1304, 1488, 1514 and **1892** -- Committee on Transportation.

HB 1335, 1336, 1619 and **1634** -- Committee on Urban Affairs and Housing.

HOUSE RESOLUTION FOR CONCURRENCE

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

November 29, 1993

House Concurrent Resolution No. 208 -- Committee on Intergovernmental Affairs.

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:

November 23, 1993

Senators SHUMAKER, HART, BELL, BRIGHTBILL and TILGHMAN presented to the Chair **SB 1425**, entitled:

An Act amending the act of June 3, 1937 (P. L. 1333, No. 320), entitled "Pennsylvania Election Code," requiring certain ballot questions to contain fiscal information.

Which was committed to the Committee on STATE GOVERNMENT, November 23, 1993.

Senators LINCOLN, BELAN, FATTAH, STAPLETON, STEWART, REIBMAN, STOUT, LEWIS, PECORA, LAVALLE, DAWIDA and SCANLON presented to the Chair **SB 1426**, entitled:

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), entitled "Public School Code of 1949," further providing for an early warning system, for budget procedures, for distressed school districts, for powers and duties of the Department of Education, for temporary special aid to school districts suffering severe reductions in assessed valuation of taxable property and for subsidy and debt retirement incentives payable to certain merged school districts; and making editorial changes.

Which was committed to the Committee on EDUCATION, November 23, 1993.

November 29, 1993

Senators LINCOLN, BELAN, FATTAH, STAPLETON, STEWART, REIBMAN, STOUT, LEWIS, PECORA, LAVALLE, DAWIDA and SCANLON presented to the Chair **SB 1427**, entitled:

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), entitled "Public School Code of 1949," further providing for joint schools and departments and cooperation among school districts to expand educational opportunities.

Which was committed to the Committee on EDUCATION, November 23, 1993.

Senators LINCOLN, BELAN, FATTAH, STAPLETON, STEWART, REIBMAN, STOUT, LEWIS, PECORA, LAVALLE, DAWIDA, SCANLON and O'PAKE presented to the Chair **SB 1428**, entitled:

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), entitled "Public School Code of 1949," further providing for the average cost guarantee; and making an appropriation.

Which was committed to the Committee on EDUCATION, November 23, 1993.

Senators O'PAKE, PECORA, HOLL, BELAN, BRIGHTBILL, HART, PUNT, STAPLETON, ROBBINS and ANDREZESKI presented to the Chair **SB 1429**, entitled:

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), entitled "The Administrative Code of 1929," prohibiting appropriations for postsecondary educational programs for prisoners.

Which was committed to the Committee on EDUCATION, November 23, 1993.

Senators O'PAKE, RHOADES, WILLIAMS, SCANLON, AFFLERBACH, SALVATORE, SCHWARTZ, BELAN, SHUMAKER, JONES and REIBMAN presented to the Chair **SB 1430**, entitled:

An Act amending the act of December 15, 1988 (P. L. 1239, No. 152), entitled "An act amending the act of April 9, 1929 (P. L. 177, No. 175), entitled 'An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges;....,' deleting a provision relating to the termination of medical assistance coverage for treatment of drug and alcohol dependency and admission of drug and alcohol dependent persons to certain facilities.

Which was committed to the Committee on STATE GOVERNMENT, November 23, 1993.

Senators O'PAKE, BRIGHTBILL, AFFLERBACH, BELAN, STAPLETON and REIBMAN presented to the Chair **SB 1431**, entitled:

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), entitled "Public School Code of 1949," providing for the selection of alternate voting directors for intermediate units.

Which was committed to the Committee on EDUCATION, November 23, 1993.

Senators BELAN, LAVALLE, DAWIDA and STOUT presented to the Chair **SB 1432**, entitled:

An Act amending the act of May 22, 1933 (P. L. 853, No. 155), entitled "The General County Assessment Law," further providing for exemptions from taxation.

Which was committed to the Committee on FINANCE, November 29, 1993.

Senators BELAN, LAVALLE, DAWIDA and PORTERFIELD presented to the Chair **SB 1433**, entitled:

An Act amending Title 71 (State Government) of the Pennsylvania Consolidated Statutes, providing for contribution for the purchase of credit during periods of furlough.

Which was committed to the Committee on STATE GOVERNMENT, November 29, 1993.

Senators BELAN, LAVALLE, DAWIDA, PORTERFIELD and STOUT presented to the Chair **SB 1434**, entitled:

An Act amending the act of April 27, 1927 (P. L. 465, No. 299), entitled, as amended, "Fire and Panic Act," further providing for school tobacco control; and imposing a penalty.

Which was committed to the Committee on EDUCATION, November 29, 1993.

Senators SCHWARTZ, BRIGHTBILL, AFFLERBACH and PUNT presented to the Chair **SB 1435**, entitled:

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

Which was committed to the Committee on PUBLIC HEALTH AND WELFARE, November 29, 1993.

Senators SCHWARTZ, WILLIAMS, JONES, HELFRICK, BRIGHTBILL, SHUMAKER and FATTAH presented to the Chair **SB 1436**, entitled:

An Act providing for the location and operation of family day care in private residential homes.

Which was committed to the Committee on PUBLIC HEALTH AND WELFARE, November 29, 1993.

Senator ARMSTRONG presented to the Chair **SB 1437**, entitled:

An Act amending Title 34 (Game) of the Pennsylvania Consolidated Statutes, requiring notice to a municipality in which an exotic animal is located prior to issuance of an exotic wildlife possession permit.

Which was committed to the Committee on GAME AND FISHERIES, November 29, 1993.

Senators DAWIDA and BODACK presented to the Chair **SB 1438**, entitled:

An Act amending the act of July 9, 1990 (P. L. 340, No. 78), entitled "Public Safety Emergency Telephone Act," further providing for powers and duties of cities of the second class.

Which was committed to the Committee on URBAN AFFAIRS AND HOUSING, November 29, 1993.

Senator BORTNER presented to the Chair **SB 1439**, entitled:

An Act amending the act of December 31, 1965 (P. L. 1257, No. 511), entitled "The Local Tax Enabling Act," prohibiting a tax officer from charging certain fees or commissions; imposing a penalty against employers who fail to remit to taxing authorities taxes that have been withheld; and further providing for the collection of taxes from the Commonwealth.

Which was committed to the Committee on FINANCE, November 29, 1993.

December 1, 1993

Senators BRIGHTBILL, MUSTO, STEWART, SHAFFER, FISHER, LINCOLN, BAKER, MELLOW, JUBELIRER, STAPLETON, ROBBINS, O'PAKE, GREENLEAF, BELAN, HART, REIBMAN, HELFRICK, PECORA, RHOADES, PETERSON, LEMMOND, LOEPER, WENGER, SALVATORE, MADIGAN and STINSON presented to the Chair **SB 1440**, entitled:

An Act establishing environmental remediation standards for contaminated commercial and industrial sites; assigning powers and duties to the Department of Environmental Resources and the Environmental Quality Board; and making repeals.

Which was committed to the Committee on ENVIRONMENTAL RESOURCES AND ENERGY, December 1, 1993.

December 3, 1993

Senators MOWERY, SHAFFER, LEWIS, LAVALLE, RHOADES, WENGER and JUBELIRER presented to the Chair **SB 1441**, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for liability for certain costs.

Which was committed to the Committee on JUDICIARY, December 3, 1993.

Senators MOWERY and SHUMAKER presented to the Chair **SB 1442**, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, prohibiting the use of radar detectors.

Which was committed to the Committee on TRANSPORTATION, December 3, 1993.

December 6, 1993

Senators STEWART, SHUMAKER, BELAN, STINSON, RHOADES, SCANLON, MUSTO, PORTERFIELD, AFFLERBACH, DAWIDA, MELLOW and PETERSON presented to the Chair **SB 1443**, entitled:

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), entitled "Tax Reform Code of 1971," further providing for limited tax credits effective period.

Which was committed to the Committee on FINANCE, December 6, 1993.

Senators STEWART, SCANLON, MUSTO, STINSON, AFFLERBACH, DAWIDA, PORTERFIELD, MELLOW and BELAN presented to the Chair **SB 1444**, entitled:

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), entitled "The Administrative Code of 1929," further providing for annual liquor license fees.

Which was committed to the Committee on LAW AND JUSTICE, December 6, 1993.

Senators STEWART, MELLOW, PORTERFIELD, DAWIDA, AFFLERBACH, MUSTO, STINSON, SCANLON and BELAN presented to the Chair **SB 1445**, entitled:

An Act amending the act of April 12, 1951 (P. L. 90, No. 21), entitled, as reenacted, "Liquor Code," further providing for license periods; and providing for license fees.

Which was committed to the Committee on LAW AND JUSTICE, December 6, 1993.

Senators BRIGHTBILL and O'PAKE presented to the Chair **SB 1446**, entitled:

An Act amending Titles 23 (Domestic Relations) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for willful failure to pay support orders; and further providing for revocation and suspension of drivers' licenses.

Which was committed to the Committee on JUDICIARY, December 6, 1993.

Senators FATTAH, STINSON, WILLIAMS, MELLOW, LINCOLN and DAWIDA presented to the Chair **SB 1447**, entitled:

An Act amending the act of December 15, 1986 (P. L. 1585, No. 174), entitled "Private Licensed Schools Act," providing for structural changes in the State Board of Private Licensed Schools and for clarification of the board's consumer protection mission; establishing improved licensing and enforcement standards which conform to changes in Federal law; and providing for student protections which enhance the responsibility of licensed schools and the opportunity of students to make reasoned choices and to access quality education.

Which was committed to the Committee on EDUCATION, December 6, 1993.

RESOLUTIONS INTRODUCED AND REFERRED

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

November 29, 1993

URGING THE GOVERNOR TO APPOINT A TASK FORCE TO PROPOSE LEGISLATIVE AND POLICY SOLUTIONS TO PROBLEMS OF SCHOOL VIOLENCE AND DISRUPTION

Senators REIBMAN, MELLOW, LINCOLN, AFFLERBACH, LEWIS, BELAN, SALVATORE, ANDREZESKI, SHUMAKER, TILGHMAN, PECORA, SCHWARTZ, O'PAKE, MUSTO, GREENLEAF, STINSON

and FATTAH offered the following resolution (**Senate Resolution No. 77**), which was read and referred to the Committee on Education:

In the Senate, November 29, 1993

A RESOLUTION

Urging the Governor to appoint a task force to propose legislative and policy solutions to problems of school violence and disruption.

WHEREAS, This Commonwealth has a long and proud tradition of public schools and a constitutional guarantee of a "thorough and efficient system of public education to serve the needs of the Commonwealth"; and

WHEREAS, The principal purpose of public schools is to promote learning for this Commonwealth's school children; and

WHEREAS, Learning occurs naturally in safe and supportive environments but is impeded by fear in dangerous environments; and

WHEREAS, Formerly isolated incidents of disruption, intimidation and violence in schools are increasing and are affecting schools in urban, suburban and rural communities; and

WHEREAS, There are increasing incidents of intimidation and violence in schools involving students who have brought weapons to school; and

WHEREAS, These conditions result in schools no longer being safe havens in which students may pursue academic excellence; and

WHEREAS, These conditions are increasingly matters of concern for parents, students, teachers and community leaders; and

WHEREAS, These conditions jeopardize public support for public education; therefore be it

RESOLVED, That the Senate urge the Governor to appoint a task force to propose legislative and policy solutions to problems of school violence and disruption in order to assure that public schools are safe havens for learning in this Commonwealth; and be it further

RESOLVED, That the Senate urge the Governor to appoint such a task force promptly and to charge it to report its findings and legislative and policy recommendations to him and to the General Assembly no later than March 31, 1994; and be it further

RESOLVED, That the Senate urge the Governor, in appointing a task force, to include representatives of the Pennsylvania Congress of Parents and Teachers, State teacher organizations, principals, high school students and the business community; and be it further

RESOLVED, That the Senate urge the Governor to appoint the Secretary of Education, the Secretary of Public Welfare, the Commissioner of Corrections and the Executive Director of the Juvenile Court Judges' Commission, or their respective designees, to serve on the task force; and be it further

RESOLVED, That the Senate urge the Governor to appoint two members of the Senate recommended by the President pro tempore, two members of the Senate recommended by the Minority Leader, two members of the House of Representatives recommended by the Speaker of the House of Representatives and two members of the House of Representatives recommended by the Minority Leader, or their respective designees, to serve on the task force; and be it further

RESOLVED, That the Senate urge the Governor to charge the task force with examining any and all policy options that will guarantee a safe environment for learning for those students wishing to avail themselves of this Commonwealth's educational opportunities and provide alternative educational opportunities for disruptive and violent youth.

December 6, 1993

**URGING THE COMMITTEE ON EDUCATION
TO CONDUCT PUBLIC HEARINGS ON
THE DEPARTMENT OF EDUCATION'S
IMPLEMENTATION OF STATE SPECIAL
EDUCATION REGULATIONS AND STANDARDS**

Senators LINCOLN, BELAN, AFFLERBACH, REIBMAN, STINSON, MELLOW, SCHWARTZ, STOUT, DAWIDA, O'PAKE, HELFRICK and HART offered the following resolution (**Senate Resolution No. 78**), which was read and referred to the Committee on Education:

In the Senate, December 6, 1993

A RESOLUTION

Urging the Committee on Education to conduct public hearings on the Department of Education's implementation of State special education regulations and standards.

WHEREAS, The State Board of Education adopted major revisions of the Commonwealth's special education regulations and standards in the spring of 1990; and

WHEREAS, The regulations and standards have now been implemented for three school years; and

WHEREAS, The regulations charge the Department of Education with responsibility for implementing and enforcing the regulations and standards; and

WHEREAS, Members of the General Assembly have been contacted by parents and teachers complaining about lack of uniform enforcement of the rules, often to the detriment of students with disabilities; therefore be it

RESOLVED, That the Senate urge the Committee on Education to conduct at least two public hearings, either in conjunction with the House Committee on Education or independently, to explore how well the special education regulations and standards are working and how well the Department of Education is enforcing them; and be it further

RESOLVED, That the Committee on Education report its findings to the Senate along with any recommendations for changes in statutes, regulations or administrative enforcement of existing statutes and regulations.

GENERAL COMMUNICATION

LIST OF LOBBYISTS AND ORGANIZATIONS

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

SENATE OF PENNSYLVANIA

December 1, 1993

To the Honorable, the Senate of the
Commonwealth of Pennsylvania
To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania

In compliance with Act No. 712 of the 1961 Session and Act No. 212 of the 1976 Session of the General Assembly titled the "Lobbying Registration and Regulation Act," we herewith jointly present a list containing the names and addresses of the persons who have registered from November 1, 1993 through November 30, 1993 inclusive, for the 177th Session of the General Assembly. This list also contains the names and addresses of the organizations represented by these registrants.

Respectfully submitted:

MARK R. CORRIGAN
Secretary
Senate of Pennsylvania

JOHN J. ZUBECK
Chief Clerk
House of Representatives

(See Appendix for complete list.)

**ANNUAL REPORT OF THE HEALTH
CARE CONCILIATION PROGRAM
FISCAL YEAR 1992-1993**

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

COMMONWEALTH OF PENNSYLVANIA
Arbitration Panels For Health Care
3 Governor's Plaza North, Suite 304
2101 North Front Street
Harrisburg, PA 17110

November 22, 1993

To: The Honorable Robert P. Casey, Governor
The Honorable Mark S. Singel, Acting Governor
The Honorable Members of the General Assembly

From: ROBERT T. MCINTYRE, Administrator
Arbitration Panels for Health Care

Subject: Annual Report of the Health Care Conciliation
Program - Fiscal Year 1992-1993

Submitted by the Administrator as required by Section
306 of the Health Care Services Malpractice Act

Attached is a summary of this office's activities for fiscal year 1992-1993 and a description of initiatives planned for 1993-94. We would be pleased to supply additional copies or further information upon request.

Respectfully submitted,

ROBERT T. MCINTYRE
Administrator

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

**1991 ANNUAL REPORT ON INSUREDS
PURCHASING AUTOMOBILE INSURANCE
FIRST PARTY MEDICAL BENEFITS**

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

COMMONWEALTH OF PENNSYLVANIA
Insurance Department
Strawberry Square
Harrisburg, PA 17120

November 30, 1993

Subject: Statutory Requirement of Reporting
Insureds Purchasing Automobile
Insurance First Party Benefits

To: John Zubeck, Chief Clerk of the House
Mark Corrigan, Secretary of the Senate

From: ALFRED M. MANGANIELLO
Legislative Liaison

Section 1723 of the Motor Vehicle Financial Responsibility Law requires each insurance company writing automobile insurance in Pennsylvania to annually file with the Insurance Department the number of insureds having purchased various levels of first party medical benefits.

The law further requires this information to be furnished to the General Assembly. Therefore, I am enclosing a graphic display of vehicle owners who purchase first party medical benefits. The information represents 1991 calendar year data.

If you have any questions, please feel free to contact me.

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

**PENNSYLVANIA OFFICE OF VOCATIONAL
REHABILITATION PROGRAM REPORT
FEDERAL FISCAL YEAR 1992**

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

COMMONWEALTH OF PENNSYLVANIA
Department Of Labor And Industry
Harrisburg, Pennsylvania 17120

December 3, 1993

Honorable Mark R. Corrigan
Secretary of the Senate
Senate Post Office
Harrisburg, Pennsylvania 17120

Dear Mr. Corrigan,

I am pleased to send you the Federal Fiscal Year 1992 Pennsylvania Office of Vocational Rehabilitation OVR Program Year Report. In 1992, OVR assisted 6,664 persons with disabilities to rehabilitate themselves, 5,466 into competitive employment. Of those who entered competitive employment, 3,975 were persons having a severe disability.

If you have any questions regarding this report, please feel free to contact the Office of Legislative Affairs at 787-5087.

Sincerely,

THOMAS P. FOLEY
Secretary

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

**JOINT STATE GOVERNMENT COMMISSION
REPORT OF THE TASK FORCE ON
GOVERNMENT SERVICE EFFICIENCY**

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

GENERAL ASSEMBLY OF THE
COMMONWEALTH OF PENNSYLVANIA
Joint State Government Commission
Room 108 - Finance Building
Harrisburg PA 17120

November 1993

To The Members Of The General Assembly:

The Joint State Government Commission is pleased to present this report of the Task Force on Government Service Efficiency chaired by Senator Earl M. Baker. The study was conducted pursuant to 1990 Senate Resolution No. 178, Pr.'s No. 2629.

Respectfully submitted,

ROGER A. MADIGAN
Senator

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

**APPOINTMENT OF SENATOR DAVID W.
HECKLER TO STANDING COMMITTEE
OF THE SENATE**

The PRESIDENT. The Chair wishes to announce the President pro tempore has appointed Senator David W. Heckler to the Senate Committee on Game and Fisheries.

**APPOINTMENTS BY
PRESIDENT PRO TEMPORE**

The PRESIDENT. The Chair wishes to announce the President pro tempore has made the following appointments:

Senator William Stinson to serve on the Vietnam Veterans Health Initiative Commission.

Mr. Richard Ross to serve as a business representative on the Health Care Cost Containment Council.

Mr. Andrew V. Palm to serve as employee representative on the Workers' Compensation Advisory Council.

APPOINTMENT BY MINORITY LEADER

The PRESIDENT. The Chair wishes to announce the Minority Leader has made the following appointment:

Senator Tim Shaffer to serve as one of the representatives of the General Assembly on the Ben Franklin/IRC Partnership.

BILL SIGNED

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

HB 829.

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

The SECRETARY. Consent has been given for the Committee on Intergovernmental Affairs to meet during today's Session to consider House Bill No. 1721 and Senate Bill No. 1429. Also, the Committee on Rules and Executive Nominations to consider Senate Bills No. 926, 1193, and certain nominations.

REPORTS FROM COMMITTEES

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

SB 759 (Pr. No. 1354) (Rereported)

An Act making appropriations to the Hahnemann University, Philadelphia.

SB 1237 (Pr. No. 1496)

An Act amending the act of March 10, 1992 (P. L. , No. 1A), entitled "An act appropriating money from the Sunny Day Fund to the Department of Commerce for various projects throughout this Commonwealth for fiscal year 1991-1992," further defining a project.

SB 1404 (Pr. No. 1700)

A Supplement to the act of June 28, 1993 (P. L. 134, No. 31), entitled "Highway Supplement to the Capital Budget Act of 1993-1994," itemizing public highway projects to be constructed by current revenues of the Department of Transportation, together with the estimated financial costs; and making appropriations.

HB 299 (Pr. No. 2878) (Amended) (Rereported)

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, reenacting provisions on inspection by police and Commonwealth personnel; further defining "terminal"; defining "maxi-cube vehicle" and "stinger-steered automobile" or "boat transporter"; further providing for suspension of registration for lack of financial responsibility, for the length, width, maximum number and operation of certain vehicles and for the authority to issue permits, for use of miscellaneous motor vehicle business registration plates, for emission inspection program expenditures and for weighing and measurement of vehicles; waiving certain school bus driver recertification tests; further providing for certain emission inspection; and making repeals.

HB 1692 (Pr. No. 1960)

An Act appropriating money from the Sunny Day Fund to the Department of Commerce for various projects throughout this Commonwealth for fiscal year 1993-1994.

Senator MUSTO, from the Committee on Environmental Resources and Energy, reported the following bill:

SB 738 (Pr. No. 801)

An Act to regulate levels of airborne asbestos and the removal of asbestos-containing material in educational facilities and public buildings; and to designate conditions under which asbestos removal may be conducted.

LEGISLATIVE LEAVES

The PRESIDENT. The Chair would first call upon the gentleman from Delaware, Senator Loeper, for his leaves.

Senator LOEPER. Mr. President, I request legislative leaves for today's Session on behalf of Senator Tilghman and Senator Shaffer, and a temporary Capitol leave on behalf of Senator Lemmond.

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

Senator LINCOLN. Mr. President, I would request a legislative leave for the week for Senator Pecora, and temporary Capitol leaves for Senator Bodack, Senator Fumo, Senator Reibman, and Senator Scanlon.

The PRESIDENT. Senator Loeper requests legislative leaves for Senator Tilghman and Senator Shaffer, and a temporary Capitol leave for Senator Lemmond.

Senator Lincoln requests legislative leave for Senator Pecora, and temporary Capitol leaves for Senator Bodack, Senator Fumo, Senator Reibman, and Senator Scanlon.

The Chair hears no objection. The leaves will be granted.

**SPECIAL ORDER OF BUSINESS
GUESTS OF SENATOR HARDY WILLIAMS
PRESENTED TO THE SENATE**

The PRESIDENT. And prior to the taking of our first roll-call vote, the Chair would recognize the gentleman from Philadelphia, Senator Williams, for the purpose of an introduction.

Senator WILLIAMS. Mr. President, we have been joined today by some very distinguished guests. As we Pennsylvanians watched the World Series with pride, Curt Schilling just busted our shirt buttons because we saw such skill, tenacity, and pride, just like this body.

Today, quite incidentally, we had some visitors at the special hearing of the Committee on Public Health and Welfare. We had a trio of Hulihan, Schilling, and Phillips. That is, Mrs. Shonda Schilling, Ms. Elyn Phillips, and Ms. Sharon Hulihan. And I thought it was like a baseball team, so I said, you guys, your turn to bat. Never did I know that Mrs. Schilling was there as well. I said that because of some other reference. Since that time a fourth has been added, and so the typical thing, from Tinker to Evers to Chance, has turned into Hulihan to Phillips to Weiner to Schilling.

Mrs. Schilling, whom I am now introducing, happens to be a very committed person who is helping to promote efforts to support needed efforts in ALS, which is sometimes referred to as Lou Gehrig's disease. So, Mr. President, I would love to have us give a very unique welcome to Mrs. Schilling and her associates and ask Mrs. Schilling, after the welcome or as we welcome her, if she would care to say a few words to this august body. Let us give her a very unique Pennsylvania welcome.

The PRESIDENT. Will the Senate please join me in welcoming the guests of Senator Williams.

(Applause.)

Senator WILLIAMS. Senator O'Pake is going to escort Mrs. Schilling to the podium for a speech, and he said happily he wanted to do that.

Mrs. SCHILLING. Curt would be jealous today because he is usually the one who gets the big welcome. He will never believe me.

First off, I want to say that I do not have anyone in my family with Lou Gehrig's disease, but I do have many friends, now that Curt and I have gotten involved with the disease.

First of all, I want to thank Senator Williams for asking me to come here today. I appreciate the opportunity to address the Senate on behalf of the ALS Association, or better known as Lou Gehrig's disease, which is the official charity of the Phillies. My husband, Curt, and I have been involved with this fine

group since we had the good fortune of being traded to the Phillies in 1992. We developed a program called Curt's Pitch for ALS, which is based on Curt's statistics, which raised over \$75,000 for ALS families. Curt and I will continue to support the ALS Association until the cure is found to make this fatal disease extinct.

I am here today to advocate on behalf of ALS patients who are ventilator dependent and who are being shut out of nursing homes. The current reimbursement rate is so disproportionate to the actual cost of providing this care that no nursing homes are accepting these patients for admission. We are asking the Committee on Public Health and Welfare to require DPW to increase the reimbursement rate to accommodate the needs of ventilator-dependent patients. We hope that this can be accomplished before the Phillies bring the World Series back to Pennsylvania next year.

Thank you.

(Applause.)

The PRESIDENT. We thank you very much.

**GUESTS OF SENATOR JOHN J.
SHUMAKER PRESENTED TO THE SENATE**

The PRESIDENT. The next person to recognize is Senator Shumaker, from Dauphin County.

Senator SHUMAKER. Mr. President, that is a tough act to follow. Everyone is still looking over there.

Mr. President, I have the honor today of presenting the 193rd Special Operations group softball team, men's over 35 division, of the Pennsylvania Air National Guard, which won the National Guard national softball tournament championship recently. These men competed against 25 other teams for the honor of being the national champions. The victory has special significance for the team because it enabled them to bring home the Bob Fisher Memorial Traveling Trophy, which was established to honor Tech Sergeant Bob Fisher of the 193rd, who passed away during the 1990 national softball tournament.

At this time, I would ask the Senate to join with me in offering them a warm welcome and also to say that it is a wonderful achievement. We are very proud of each and every one of you. Would you please stand and be recognized.

The PRESIDENT. Will the Senate join me in welcoming the champions of the Air National Guard softball competition. Ladies and gentlemen, we applaud you and we thank you for coming to the Senate of Pennsylvania.

(Applause.)

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

The PRESIDENT. And the Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Mr. President, on behalf of the gentleman from Berks, Senator O'Pake, and myself, I would like to introduce Jennifer Grimes, who is the State Dairy Princess. Jennifer is a 1993 graduate of Tulpehocken High School,

and she is a freshman at the Berks Campus of Penn State University, where she is a pre-vet student. She is here today with her parents, Kenneth and Barbara Grimes. Kenneth is a township supervisor, and they own and operate a 400-acre dairy farm in Strausstown in Berks County. She is also accompanied by Janet Harding, who is the Dairy Princess coordinator.

The PRESIDENT. Would the Senate join me in welcoming the Dairy Princess and her entourage to Pennsylvania.

(Applause.)

Ms. GRIMES. Thank you.

Lieutenant Governor Singel, Members of the Senate, and other guests, I would like to thank Senator Brightbill and Senator O'Pake for introducing me and giving me this opportunity to speak to you. I am here today as a representative of Pennsylvania's leading industry - agriculture. I am here to thank you for your tremendous support and to encourage and convince you of the importance of continuing that support.

Dairy farming today is one of the most complex and demanding careers in the agricultural field. The backbone of dairy farming has been the family farm. I fear that this era is coming to a close. The farms that were once passed on from father to son are now being passed from father to contractor, for reasons ranging from stricter regulations to labor and to capital. For whatever reason, they all end with the same conclusion: less farmland, fewer farmers, and more people to feed.

Ladies and gentlemen, we are not opposed to regulations or new ideas to save the environment. In fact, we commend many of your ideas, especially your farmland preservation bill. However, we just ask that you keep in mind our limitations as well as our capabilities. And just remember, Rome was not built in a day.

Another issue facing agriculture would be the ever-increasing number of animal rights activists. We understand their purpose, but do they understand ours? The farm and the animal work together for a mutual benefit. There are many management practices which are conducted just as much for the benefit of the animal as for the benefit of the farmer who owns the animal. It cannot be made any clearer than when a farmer once stated that a contented cow gives the most milk.

Dairy farmers are constantly working to alleviate stress in farm animals and improve environmental practices, facility designs and nutrition adequacy. We need your protection as well as your understanding in this controversial issue. You hold part of the future of agriculture in your hands, so we ask that you use your wisdom and best judgment in dealing with agriculture and not the voice of a majority. Our numbers are decreasing and the demands put upon us are ever-increasing, yet our goals and beliefs must remain the same. Therefore, it is now that we need your utmost support in governing to assist us in reaching our goals.

Thank you.

(Applause.)

The PRESIDENT. We thank all the presenters today, and I thank the Senators for their willingness to introduce these individuals to the Senate.

BILL IN PLACE

Senator LOEPER presented to the Chair a bill.

REQUEST TO OFFER RESOLUTION

The PRESIDENT. The next order of business is resolutions.

The Chair recognizes the gentleman from Blair, Senator Jubelirer.

Senator JUBELIRER. Mr. President, under the order of business of resolutions, I offer the following resolution and ask for its immediate consideration.

The PRESIDENT. Senator Jubelirer asks unanimous consent for the immediate consideration of a resolution.

The Chair recognizes the gentleman from Fayette, Senator Lincoln.

Senator LINCOLN. Mr. President, I would object to immediate consideration.

The PRESIDENT. Senator Lincoln objects to immediate consideration of the resolution, and under normal circumstances this would be referred to the appropriate committee.

MOTION TO SUSPEND RULES

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

Senator JUBELIRER. Mr. President, I move that Senate Rule XXX be suspended to permit immediate consideration of the resolution just offered.

The PRESIDENT. Senator Jubelirer moves that the rules of the Senate be suspended so as to allow for immediate consideration of the resolution. The Chair would remind all the Members that it is not a debatable motion but that Senator Jubelirer does have the right to move that the rules be suspended.

On the question,

Will the Senate agree to the motion?

The PRESIDENT. On the motion to suspend the rules, the Chair recognizes the gentleman from Fayette, Senator Lincoln.

Senator LINCOLN. Mr. President, I object to the rules being suspended, and I ask for a negative vote.

The PRESIDENT. Senator Lincoln asks for a negative vote.

CONSTITUTIONAL POINT OF ORDER

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

Senator JUBELIRER. Mr. President, obviously, we would take the opposite position and ask for an affirmative vote, but nevertheless, since the resolution deals with the standing aside of William Stinson, I raise the constitutional point of order that under Article III, Section 13, William Stinson is ineligible to vote, since this measure deals with his personal and private interest.

The PRESIDENT. The Chair thanks the gentleman for raising that point of order and reminds the gentleman that we have dealt with that matter previously.

Senator JUBELIRER. Is that the Chair's ruling, Mr. President?

The PRESIDENT. The Chair is inclined to proceed directly to the motion to suspend the rules, inasmuch as we have dealt with that matter previously, and the Chair sees no reason to entertain a further point of order on the subject.

RULING OF THE CHAIR APPEALED

Senator JUBELIRER. Mr. President, do I still have the floor?

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

Senator JUBELIRER. Mr. President, the only way I can take that is that since you have declined, it is a ruling against me, and I would appeal the decision of the Chair not to deal with that and I ask for a roll-call vote on that issue.

The PRESIDENT. Senator Jubelirer has raised a constitutional point of order regarding the eligibility of Mr. Stinson to be seated as a Member of the Senate. The Chair was not inclined to entertain that constitutional point of order. Senator Jubelirer has appealed that decision of the Chair.

On the question,
Shall the ruling of the Chair be sustained?

LEGISLATIVE LEAVE

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

Senator LINCOLN. Mr. President, prior to responding to that, could we return to the order of business of leaves of absence?

The PRESIDENT. Without objection, let us attempt to deal with that right now. Are there additional leaves of absence?

Senator LINCOLN. Mr. President, Senator Belan has been called to his office, along with the remainder of the Allegheny County delegation, and I would ask for a temporary Capitol leave.

The PRESIDENT. Senator Belan has been called from the floor. There seems to be no objection to the temporary Capitol leave request. That leave will be granted.

And the question recurring,
Shall the ruling of the Chair be sustained?

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

Senator LINCOLN. Mr. President, on the impending vote, would the President please explain what a "yes" vote and a "no" vote means? I know we have been down this road a few times, but just so we have no confusion.

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

The issue before the Senate is the appeal of the ruling of the Chair. Senator Jubelirer has raised a constitutional point of order. The Chair, in effect, has ruled that out of order, and Senator Jubelirer has appealed the ruling of the Chair. Once again, an affirmative vote will uphold Senator Jubelirer's posi-

tion in the matter; a negative vote would overturn the appeal, thereby sustaining the Chair's ruling. A "no" is for me, a "yes" is for Senator Jubelirer.

Senator JUBELIRER. Mr. President, just a question, if I may.

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

Senator JUBELIRER. Mr. President, is it then the ruling of the Chair that William Stinson can vote on this?

The PRESIDENT. The gentleman is correct.

Senator JUBELIRER. Thank you, Mr. President.

And the question recurring,
Shall the ruling of the Chair be sustained?

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

YEAS—25

| | | | |
|------------|-----------|----------|-----------|
| Armstrong | Greenleaf | Lemmond | Rhoades |
| Baker | Hart | Loeper | Robbins |
| Bell | Heckler | Madigan | Salvatore |
| Brightbill | Helfrick | Mowery | Shaffer |
| Corman | Holl | Peterson | Shumaker |
| Fisher | Jubelirer | Punt | Tilghman |
| | | | Wenger |

NAYS—25

| | | | |
|------------|---------|-------------|-----------|
| Afflerbach | Fattah | Mellow | Scanlon |
| Andrezeski | Furno | Musto | Schwartz |
| Belan | Jones | O'Pake | Stapleton |
| Bodack | LaValle | Pecora | Stewart |
| Bortner | Lewis | Porterfield | Stinson |
| Dawida | Lincoln | Reibman | Stout |
| | | | Williams |

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

The PRESIDENT. The vote on the appeal to the ruling of the Chair is "ayes," 25; "nays," 25. The appeal, not having received the proper affirmative vote, fails.

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

The PRESIDENT. The question before the body is, shall the rules of the Senate be suspended so as to accommodate the immediate consideration of a resolution offered by the gentleman from Blair, Senator Jubelirer?

On the motion to suspend the rules, the Chair recognizes the gentleman from Blair, Senator Jubelirer.

Senator JUBELIRER. Mr. President, if you would put to the body if anybody wants to change his or her vote, we would accept the roll call with the exception—

Of course, many Members over there may want to change their vote and I want to give them that opportunity. Or the Chair, perhaps.

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

Senator LINCOLN. Mr. President, a "yes" vote would be to suspend, a "no" vote would be not to?

The PRESIDENT. The gentleman is correct.

Senator LINCOLN. Mr. President, I would say to Senator Jubelirer, do not stand in the road up there because the rush for changing the votes may knock you down, but I would be surprised.

ANNOUNCEMENT BY THE PRESIDENT

The PRESIDENT. Prior to taking the vote on the motion to suspend the rules, the Chair would make the announcement that those who wish to view the proceedings of the Senate who may be listening on the intercom system or who may be in the hallway are perfectly welcome to join us in the Rules room. There is a premium on seating space and we apologize for that while we are repairing the gallery, but individuals may sit in the limited seats at the rear of the Chamber or can occupy the Rules room. We will make every effort to accommodate anybody who wants to hear the proceedings of the Senate Session. The Sergeant-at-Arms will be directed to accommodate you to the greatest extent possible.

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

The PRESIDENT. On the motion to suspend the rules, are there those who wish to change their votes?

Senator JUBELIRER. Perhaps you, Mr. President.

The PRESIDENT. The Chair will take it under advisement, for about a second.

The Clerk will proceed with the roll.

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

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

YEAS—25

| | | | |
|------------|-----------|----------|-----------|
| Armstrong | Greenleaf | Lemmond | Rhoades |
| Baker | Hart | Loeper | Robbins |
| Bell | Heckler | Madigan | Salvatore |
| Brightbill | Helfrick | Mowery | Shaffer |
| Corman | Holl | Peterson | Shumaker |
| Fisher | Jubelirer | Punt | Tilghman |
| | | | Wenger |

NAYS—25

| | | | |
|------------|---------|-------------|-----------|
| Afflerbach | Fattah | Mellow | Scanlon |
| Andrezeski | Fumo | Musto | Schwartz |
| Belan | Jones | O'Pake | Stapleton |
| Bodack | LaValle | Pecora | Stewart |
| Bortner | Lewis | Porterfield | Stinson |
| Dawida | Lincoln | Reibman | Stout |
| | | | Williams |

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

The PRESIDENT. The vote on the motion to suspend the rules is "ayes," 25; "nays," 25. The motion, not having received the appropriate affirmative vote, fails.

SENATE CONCURRENT RESOLUTION

WEEKLY ADJOURNMENT

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

In the Senate, December 6, 1993

RESOLVED, (the House of Representatives concurring), That when the Senate adjourns this week it reconvene on Monday, December 13, 1993 unless sooner recalled by the President Pro Tempore and when the House of Representatives adjourns this week it reconvene on Monday, December 13, 1993, unless sooner recalled by the Speaker of the House of Representatives.

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

ANNOUNCEMENTS

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

Senator LINCOLN. Mr. President, prior to consideration of today's Calendar, I would ask that the Senate recess for the purpose of a meeting of the Committee on Rules and Executive Nominations to be held in the Rules room immediately upon the recess. There is also, I believe, a meeting of the Committee on Intergovernmental Affairs scheduled.

At the conclusion of those two meetings, I would ask that the Senate continue its recess for the purpose of caucuses of the respective parties, and I would announce that the Democratic caucus will be held in room 461. The Majority Caucus Room is not completed yet, and we will hold our caucus in room 461.

The PRESIDENT. And does the gentleman from Blair, Senator Jubelirer, have a similar announcement?

Senator JUBELIRER. Mr. President, at the conclusion of the various committee meetings off the floor of the Senate, we would ask all Members of the Republican Caucus to report to the caucus room to the rear of the Senate Chamber. We will be putting forth an announcement at that time, and I would ask that all Members report promptly on the conclusion of the announcement.

Thank you, Mr. President.

The PRESIDENT. For purposes of a meeting of the Committee on Rules and Executive Nominations, followed by a meeting of the Committee on Intergovernmental Affairs, with Republican and Democratic caucuses to follow, the Chair is about to go to recess.

Prior to that, the Chair recognizes the gentleman from Berks, Senator O'Pake.

Senator O'PAKE. Mr. President, this is just to clarify that the meeting of the Committee on Intergovernmental Affairs will be held in the Rules room, not in room 461, as sunshined.

The PRESIDENT. The gentleman is correct. Let the Chair be very explicit: The meeting of the Committee on Rules and Executive Nominations will begin immediately in the Rules room, followed by a meeting of the Committee on Intergovernmental Affairs in the Rules room, followed by the Democratic caucus in room 461.

LEGISLATIVE LEAVE CANCELLED

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

RECESS

The PRESIDENT. With all of that in mind, the Senate will stand in recess.

AFTER RECESS

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

LEGISLATIVE LEAVES

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, and his leave will be granted, without objection.

Senator LINCOLN. Mr. President, also, Senator Afflerbach, Senator Lewis, Senator Williams, and Senator Andrezeski are at a meeting in one of their offices.

The PRESIDENT. Senator Lincoln also requests temporary Capitol leaves for Senator Afflerbach, Senator Lewis, Senator Williams, and Senator Andrezeski. The Chair hears no objection, and those leaves will be granted.

LEGISLATIVE LEAVE CANCELLED

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

CALENDAR

BILL ON CONCURRENCE IN HOUSE AMENDMENTS OVER IN ORDER

SB 880 -- Without objection, the bill was passed over in its order at the request of Senator LINCOLN.

FINAL PASSAGE CALENDAR

BILL OVER IN ORDER

SB 1061 -- Without objection, the bill was passed over in its order at the request of Senator LINCOLN.

BILL ON FINAL PASSAGE, DEFEATED

SB 1190 (Pr. No. 1503) -- 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 income"; 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.

On the question,
Shall the bill pass finally?

MOTION TO PASS BILL OVER

Senator LINCOLN. Mr. President, I move that Senate Bill No. 1190 go over in its order.

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

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

Senator JUBELIRER. Mr. President, I object to Senate Bill No. 1190 going over in its order, and at the appropriate time I would like to move to reconsider the vote by which the bill passed on third consideration.

The PRESIDENT. Senator Jubelirer objects to the bill going over in its order.

Senator Lincoln, you have the option of either insisting that the bill go over in its order, forcing that vote, or calling the bill up for a vote.

MOTION WITHDRAWN

Senator LINCOLN. Mr. President, I withdraw the motion to pass the bill over and ask for immediate consideration and a vote on the bill on final passage.

The PRESIDENT. The bill before us is Senate Bill No. 1190.

And the question recurring,
Shall the bill pass finally?

RECONSIDERATION OF SB 1190

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

Senator JUBELIRER. Mr. President, I move that the Senate reconsider the vote by which the bill was agreed to on third consideration.

The PRESIDENT. Senator Jubelirer moves that the Senate do reconsider the vote by which this bill was agreed to on third consideration.

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

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

Senator LINCOLN. Mr. President, I object to the motion and ask for a "no" vote.

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

Senator JUBELIRER. Mr. President, I recognize the debate is limited, and it is not my intention to debate the motion to move the bill back to third reading. I just state the reason, and that would be so that we could offer amendments which the Members have to the bill on third consideration and be able to choose from those on the issue of tax cuts rather than the bill as it exists, which has the electric utility tax in it. That is the reason, and that is all I have to say, Mr. President.

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

Senator LINCOLN. Mr. President, the opportunity to do this was very clear and very present back in May and June, whenever this issue was before us, at the appropriate time, budget time, and the amendments that were talked about then never materialized. I believe that we are at a very inopportune time to discuss these types of budget issues. I think the bill in its present form is one that is revenue neutral, and I think we should have the opportunity to vote "yes" or "no" on that bill as it stands.

LEGISLATIVE LEAVES CANCELLED

The PRESIDENT. The Chair recognizes the presence on the floor of Senator Afflerbach, Senator Fumo, and Senator Belan. Their temporary Capitol leaves will be cancelled.

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

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

YEAS—25

| | | | |
|------------|-----------|----------|-----------|
| Armstrong | Greenleaf | Lemmond | Rhoades |
| Baker | Hart | Loeper | Robbins |
| Bell | Heckler | Madigan | Salvatore |
| Brightbill | Helfrick | Mowery | Shaffer |
| Corman | Holl | Peterson | Shumaker |
| Fisher | Jubelirer | Punt | Tilghman |
| | | | Wenger |

NAYS—25

| | | | |
|------------|---------|-------------|-----------|
| Afflerbach | Fattah | Mellow | Scanlon |
| Andrezeski | Fumo | Musto | Schwartz |
| Belan | Jones | O'Pake | Stapleton |
| Bodack | LaValle | Pecora | Stewart |
| Bortner | Lewis | Porterfield | Stinson |
| Dawida | Lincoln | Reibman | Stout |
| | | | Williams |

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

The PRESIDENT. The vote on the motion to reconsider is "ayes," 25; "nays," 25. The motion, not having received the required affirmative votes, fails.

And the question recurring,
Shall the bill pass finally?

LEGISLATIVE LEAVE CANCELLED

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

And the question recurring,
Shall the bill pass finally?

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

Senator LINCOLN. Mr. President, the bill is now in a position to be voted on. It is in the same position it has been in for 4 or 5 months. It is revenue neutral. We are very confident of this measure because of the fact that it is revenue neutral, and by doing the tax reduction in the manner that was proposed back in May, it will be doing a service in a positive manner to the business community in Pennsylvania and it will not be affecting anything else in the middle of a budget year.

The other reason why it is important that we deal with this issue in its present form is that within a week, one week from tomorrow, we are going to hear from the Governor on what revenues are available, what proposed spending is going to be there, and I feel rather comfortable in saying to you that I expect that there will be a recommendation by the administration for a tax reduction for business and corporations in Pennsylvania to be done in a proper manner, the way we should do it and the way it has been done anytime I have ever seen it done, and that is in conjunction with the rest of the budget.

I would ask for a positive vote on this bill at this particular time, and I really believe this is a step in the right direction and the right way to go.

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

Senator JUBELIRER. Mr. President, I thank you and I thank the gentleman from Fayette, Senator Lincoln, for his remarks.

I might point out, Mr. President, so that the record is clear, we were prepared in June, as we are now, to offer amendments to Senate Bill No. 1190, and have been prepared to do that for some time. I think all of us in this body recognize that that is absolutely essential if we are to move on with our economy. We cannot afford to continue with the kinds of taxes we have on businesses in Pennsylvania today. For some time tax cuts have topped our priority list of items needed to help fix the economy, as I am sure it has on the other side. However, in recent months we have listened as, one by one, other State leaders have conceded that tax cuts are necessary to improve the job climate.

Mr. President, there is a clear difference here, and that is that we believe Senate Bill No. 1190 to be deficient for that purpose, as it offers only a tax trade, simply shifting taxes instead of providing a significant tax relief, and that is the key difference. Mr. President, the tax on electric utilities that would be passed on to consumers would be devastating. It would, as I understand, hit the high industrial users very hard, and that is another tax on business rather than just reducing their taxes.

It would hurt senior citizens. It hurts the ordinary person by having them pay an additional, what would be a hidden tax on their utilities.

But there is no reason for stalling or for avoiding the amendment process. The amendment process is part of a deliberative body, Mr. President, and that is all we want to do. We want to be able to offer amendments that Members can reject or accept, and certainly there is reason for a difference of opinion as to what they will accomplish. It is our intention to provide a responsible answer as to where the money is going to come from. Not every amendment provides tax cuts immediately, but puts them in the out year. It sets a plan. It sets a stage so that a signal can be sent not only to business here in the Commonwealth but businesses elsewhere that Pennsylvania is recognizing its problem, the albatross around its neck, in dealing with it, and all of us ought to be doing that. There is no reason to avoid the amendment process that will produce a good, responsible, effective tax-cut bill.

Mr. President, this bill has sat for nearly 6 months and the economic picture has not grown any rosier. I know that there has been finger pointing back and forth as to the real reason that is supposed to be here, that because it is not our idea, that is why we vote against it. We vote against it because, clearly, the electric utility tax is in it and it is not a clean tax-cut bill but rather a tax-shifting bill.

We should today begin debating specific tax cuts and the means for paying them. We understand that. It is time for action rather than just talk and sympathy. Tax cuts are an important bottom-line economic step. They are essential to turning around the State's tattered economic reputation. They are a signal that Pennsylvania is prepared to once again become hospitable to growth and expansion. We are well past the point where the issue provides partisan political gain. There is none to be had here. There has been enough finger-pointing back and forth. The time has come to join together and debate the issue and to come up with a plan that provides the revenue to do this and to set in the out years a plan by which Pennsylvania is prepared to send a signal to the business community here and across the country.

The reality is this: if tax cuts are approved, there is going to be credit for all of us. If they do not pass, there will be blame for all of us, for the General Assembly will once again have failed to provide an answer on the matter, on the matter of jobs. You see, without a doubt that is the foremost concern of the people all of us represent. To do any less, to not be able to debate, to not be able to have the opportunity to offer amendments, that is what this body is for. We are a deliberative body, and there is no reason that we cannot get on with this. There is no reason at all that we cannot get on with this, and I think, Mr. President, that to do any less, I cannot understand why we cannot have the opportunity to do that.

That is really the gist of my remarks, Mr. President, and I would hope that all of us would have the opportunity to cast our votes either for or against the specific proposals. I do not care if Republicans offer them or Democrats offer them. The important thing is that they get offered, they get debated, and

those that are not meritorious, that do not meet the test of fiscal responsibility, certainly will fail, and those that do will not.

Mr. President, I urge everyone to join together so that we might have an opportunity to offer these amendments, to debate them, and to decide whether they are meritorious or not.

Thank you, Mr. President.

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

Senator HART. Mr. President, when we adjourned in June we had considered Senate Bill No. 1190, and I think we very wisely did not pass Senate Bill No. 1190 at that point in time. Although it did open the door to discussion of business tax cuts, which we all know are of paramount importance, it did not provide the optimum solution to the problem here in the Commonwealth.

We, unfortunately, were out of Session for the last 5 1/2 months, but I did take that time while I was home to meet with the people in my district, the chambers of commerce throughout my district, and the small towns that have been very hard hit economically in recent years. The paramount issue for those chambers of commerce is real, real business tax cuts, not a business tax cut sham such as Senate Bill No. 1190 as it is.

Mr. President, I have discussed the issue with my constituency, as I am sure many of my fellow Senators have. We know that we need to very seriously consider this issue and provide tax cuts which will make an actual difference. As I said, Mr. President, we have amendments to offer. We should be permitted to offer those amendments after we have had 5 1/2 months to find out better solutions to the problem we have with the business climate in Pennsylvania, and we deserve that opportunity.

Thank you.

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

Senator LINCOLN. Mr. President, one of the things I want to make clear is that this is not a sham. I think it is unfortunate to bring that kind of accusation into this. This is a bill that has a legitimate way of revenue neutrally putting forth a legitimate business tax decrease in this State. It would have been in effect 5 months ago if the gentlewoman from Allegheny, Senator Hart, would have voted with the 25 Democrats who voted for it back in May and June. We also want to make it clear to the gentlewoman from Allegheny, Senator Hart, that a sham is when you try to offer something that you do not have any fiscal judgment about, such as the amendments that are spoken of. They talk about \$100 million. I think \$60 million of it comes from tax amnesty, which the Budget Secretary—I will give it to you in writing—his estimates are about one-fifth or one-sixth of the estimates the Republican Caucus continually puts on tax amnesty, plus they want to say to all those people out there who have not paid taxes, you do not have to pay it. We are going to forgive you. This is prospective. That is irresponsible.

You have an opportunity tonight to vote for a piece of legislation that has the full support of the administration, and if we

were to take it from here to the Governor's Office tonight, it would be signed into law and you would have about \$150 million, somewhere in that neighborhood, or whatever it is, in legitimate tax reductions for business individuals in this State. That is not a sham. A sham is standing here on a night 7 days before the first budget information becomes available to the people in the Commonwealth of Pennsylvania, 7 days before anybody in this room, even the smartest and even the dumbest are all in the same category at this time, no one knows what the plans are for next year. That will be given to us at a breakfast which by law that we in the General Assembly passed that said that the Governor, no matter who that person may be, has to give us that information in December. Next Tuesday night, if you want to come back and argue this same point, you have some legitimacy then to your arguments. But the fact of the matter is that the efforts being made today because, you know, your Caucus knows, that we are going to have an opportunity to do something with reducing the tax load for the business community in Pennsylvania, and you are not really concerned about whether that happens but who gets the credit for it. If that were the case, there are seven Members of the Republican Caucus who voted for the tax, the electric utility tax, that is in Senate Bill No. 1190, voted for in 1991 and are now standing up saying that it is a no good tax, or whatever. This bill clearly says there is no pass-through. And I can assure you that because of the good, hard work of the Casey administration and the Members of this Caucus over here and a few Members of the Republican Caucus, there are people serving on the PUC right now who are very consumer-oriented, and they are not going to allow this to be passed through unless we specifically order them, and this act would say it cannot be passed through. The tax will be paid by the utilities, as it was meant to be paid in 1991, whenever this particular bill passed. There is just absolutely no way that I can imagine a responsible person doing what the effort would be tonight if those amendments were allowed to be offered. The responsible position is not to deal with them. It is not to have them become something that could possibly mislead the business community in this State to think they were getting a tax reduction, because I can tell you that if we pass this same bill under the same pretext of reducing taxes and took it to the Governor's office with those amendments in it, the bill would be vetoed immediately. And what harm does that do? Aside from misleading people, the fact that we start getting into a debate in an irresponsible manner prior to facts being known I think jeopardizes the activity of this General Assembly whenever we can legitimately deal with this issue. And we were willing over here to wait until we had the facts in front of us, until they were certified by the people who were supposed to be doing that, the recommendations of an administration that is willing and able to do these things, and hand-in-hand we could have done this. But no, once again here we are, after 5 months, battling over a bill that every Member of the Republican Caucus, with the exception of the gentleman from Bucks, Senator Heckler, voted against. Every one voted against tax reduction for the business community in Pennsylvania back in May. We left the bill on the

Calendar purposely so that those amendments could be offered and we would have the debate back when we were doing a budget, but there was no attempt made to get these amendments before this General Assembly. In fact, we were 10 minutes from leaving our caucuses when the amendments were finally delivered to us—from May, from May until December.

I can tell you that we will do this every day if you want to. We will vote "yes" on this tax reduction and you are going to make up your own minds how you are going to vote on it, but I can say to you that it is probably going to be in this form. That is what your choices are going to be.

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

Senator BELL. Mr. President, about 15 minutes ago when the Democratic Leader started his speech he said this is not a sham. I know it is not a sham, because what it is doing is raising taxes by \$103 million. One hundred and three million dollars is the estimated take on the gross receipts tax on the electric utilities. I do not know what tooth fairy is going to pay it, but I think Mr. Joe Six-pack is going to pay it, and I think this \$103 million is going to flow right through to the people of Pennsylvania. And it is not a sham; it is a tax increase.

Now, if you want to know where to find some money, how about WAM? How about \$54 million of WAM money? It is there. I have already put in legislation during the recess to have that applied to reduce small business taxes. But no, my proposal to take \$54 million of WAMs and give it as a tax reduction to small business is, well, I guess that is another sham. So WAMs are a sham, I guess. But I say this: This is not a fair bill, it is a tax increase.

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

The PRESIDENT pro tempore. Mr. President, for the last year or so I have been quite reluctant to take to the floor and speak on issues such as this, but Senate Bill No. 1190 bears my name as its prime sponsor and I feel compelled that it is probably about time that I make some remarks about it.

I have a lot of respect and admiration for the gentleman from Delaware, Senator Bell, who, when I first became affiliated with Senator Bell I knew him as General Bell. But I also realize that when you are part of the military, the most important thing that you must always do is be properly prepared for whatever action you are going to take. As was said before, you cannot fight a battle with a broom handle. If you are going to go into war, you should be properly prepared. And they were lessons that basically were taught to us by people like General Bell, and General Bell himself.

But I find it very difficult, Mr. President, to sit or stand on this side of the aisle and listen to the pontification of the gentleman from Blair, Senator Jubelirer, followed up by the news or the rhetoric of the gentlewoman from Allegheny, Senator Hart, and then finally to hear the final report by General Bell that this is nothing but a tax grab and a sham. I think if General Bell had the opportunity, and I am sure he has, of reading the proposal, he would know that this particular proposal, Mr. President, cannot be passed on to the taxpayer or to the utility

payer in Pennsylvania because the legislation would prohibit that from taking place.

Mr. President, the one thing, though, I did not hear mentioned by the gentleman from Delaware, Senator Bell, is the fact that over the last 3 or 4 years, since interest rates on bonds have been reduced drastically, and since the utility increases that were given through the 1980s, Mr. President, in many cases, were based on the high cost of money, never once have I heard one person on the other side of the aisle mention with regard to utilities--and I wonder if perhaps there is not somebody they are trying to protect--that maybe the utility should petition the Public Utility Commission for a reduction of utility rates in Pennsylvania, based on the tremendous amount of money that they have saved over the last 4 or 5 years in refinancing the bonds that they have to finance many of their projects. When you talk about Joe Six-pack or Joe Lunch Bucket, there is the real place, Mr. President, where that individual has been hurt and there is the real place where that person has been paying a lot of money.

Mr. President, I believe this to be probably a very important issue, and if Members of this Senate do not feel it to be as important -- I am just going to wait. I am not going to keep talking while--

The PRESIDENT. The Chair agrees with the gentleman.

The PRESIDENT pro tempore. Mr. President, it is very difficult to talk while the number of sidebar conversations are taking place, especially from those people who say that this is an extremely important vote.

The PRESIDENT. The Chair thanks the gentleman and agrees. And it is really not so much that there is a lot of activity, but the sound system seems to be inadequate for some reason today.

The Chair would ask all the Members of the Senate to help with our problem by keeping the conversations on the floor to a minimum. Will the Senators please take their seats.

That, Senator, is probably about as quiet as we can get it.

The PRESIDENT pro tempore. Mr. President, well, if it stays like that, I guess it will be quite good.

Mr. President, the issue of the amendment to Senate Bill No. 1190 was not presented to our Caucus in a timely fashion where we even might have the opportunity of giving it the proper type of review. It was given to our Caucus, Mr. President, as we had concluded the business of our caucus for the day. And, Mr. President, the part that you have to look at here is that Senate Bill No. 1190, back in late June, when every Republican voted against it, even those who traveled throughout the State in the summer and in the fall talking about a business tax reduction, when they had their chance to vote for a business tax reduction, they voted against it.

I have had the opportunity of just very briefly looking at the amendment. The amendment, to the best that I can gather, will spend approximately \$200 million, maybe more than that, in a tax reduction. And I would like to ask the makers of the amendment, where is that \$200 million going to come from? Senate Bill No. 1190, as we have presented it, is a bill that is revenue neutral. It is a bill that will reinstate a provision in the

tax law that was put into effect a number of years ago by Senator Frank O'Connell and yours truly as cosponsors of the legislation, to for the first time put into Pennsylvania a loss carryforward provision in dealing with corporate income tax.

It also, Mr. President, will have a slight reduction in the cost of doing business in the State with regard to our corporate net income tax. We want to go ahead and give a positive sign. We had the opportunity, Mr. President, back in June, to go ahead and give that positive sign. It was defeated then by a vote of 24-24. From what I am hearing today from my Republican colleagues, their business tax vote will be "no." It will probably be defeated again today by a vote of 25-25. Now, Mr. President, that is not giving the proper message to the people in Pennsylvania who want to do business. We did, by a vote of 34 affirmative votes, through the help of my good friend, the gentleman from Bradford, Senator Madigan, reform workers' compensation back in June, which was a very positive sign. Eighteen Democrats voted for that reform, and sixteen Republicans voted for that reform. It was a bipartisan effort, one that the people of Pennsylvania wanted and one that the people of Pennsylvania need. This right here, Mr. President, should be the same type of bipartisan effort. This should be an effort to reduce taxes for especially the small business people in Pennsylvania by having a revenue neutral proposal.

It is time that we show fiscal responsibility, not fiscal irresponsibility. You cannot go ahead and offer an amendment on the floor of this Senate when you have no idea whatsoever where the money is going to come from to pay for that amendment. And although we have not had the opportunity of going through the amendment that the Republicans would like to present, Mr. President, Senate Bill No. 1190 is a good start. It puts us in the right direction. It is only the first movement of a good start to send over to the House of Representatives that when we finally pass our budget for the next fiscal year in June of 1994, we will at least have been able to tell business in Pennsylvania that we in this Senate, in a bipartisan vote, would like to recognize that you have a problem, to reduce the taxes wherever we can reduce them, not to destroy our budget, not to be intellectually dishonest with people to say that we can do something that we cannot do, but to pass something that is revenue neutral, and today is the first step in that direction.

Mr. President, I ask for a positive vote, and I know full well that there probably will be no Republican voting for the proposal.

The PRESIDENT. On the question, the Chair recognizes the gentleman from Venango, Senator Peterson.

Senator PETERSON. Mr. President, I rise not to call the discussion of this issue rhetoric or pontification. I think it is a difference of views, a difference of beliefs, a difference in philosophies. There are those here who believe that the taxes on business are not all that important as to whether they will grow and prosper here. There are those who believe that it is better to tax business than to tax people, because there are not as many votes.

Back in November of '91, I proposed a tax reduction just a few months after the famous Casey-Singel tax plan became law, the highest business taxes in the country. The highest corporate tax, the only State without having a loss carryforward provision, a proposal that I said then and I am sorry to say now would help us lose thousands of jobs in Pennsylvania, and it has. It is sad to read in recent studies, in recent reports, where the economy of this country is finally starting to perk—not fast, but it is starting to grow—and who is not growing? Pennsylvania. National people are saying, why is Pennsylvania not? Other Rust Belt States are growing, showing some recovery. You cannot have the most punitive tax package, the most hostile DER agency, and the highest workmen's compensation costs and grow. We did, and I want to commend the gentleman from Bradford, Senator Madigan, and the gentleman from Lackawanna, Senator Mellow, on their proposals and the forward movement we made. I do not think we hit a home run, but we certainly made a lot of progress on that issue.

This bill before us tonight, anyone who calls it a tax cut for business is stretching the meaning of a tax cut. It is a swap. It is a shift. Some will pay more, some will pay less. In the west where I come from—and we have lost a lot of jobs this summer—we have some steel mills that use a lot of electric power. They will pay more. Those steel mills are hanging on with their fingernails to stay in business. Manufacturing, which uses a lot of electricity, will pay more. There are those who say it will not be passed through. Our laws demand that utilities are guaranteed a certain margin of profit. That is law. They are guaranteed that. And as their expenses go up, they are given rate increases so they can make that margin of profit. Business taxes are an expense. Utility taxes are an expense. Pretty simple. Their costs are going to go up. Some utilities will get an overall rate increase quicker because we gave them just enough ammunition to go for a rate increase. Not a good thing to do. The bill before us also starts a loss carryforward provision which I think is paramount to Pennsylvania's future. But anyone who had a loss in '89 got 1 year's carryover and he is out. Those who had a loss in '90 and '91 can forget it because they are written off. And those from '92 forward will have a carryover for 1 year. How does that compare us with the rest of the country? The federal government is 15 years. The lowest States around us are Ohio and New Jersey, they have 7. Thirty-some States have over 10. We are going to allow 1 year. Now, it is better than nothing, it is better than nothing, but the companies that are struggling for survival today had serious losses in '89, '90, and '91 and really need our help to stay in business.

What jobs have we lost because of our taxes? Well, I am sure it varies. I know in the west we lost our good jobs - the union jobs, the high paying jobs, the good benefits jobs - because many of them were struggling as it was, and because it took us a decade to do workmen's compensation reform, because we have a Department of Environmental Resources that is out of control in this administration and has hurt us tremendously in the job creation and job retention business, and because we passed the Casey-Singel business tax plan that

assumed that taxes were not important to maintaining jobs in this State. I want to tell you, it was the mistake of the century. We cannot fix it too quickly. We are supposed to wait until the new plan comes out in a week or two. The person who gave us this tax plan wants to be the one who fixes it. Well, I want to tell you, I was unhappy in November of '91. I have spoken out on this floor many times. You can call it rhetoric if you want to. The bill before us is not a tax cut, it is a tax shift, it is a tax swap. Some will pay more, some will pay less, because there is no revenue loss. Manufacturing, which is what we are trying to hang onto in Pennsylvania, I can guarantee you will pay more because they are the heavy energy users. That is a fact. Sixty-some percent of electric taxes are paid by business, and the majority of them are paid by manufacturing, the jobs we ought to be fighting for, the jobs we ought to be standing on our heads for, the jobs we ought to be fighting to defend, because they are the jobs that made this State the great State it was. This bill is worse than a sham. It does nothing that will help this State move forward in our bad tax status.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Fumo.

Senator FUMO. Mr. President, I am sure that the labor unions will be happy to know that the gentleman from Venango, Senator Peterson, shares a deep concern for their needs.

Mr. President, I know Christmas is near, but I also know that Santa Claus is not going to visit the General Fund this year. I talked with him the other day with my 4-year-old and it was not on her list and it was not on his list.

Yes, Mr. President, this bill is a tax reform and a tax shift. No one said that it was not. And I recognize the obligation of the Republican Caucus to protect big electric utilities. I fully understand their loyalty there. But, Mr. President, you cannot have it both ways, although many times on this floor many Members of that side of the aisle, and some on our side as well, try to do that. Mr. President, we are faced with a reality. We were not happy about the 1991 tax increases. We were not happy necessarily that they inflicted so much harm on business. But, Mr. President, that was the product of a negotiated budget and a negotiated tax. It was not passed by Democrats alone. It could not have been passed by Democrats alone because in this Chamber Democrats were in the Minority. We had seven Republican votes to help us pass that so-called horrendous business tax increase.

Mr. President, the net operating loss carryforward was passed only because—only because—during the process of negotiations, in order to try to get the Republican side of the aisle to respond and assist with some creative ideas, we trotted out what we easily characterized as the most obnoxious business tax we could think of and we asked that side of the aisle whether or not that tax was acceptable, hoping that they would have said, no, but let us talk about some other things. They did not say no. Mr. President, the next day I felt that maybe they did not completely understand the issue and I went back again and said, are you sure? They said, yes, we are sure. So, Mr. President, do not beat us up on this side of the aisle as being the evil villains who put together the NOL. It was not us.

In fact, Mr. President, we had an alternative, a viable alternative, a reasonable, fair, and equitable tax on subchapter S corporations. But, lo and behold, we found that the other side of the aisle would not entertain that because obviously there are more subchapter S people than there are NOL people and they are already in existence. That is the only thing I can think of. But, Mr. President, what happened here did not happen unilaterally or from one party only. But now we have the chance, Mr. President, in a revenue-neutral bill, not pie in the sky, a completely revenue-neutral bill that the Budget Office will sign off on which puts back in place the tax on electric utilities that, quite frankly, was inadvertently left out, and many of us who voted that night thought we had voted for that tax but there was a glitch in the drafting side. We taxed every other utility, but there was a mistake made on electric utilities. All it does is restores that glitch, and for the first time starts us back on a path of reducing business taxes. It does not do it with mirrors, it does not do it with smoke, and it does not do it with Santa Claus. It does it with real, hard numbers. But, Mr. President, I suspect it will not pass tonight because the Republicans are more interested in the rhetoric of this issue than they are in legitimate action. And they can have rhetoric all they want, but if they sincerely want action, this is the way to do it.

Now, Mr. President, I would offer a caution to those Members of that side of the aisle who seem to think it is some God-given attitude throughout this General Assembly that business taxes need a tax cut. I happen to think they do, but there are still Members in my Caucus and in other Caucuses who think that the personal income tax rate is still too high. They would rather we cut that tax than business taxes. Mr. President, when that genie gets out of the bottle, I do not know how you are going to put it back. But today is a chance to start down the road without offering and looking into any of those other issues. Today is a way to start reducing business taxes. It is not ideal. We would all love to see there be a day when there would be no taxes on business and no taxes on people and all the moneys that run State government would come from heaven. I am for that. Everyone in this Chamber is for that. But, unfortunately, Mr. President, we have to deal with the realities of life.

I have looked at the amendment that the other side attempted to offer. It is another fairy tale. It talks about tax amnesty. It talks about helping out tax deadbeats. I will never vote for that type of an amnesty. I have said that continuously. I will never vote to give a tax amnesty to people who have already been identified by the Revenue Department as tax beats. Your proposed amendment does not agree with my philosophy. You want to give tax breaks to deadbeats who have already been identified. That is not tax amnesty, that is helping crooks. And as much as I want to help out business, I am not going to do it by helping out crooks.

So, Mr. President, if you sincerely want to do something in the way of reducing business taxes, if you can put aside for a moment your loyalty to the big electric utilities and all their PAC money and all the salaries that they get, I know Mr. Pac-

quett was very upset that I told people on this floor he made more than \$2 million last year, and I have apologized for that but it was in the public record, and if that is who you want to protect, then do it. But do not come around here bellyaching and being a crybaby—we all know that Republicans are good crybabies—but do not come around here being a crybaby about poor businesses that cannot survive in Pennsylvania when the only people you want to protect are millionaire fat cats who work for electric utilities.

Now, if that is what you want, you can do it today by voting "no." But if there is the slightest inkling that you want to help businesses in Pennsylvania, you have an obligation to vote "yes," and let us stop the silliness, Mr. President. Again, Santa Claus will not be here this year. We have to do this with real dollars.

Thank you, Mr. President.

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

Senator MOWERY. Mr. President, you know, I have heard the word "fantasy," I have heard many descriptive words of what the Republican Party is, and you know, it is kind of frustrating because the question that has constantly been brought up over these past many months is the fact that one of the most important things that we in the legislature can do is to help our constituency in the Commonwealth have jobs, meaningful jobs. If we are going to have meaningful jobs, I guess we have to go back to a premise that I guess we all do not agree with. But in my opinion, and that of many, jobs are created by business. I wish I had before me a letter that came from one of my employers that very simply stated that 1,100 jobs are going to Maryland because of the tax structure in Pennsylvania. I think both sides of the aisle have received those kinds of letters, have had those kinds of conversations, and when we are here arguing whether or not we are really giving a tax break to business that is meaningful, I question whether or not a lot of it is not fantasy. It just depends which side happens to be talking about it.

I introduced a bill in the Senate on November 9. It has, I think, maybe eight cosponsors. It is Senate Bill No. 1411. Senate Bill No. 1411 was designed not to be a fantasy but to be a Christmas gift that we in the legislature could give to all of Pennsylvania. Senate Bill No. 1411, which I would have amended into this bill if I was given the opportunity, would take the WAM money of \$54 million, which is something that all of us have available to us, some more than others—

Senator FUMO. Mr. President, point of order.

Senator MOWERY. --and I would take that WAM money and I would use it to reduce the business taxes—

The PRESIDENT. Would the gentleman yield for just one second.

POINT OF ORDER

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Fumo. For what purpose does the gentleman rise?

Senator FUMO. Mr. President, the gentleman is no longer talking about the bill, he is talking about Senate Bill No. 1411. You know, I might want to hear that in Petitions and Remonstrances, but I think it does not go to this bill.

The PRESIDENT. The gentleman's point is generally well-taken. If the gentleman would restrict his comments to the issue at hand, that would be helpful and we could move forward.

Senator JUBELIRER. Mr. President, with all due respect.

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

Senator JUBELIRER. Mr. President, on the point of order of the gentleman from Philadelphia, Senator Fumo, the gentleman from Cumberland, Senator Mowery, was talking about a way to pay for the bill, and I think that is the business tax cuts. That is what Senator Mowery's point is, and Senator Fumo raised that, said it is fantasy, it is Christmas. We are showing that we are very serious about a means by which to pay for it, and I would suggest, Mr. President, that it is quite germane.

The PRESIDENT. The Chair thanks the gentleman, and upon reconsideration does not find the gentleman's comments to be out of order. The Chair would, however, appreciate approaching summation at some point in the immediate future.

The Chair recognizes the gentleman from Cumberland, Senator Mowery.

Senator MOWERY. Mr. President, I hope to do that. I will eliminate the reference to Senate Bill No. 1411 because I also have it prepared as an amendment to this bill, so I will speak to the amendment that I feel would be proper if we were allowed to amend the bill.

I believe that the \$54 million would go an awful long way to creating the loss carryforward provision which, in effect, would help create jobs for the small business community, hire our people in Pennsylvania, and give them a Christmas present. You know, you can talk all you want to whether we agree or whether we do not agree as to the right way to do it, but I am certainly looking forward to the opportunity here next week to hear about how this administration is going to provide all these tax cuts to allow the business community to begin to hire and begin to create jobs for Pennsylvania.

So I would just like to, in conclusion, Mr. President, say that if we are really serious, then let us amend the bill as it is now. Let us put some real money—you know those WAMs, that is real money. We have seen it crop up in many different places over Pennsylvania, and I am willing to give up mine. I think there are probably enough others who would give up theirs if we could really do something to help create jobs and a better business climate for our people in Pennsylvania.

Thank you very much, Mr. President.

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

Senator HART. Mr. President, I feel the need to rise again on this issue to respond to a couple of my colleagues on the other side of the aisle and, I guess, discuss a little more how

important it is for us to open our eyes here in the Commonwealth to the exact situation.

When we left here in June, we were all in agreement that some business taxes needed to happen and a bill was hurriedly introduced in the last month we were here in Session. Without the opportunity to have hearings, we voted on the bill. We decided it was not the best solution. We spent the intervening months in our districts discussing the issue with businesses. I did not hear any of those, none of those people were in support of Senate Bill No. 1190 as a solution to our problems here in the Commonwealth. I have discussed with many of them what their priorities are, and they said that that bill will make no difference to them. What they need is a reduction in the CNI of more than what is proposed in Senate Bill No. 1190.

We need to take this issue seriously, Mr. President, and for those on the other side of the aisle who accuse us of being partisan and trying to take credit for something that we must do here, it is not a partisan issue, it is an important issue. It is quite partisan behavior to prevent the Republicans, or anyone, for that matter, from amending a bill that is very important to this Commonwealth. This is not a joke, this is a very serious matter. People are unemployed. There are more unemployed every day in this Commonwealth. Those of you who are from the eastern part of the State may not be feeling it as much as we in the west, but this is a very important issue. And to discount amendments that have been prepared and discussed with our constituency over the last 5 1/2 months, Mr. President, is definitely a sham.

Thank you, Mr. President.

The PRESIDENT. On the question, the Chair recognizes the gentleman from Mercer, Senator Robbins.

Senator ROBBINS. Mr. President, when this bill was brought up last summer I got up to speak briefly, and I will speak briefly again.

But when you talk about the utilities tax and you talk about a shifting of that tax, this summer when I stood with Hands Across the Shenango Valley, with the workers from Shenango Quality Products who are trying to put together an employee buyout, one of the biggest parts of that business plan had to do with the utility costs for that foundry. I did not see too many rich people there that day. I saw a lot of children, a lot of mothers, a lot of young people, a lot of older gentlemen who have worked a long time in the mill who wanted to preserve their jobs. I saw a community that got together to try to find a way. I saw the State of Pennsylvania put in some money to study an employee buyout. I saw a lot of activity this summer to deal with trying to save that business, along with other businesses in our area like Sharon Steel, you go to Titusville and Seaside Temp where the employees are trying to save that industry. You are talking about manufacturing jobs that have a high utility cost. That is a large part of their business plan, and it certainly is going to mean jobs, and it is going to mean well-paying jobs in areas in which I do not see unemployment coming down as in the rest of the State and the rest of the nation. I think that this is not a cost shift. I think, in effect, when we look at the net of this bill, we are going to see job loss and

we are going to see good, well-paying jobs for people who have worked in those foundries and who today are doing everything conceivable to try to save their jobs.

Thank you, Mr. President.

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

PARLIAMENTARY INQUIRY

Senator BELL. Mr. President, point of parliamentary inquiry.

The PRESIDENT. The gentleman will state his point.

Senator BELL. Mr. President, I own electric company stock in Pennsylvania corporations and my wife owns. Am I entitled to vote?

The PRESIDENT. The Chair would advise the gentleman that, indeed, he is part of a class--

Senator BELL. And I am also not a friend of them.

The PRESIDENT. The Chair would advise the gentleman that, indeed, he is part of a class of individuals and that he is not only entitled to vote but required to vote on the matter.

Senator BELL. Thank you, Mr. President.

And the question recurring,

Shall the bill pass finally?

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

Senator JUBELIRER. Mr. President, just a few comments, if I might. I frankly think at least there has been some debate on this and that is healthy, because as I indicated earlier, we are a deliberative body. I only wish that there could be amendments out there that each of us could have the opportunity to debate, to compromise, to negotiate. Whatever it takes, that is what this body is going to have to do. The gentleman from Lackawanna, Senator Mellow, I think said it very well, that we are here to try to get the job done. Whether that is pontificating or debating, whatever it might be, I am not offended. I think it is important that we get the issue before the body. There is going to have to be a bipartisan solution to it. We know that. The numbers are there.

We also know, Mr. President, that the bill that is before us has been opposed time and again by the Pennsylvania Chamber of Commerce, by the NFIB, the National Federation of Independent Business. Your major business groups have opposed this, so it is not like we are doing them a great favor, because they know very well that the increase in the electric utility is going to be passed on to them and the consumer is going to be the ultimate. It is not the rich utilities or anything like that, because it is ridiculous to suggest that anybody is protecting anybody, other than the fact that each of us is trying to be a part of the process, to come to the table to be able to have some indication. This bill was not introduced, Mr. President, until after the budget passed. It was introduced on June 2. It was not reported from the Committee on Appropriations until June 21, and it was voted on June 22, and that is when there was a 24-24 vote, after the budget was passed. We offered amendments prepared by this side on June 23, and we were

never able to consider the amendments since the bill was taken away from us at that time.

It seems to me, Mr. President, that it is a good idea to set the parameters that we, the General Assembly, speak, that the Senate speak, and hopefully the House, prior to the budget being considered for the 1994-1995 fiscal year. I think we need to make a statement that that is what we want to do. I think we need to discuss this in a bipartisan fashion.

I think it is also important to set the record straight on a couple of other things, Mr. President. That 1991 summer was probably as difficult a summer as any of us have ever spent. Certainly, I was here all summer. I think it is important to note that we vehemently opposed the removal of the manufacturers' exemption on the Capital Stock and Franchise Tax because we were pretty much informed at that time that that would be a disaster. The same thing as with the treatment of the subchapter S corporations. Nobody wanted to take the NOL, the net operating loss carryforward, and do away with it. And whatever we did at that time, yes, there were votes on this side of the aisle, and they were very painful votes, but I think at the time we said that when the opportunity provided itself, we wanted to recant, that we wanted to be able to send a signal to businesses as soon as we could that we clearly wanted to cut these taxes whenever we could. I think the opportunity is before us and I do not think it takes a shift at the time. I think we can be revenue neutral.

For the record, too, Mr. President, on August 3, 1991, the gentleman from Philadelphia, Senator Fumo, and 48 of our colleagues voted for a tax amnesty measure contained in Senate Bill No. 1059. And while Senate Bill No. 1059 was sponsored by the gentleman from Allegheny, Senator Fisher, many of its provisions were drawn from Senate Bill No. 652, another tax amnesty bill sponsored by the gentleman from Lackawanna, Senator Mellow, and 10 of his fellow Democrats. There is nothing new under the sun, Mr. President, as the saying goes. I think we are all here trying to find a solution. Frankly, I do not think name-calling is a solution. I think that we can sit down as reasonable people and try to come up with some kind of a compromise, and if, as the gentleman from Lackawanna, Senator Mellow, has indicated, the other side has not had time to look over the amendments, I think if there is an indication that that is the thing holding up, I think we can agree to try to put this over until tomorrow until the amendments are looked at. Perhaps we can discuss it and maybe we can even come back with a bipartisan version. If that is the offer that is being made, we would certainly be amenable to that. But I think that the important thing is that if there are going to be business tax cuts, tax cuts that can be supported by both sides of the aisle and by the business community, then we need to somehow come to a solution, and maybe there are some things here that will be palatable. We do not suggest there is any Santa Claus who is going to pay for this. We have some plans and we would offer those plans, given the opportunity.

Mr. President, at the appropriate time, and I do not want to shut off the gentleman from Lackawanna, Senator Mellow, because I know he wants to speak, but at the appropriate time

it would be my intention, if you would recognize me, and I state this for the record—I am not interested in any surprises—that I would like to move to suspend the rules, Rule XIII, section 16(a), to permit offering amendments to eliminate tax increases in the bill and replace them with a balanced package of amendments providing for business relief and a way to pay for that relief, and I would like to do that, to suspend that so we can offer it on final consideration. I am saying this because I am throwing it out as a means by which we once again can get to the amendment process, and, again, I will not do that because I think that the gentleman from Lackawanna, Senator Mellow, ought to have an opportunity to speak on this, but I do want to do that at the appropriate time. And, again, if there is some means by which this debate has brought to light a means by which perhaps we can reason together, then we are prepared to do that.

As I say, there is nothing new under the sun, Mr. President. We have debated this, we have a difference of opinion on the utility tax increase, and I think that is legitimate. We believe that it is not anybody but the consumer who will suffer under a proposal like that. We believe that there are funds out there that are real, that are genuine and that can be utilized to pay for business tax cuts that mean jobs, jobs for Pennsylvanians, a State which has been hit hard, and I think the gentlewoman from Allegheny, Senator Hart, and others have said western Pennsylvania perhaps more than the rest of the State. And so, Mr. President, I make that offer. I hope it will be taken in the light that all of us can — there is certainly plenty of credit to be gained out of this, and at the appropriate time after the debate is over on this, I would like to be recognized to move the suspension of that rule.

Thank you, Mr. President, for the opportunity to make these remarks.

The PRESIDENT. And the Chair does recognize the gentleman from Lackawanna, Senator Mellow.

The PRESIDENT pro tempore. Mr. President, just for a point of clarification, when the gentleman from Allegheny, Senator Dawida, held the committee meeting for the Committee on Finance for the purpose of reporting Senate Bill No. 1190 from committee, there were two Members of the Republican Party at that meeting who serve as members of the committee who had a letter from the Chamber of Commerce, and that letter from the Pennsylvania State Chamber of Commerce was a position against Senate Bill No. 1190. They, in fact, had the letter before the Majority chairman had his copy of the letter. I questioned the Pennsylvania State Chamber of Commerce about the position they have taken. Why did they do that and why did they, in fact, not discuss their position with the sponsor of the proposal? They went on and told me without question, without equivocation, that they were put in a position by the Republican Party in the Senate. They were lobbied by the Republican Party of the Senate to take a strong position against the bill not on the floor of the Senate, because they did not even know what the bill might be on the floor—it could have been amended in committee—but absolutely to take that position in the meeting of the Committee on Finance, that

they would have a letter produced for them. The Chamber of Commerce told me this in a meeting in my office and said that they felt uncomfortable about the fact that they had to do that, but felt that they had no choice.

I also, Mr. President, would like to inform the Members of the Senate, for those who may not recall, that tax amnesty was something that I authored many years ago, and the Republican Party in the Senate, who then controlled the mechanism and the flow of legislation through this body, would, in fact, not report it out of committee. They would not take my proposal, which was introduced Session after Session, of honest tax amnesty. Not tax amnesty for people who have cheated the government. Not tax amnesty for those people who are already under audit because of doing something that was inappropriate. Not tax amnesty for those people who have not paid their fair share, but tax amnesty for people who made honest mistakes in filing their tax returns, whether it be a business, small business, large business, or an individual. Senator Jubelirer, as the President pro tempore of the Senate, and Senator Loeper, as the Majority Leader of the Senate at the time, would not have that bill reported from the Committee on Finance, which was then controlled by the Republicans. Then, and only then, did the gentleman from Allegheny, Senator Fisher, take my bill, redraft it under his name, offer some other things into the bill, and then report it to the floor of the Senate, which Senator Jubelirer talked about. The amnesty proposal, the loss carryforward proposal, Mr. President, were not initiatives that were first discussed and were first initiated by the Republican Caucus. They were initiatives that were discussed and initiated by the Democratic Caucus.

And finally, Mr. President, the discussion to remove the loss carryforward provision took place at approximately 1:30 in the morning in a discussion that the Democratic leadership had in my office with the gentleman from Philadelphia, Senator Fumo, and the gentleman from Fayette, Senator Lincoln, and other members of Democratic leadership at the time, and as a joke, it was suggested, why do not you call up the Republicans and see if they will accept the elimination of the loss carryforward provision, which basically none of us wanted to see happen. The answer was, we will call you back in 15 minutes. If I am not mistaken, at that point in time, the price tag was somewhere in the vicinity of \$60 million. At least that is what we thought it was. Fifteen minutes later, the phone call came back and they said, we will accept the elimination of the loss carryforward provision. So if we are going to say the story, let us say it the way Paul Harvey does, there is the rest of the story.

Let us make sure we get all the facts and the figures on the floor of this body. Tax amnesty was not something that was initiated by the Republican Party in this Senate. The loss carryforward provision was not something that was initiated by the Republican Party in this Senate, and from the words of the State Chamber of Commerce itself, the Republican Party in the Senate lobbied for the letter to take the position against the final passage of Senate Bill No. 1190, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Fumo.

Senator FUMO. Mr. President, it has been said that I voted for a tax amnesty bill. The tax amnesty bill that I voted for was not the one that has been proposed in this amendment we have seen, which is the one that the Republicans would like to offer here. The tax amnesty bill that I voted for and I continue to support, and I will not support any other, did not help tax deadbeats who were already identified by the Department of Revenue. That helps crooks, and I will not help crooks, Mr. President.

Mr. President, when we talk about the fact that the gentleman from Blair, Senator Jubelirer, says in 1991 that they wanted to send back the signal to the business community as soon as they could, that is not true, because in June when we offered this they did not want to send any signals.

Mr. President, when I hear two of the gentlemen on that side of the aisle talk about WAMs, I will gladly take their allocations. Let me know how much they are. We will put them into a pool, and if everybody on that side of the aisle grows and they all want to give up their WAM money, I think that is terrific. We ought to find a tax that you can cut with that money. I have no problem with that. I am not giving up my money for that, but if you want to give up yours for that, that is admirable. I do not necessarily think it is the right thing to do for your constituents back home, but some of you who just got here do not have any, maybe. And, Senator Bell, I do not know how much you have out there, but if you want to allocate that money, talk to your Committee on Appropriations chairman, add it all up, let us get a number, and we will find a tax to cut with that. We will not do that on this side of the aisle.

The PRESIDENT. Will the gentleman yield for just a second.

The Chair recognizes the gentleman from Cumberland, Senator Mowery.

Senator MOWERY. Mr. President, point of clarification.

The PRESIDENT. The gentleman will state his point of clarification.

Senator MOWERY. Mr. President, I would like for the current speaker to understand that my bill calls for the elimination of all WAMs, including his, not just my own.

The PRESIDENT. The Chair thanks the gentleman. I think that was understood.

Senator FUMO. Mr. President, I fully understand that. But if the gentleman really wants to put his money where his mouth is, he ought to put his own personal money where his mouth is, and we will take his money and find some tax to reduce in the General Fund.

POINT OF ORDER

Senator JUBELIRER. Mr. President, a point of order, if I may, please.

Senator FUMO. Now what?

The PRESIDENT. The gentleman will state his point of order.

Senator JUBELIRER. Mr. President, I have worked extra hard to keep this debate on a high level without personal characterizations, and I would ask, Mr. President, that you admonish the current speaker to do the same. We need to keep the debate on the issue, not on the gentleman from Cumberland, Senator Mowery. He does not have to accept the "put your money where your mouth is" and that kind of talk. I think it is beneath the dignity of a Member of the Senate to say it, and I certainly think this Senate deserves better.

The PRESIDENT. The gentleman may be correct in that the phrasing was perhaps a little indelicate, but the Chair would remind the gentleman that the speaker and the previous speaker brought up the whole concept of WAMs and injected that into the debate. The Chair would simply suggest to Senator Fumo that he proceed with a more genteel approach.

Senator FUMO. Thank you, Mr. President, but as a trial lawyer I have been taught that when somebody opens the door, you are allowed to go in.

Mr. President, also, people should understand, despite what they say about electric rates and companies that need electricity, there is no pass-through in this bill. It is specifically prohibited. And, Mr. President, as was said earlier by the gentleman from Lackawanna, Senator Mellow, those same electric utility companies have saved hundreds of millions of dollars in refinancing the debt on their bonds. Mr. President, if they want to come in and ask for a rate increase, they will be hard-pressed to do so. I suspect they will definitely stay out. And, Mr. President, speaking for the PUC commissioners whom I know there and the ones we have confirmed, the Democrats there, I am sure would not allow any utility to pass through this type of a tax.

Mr. President, in short, if we talk about the amounts of money that have been talked about in WAMs, it is \$54 million. That does not equate with what we are talking about here. We are talking about a \$140 million bill. All the WAMs do not add up to that, even if you throw in Matty Ryan's \$40 million that he runs over there like a bank. If we had his money too, it still does not add up to anywhere near the \$140 million that would be generated by this fat cat tax.

Mr. President, in closing, I must say if you want to do a tax reduction for business, there is no other way to do it this year. You can sit over there and cry and moan and do whatever you want to do and find a million excuses for voting the wrong way today, but if you want a business tax decrease in this fiscal year, this is the only way you are going to get it. It is now December. There is no other way, Mr. President. We are going to be into the budget negotiations. There will be, there will be a business tax cut next year, and it is a Democratic initiative to do that. I hope I can hold all my Members in line to vote for it. But, Mr. President, that is next year. If you want to waste this \$140 million, if you want to deprive businesses in Pennsylvania of their reduction in the corporate net income tax and if you also want to deprive those businesses that need it of the deduction from the net operating loss carryforward deduction this year, this is the only way you are going to do it. You can kid yourself, you can cry like a baby, you can

moan and do whatever you want to do. There is no other way to do it.

So if you are serious about it, if you want to give up the rhetoric and get some action, vote "yes" today. I suspect you are not. I suspect it is a con game so you can continue rhetoric and try to con the business community. But, quite frankly, Mr. President, I do not think they are that dumb. Certainly, I know my Chamber of Commerce is not.

Mr. President, despite what the gentlewoman from Allegheny, Senator Hart, seems to indicate, I did talk to my business people during the time we were out—which, by the way, was shorter than the time I was out when Senator Hager ran out of here for Thornburgh's election—but, Mr. President, I talked to my business people. They would like to have a tax reduction. This is the way they are going to get it. They like what we are doing here today, Mr. President. Joe Pacquett does not. He is a friend of mine. I told him, business is business. This is for the good of the Commonwealth. Mr. President, he can afford to take the hit, believe me.

Thank you.

LEGISLATIVE LEAVE

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

Senator LOEPER. Mr. President, Senator Fisher 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 Fisher. The Chair hears no objection. That leave will be granted.

And the question recurring,
Shall the bill pass finally?

MOTION TO SUSPEND THE RULES

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

Senator JUBELIRER. Mr. President, I move to suspend Rule XIII, subsection 16(a), so that amendments that I referred to can be offered on final passage.

The PRESIDENT. Senator Jubelirer moves that Rule XIII, subsection 16(a), be suspended for the consideration of amendments to a bill on final passage.

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

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

Senator LINCOLN. Mr. President, I oppose that motion and ask for a negative vote.

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

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

YEAS—25

| | | | |
|------------|-----------|----------|-----------|
| Armstrong | Greenleaf | Lemmond | Rhoades |
| Baker | Hart | Loeper | Robbins |
| Bell | Heckler | Madigan | Salvatore |
| Brightbill | Helfrick | Mowery | Shaffer |
| Corman | Holl | Peterson | Shumaker |
| Fisher | Jubelirer | Punt | Tilghman |
| | | | Wenger |

NAYS—25

| | | | |
|------------|---------|-------------|-----------|
| Afferbach | Fattah | Mellow | Scanlon |
| Andrezeski | Fumo | Musto | Schwartz |
| Belan | Jones | O'Pake | Stapleton |
| Bodack | LaValle | Pecora | Stewart |
| Bortner | Lewis | Porterfield | Stinson |
| Dawida | Lincoln | Reibman | Stout |
| | | | Williams |

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

The PRESIDENT. The vote on the motion to suspend the rules is "ayes," 25; "nays," 25. The "ayes" not having received the proper number of affirmative votes, the motion fails.

And the question recurring,
Shall the bill pass finally?

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

YEAS—25

| | | | |
|------------|---------|-------------|-----------|
| Afferbach | Fumo | Musto | Schwartz |
| Andrezeski | Jones | O'Pake | Stapleton |
| Belan | LaValle | Pecora | Stewart |
| Bodack | Lewis | Porterfield | Stinson |
| Bortner | Lincoln | Reibman | Stout |
| Dawida | Mellow | Scanlon | Williams |
| Fattah | | | |

NAYS—25

| | | | |
|------------|-----------|----------|-----------|
| Armstrong | Hart | Loeper | Robbins |
| Baker | Heckler | Madigan | Salvatore |
| Bell | Helfrick | Mowery | Shaffer |
| Brightbill | Holl | Peterson | Shumaker |
| Corman | Jubelirer | Punt | Tilghman |
| Fisher | Lemmond | Rhoades | Wenger |
| Greenleaf | | | |

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

The PRESIDENT. The vote on final passage of Senate Bill No. 1190 is "ayes," 25; "nays," 25. This bill, not having received the appropriate number of affirmative votes on final passage, fails passage.

RECONSIDERATION OF SB 1190

Senator LINCOLN. Mr. President, I move that we reconsider the vote by which Senate Bill No. 1190 failed on final passage.

The motion was agreed to.

On the question,
Shall the bill pass finally?

BILL REREFERRED

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

Senator LINCOLN. Mr. President, I move that Senate Bill No. 1190 be rereferred to the Committee on Rules and Executive Nominations.

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

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

Senator JUBELIRER. Mr. President, I object to the motion made by the gentleman from Fayette, Senator Lincoln, to rerefer a bill that is a vehicle for significant tax cuts and business tax cuts in Pennsylvania, meaning jobs for Pennsylvania. We believe that the opportunity ought to -- at least with the bill on the Calendar, perhaps there might be some movement. We might be able to offer amendments that can be agreed to by both sides. So for that reason, Mr. President, I would ask for a "no" vote.

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

Senator LINCOLN. Mr. President, I find it somewhat amusing that the gentleman would talk about opportunity when two times now this bill has failed to have a Republican vote on final passage. I can assure the gentleman that I have as much interest in reducing business taxes, only I think my approach may be a little more responsible than his, although he probably would disagree with that. But I would tell him that as long as I am chairman of the Committee on Rules and Executive Nominations, this bill will be first and foremost in my thoughts, and on the first day that there seems to be a little movement towards a responsible reduction in business taxes, I will schedule this bill for a meeting and have it back on this floor for a final passage vote within 24 hours.

I believe that is the safest place to put this now, simply because I am concerned about being responsible at a time when we are just a fortnight away from hearing the message that will tell us what we have available beyond this. We may be able to do this particular tax reduction and a more considerable tax reduction, but I think we ought to do it with all the facts available, and that is why I would insist on my motion and ask that we move this bill back to the Committee on Rules and Executive Nominations.

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

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

YEAS—25

| | | | |
|------------|---------|-------------|-----------|
| Afflerbach | Fumo | O'Pake | Stapleton |
| Andrezski | Jones | Pecora | Stewart |
| Belan | LaValle | Porterfield | Stinson |
| Bodack | Lewis | Reibman | Stout |
| Bortner | Lincoln | Scanlon | Williams |
| Dawida | Mellow | Schwartz | |
| Fattah | Musto | | |

NAYS—25

| | | | |
|------------|-----------|----------|-----------|
| Armstrong | Hart | Loeper | Robbins |
| Baker | Heckler | Madigan | Salvatore |
| Bell | Helfrick | Mowery | Shaffer |
| Brightbill | Holl | Peterson | Shumaker |
| Corman | Jubelirer | Punt | Tilghman |
| Fisher | Lemmond | Rhoades | Wenger |
| Greenleaf | | | |

The PRESIDENT. The vote on the motion is "ayes," 25; "nays," 25. The Chair exercises its prerogative to vote in the affirmative. Therefore, the official vote is as follows:

YEAS—26

| | | | |
|------------|---------|-------------|---------------|
| Afflerbach | Fumo | O'Pake | Stapleton |
| Andrezski | Jones | Pecora | Stewart |
| Belan | LaValle | Porterfield | Stinson |
| Bodack | Lewis | Reibman | Stout |
| Bortner | Lincoln | Scanlon | Williams |
| Dawida | Mellow | Schwartz | THE PRESIDENT |
| Fattah | Musto | | |

NAYS—25

| | | | |
|------------|-----------|----------|-----------|
| Armstrong | Hart | Loeper | Robbins |
| Baker | Heckler | Madigan | Salvatore |
| Bell | Helfrick | Mowery | Shaffer |
| Brightbill | Holl | Peterson | Shumaker |
| Corman | Jubelirer | Punt | Tilghman |
| Fisher | Lemmond | Rhoades | Wenger |
| Greenleaf | | | |

The PRESIDENT. Senate Bill No. 1190 will be rereferred to the Committee on Rules and Executive Nominations.

THIRD CONSIDERATION CALENDAR

BILL RECOMMITTED

SB 737 (Pr. No. 1484) -- The Senate proceeded to consideration of the bill entitled:

An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, further providing for watershed land.

Upon motion of Senator LINCOLN, and agreed to, the bill was recommitted to the Committee on Environmental Resources and Energy.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 820 (Pr. No. 893) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of July 28, 1953 (P. L. 723, No. 230), entitled, as amended, "Second Class County Code," creating an operating reserve fund.

Considered the third time and agreed to,

On the question, Shall the bill pass finally?

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

YEAS—49

Table listing names of senators in support (YEAS) including Afflerbach, Andrezeski, Armstrong, Baker, Belan, Bell, Bodack, Bortner, Brightbill, Corman, Dawida, Fattah, Fisher, Fumo, Greenleaf, Hart, Heckler, Helfrick, Holl, Jones, Jubelirer, LaValle, Lemmond, Lewis, Lincoln, Loeper, Madigan, Mellow, Mowery, Musto, O'Pake, Pecora, Peterson, Porterfield, Punt, Reibman, Rhoades, Robbins, Salvatore, Scanlon, Schwartz, Shaffer, Shumaker, Stapleton, Stinson, Stout, Wenger, and Williams.

NAYS—1

Tilghman

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 889 and HB 1003 -- Without objection, the bills were passed over in their order at the request of Senator LINCOLN.

BILL ON THIRD CONSIDERATION AMENDED

SB 1022 (Pr. No. 1533) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), entitled "The Administrative Code of 1929," providing for the recognition of the Pennsylvania Geographic Alliance; imposing powers and duties on the Secretary of Education; providing for powers and duties of the Department of Environmental Resources to regulate commercial dredging in the Allegheny River; and making an appropriation.

On the question, Will the Senate agree to the bill on third consideration? Senator STAPLETON, by unanimous consent, offered the following amendment No. A4653:

Amend Title, page 1, lines 22 through 25, by striking out "PROVIDING" in line 22, all of lines 23 and 24 and "RIVER;" in line 25

Amend Preamble, page 2, lines 9 through 30; page 3, lines 1 through 30; page 4, lines 1 through 4, by striking out all of said lines on said pages and inserting: This legislation is enacted in recognition of the importance of geography education and in recognition of the fact that in a global society, a greater knowledge and understanding of the geography of the world and its people will contribute to a more aware and better-educated populace. It is further enacted in recognition of the fact that all students in the elementary and secondary schools of this Commonwealth should have the opportunity to learn about the world through a comprehensive geography education. It is the purpose of this act to assist the Pennsylvania Geographic Alliance in affording students the opportunity to learn about the world they live in.

Amend Bill, page 5, lines 16 through 30; pages 6 through 8, lines 1 through 30, by striking out all of said lines on said pages

Amend Sec. 4, page 9, line 1, by striking out "4" and inserting:

Amend Sec. 5, page 9, line 17, by striking out "5" and inserting:

Amend Sec. 6, page 9, line 21, by striking out "6" and inserting:

Amend Sec. 7, page 9, line 23, by striking out "7" and inserting:

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.

BILL OVER IN ORDER

SB 1046 -- Without objection, the bill was passed over in its order at the request of Senator LINCOLN.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1096 (Pr. No. 1252) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for exceptions to the prohibition relating to hearing impairment devices.

Considered the third time and agreed to,

On the question, Shall the bill pass finally?

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

YEAS—50

Table listing names of senators in support (YEAS) including Afflerbach, Andrezeski, Armstrong, Baker, Belan, Bell, Bodack, Bortner, Brightbill, Corman, Fumo, Greenleaf, Hart, Heckler, Helfrick, Holl, Jones, Jubelirer, LaValle, Lemmond, Madigan, Mellow, Mowery, Musto, O'Pake, Pecora, Peterson, Porterfield, Punt, Reibman, Salvatore, Scanlon, Schwartz, Shaffer, Shumaker, Stapleton, Stewart, Stinson, Stout, and Tilghman.

| | | | |
|--------|---------|---------|----------|
| Dawida | Lewis | Rhoades | Wenger |
| Fattah | Lincoln | Robbins | Williams |
| Fisher | Loeper | | |

NAYS—0

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

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

BILLS OVER IN ORDER

SB 1101 and **HB 1462** -- Without objection, the bills were passed over in their order at the request of Senator LINCOLN.

SECOND CONSIDERATION CALENDAR

BILL ON SECOND CONSIDERATION

SB 1089 (Pr. No. 1231) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 1 (General Provisions) of the Pennsylvania Consolidated Statutes, further providing for the construction of instruments, including statutes and certain other public and private documents; and making repeals of certain laws enacted through December 31, 1800.

Considered the second time and agreed to,

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

REPORT FROM COMMITTEE ON RULES AND EXECUTIVE NOMINATIONS

Senator AFFLERBACH, by unanimous consent, from the Committee on Rules and Executive Nominations, reported the following nominations, received from the office of His Excellency, the Governor of the Commonwealth, which were read by the Clerk as follows:

MEMBER OF THE STATE BOARD OF COSMETOLOGY

September 13, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Melissa Chapman, 537 West Market Street, Marietta 17547, Lancaster County, Thirty-sixth Senatorial District, for appointment as a member of the State Board of Cosmetology, to serve for a term of three years and until her successor is appointed and qualified, but not longer than six months beyond that period, vice Regina Schrenko, Northampton, whose term expired.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

MEMBER OF THE BOARD OF TRUSTEES OF DANVILLE STATE HOSPITAL

May 10, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Ginny Brennan McNeil, R. R. #1, Box 991, Paxinos 17860, Northumberland County, Twenty-seventh Senatorial District, for appointment as a member of the Board of Trustees of Danville State Hospital, to serve until the third Tuesday of January 1995, and until her successor is appointed and qualified, vice Edward Reeser, Milton, resigned.

ROBERT P. CASEY
Governor

DISTRICT JUSTICE

November 17, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Eileen Conroy, 3385 Parkview Avenue, Pittsburgh 15213, Allegheny County, Thirty-eighth Senatorial District, for appointment as District Justice, in and for the County of Allegheny, Magisterial District 5-2-27, to serve until the first Monday of January 1994, vice Nicholas A. Diulus, mandatory retirement.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

DISTRICT JUSTICE

September 3, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Brian K. Baker, R.D. 1, Box 28A, Saxton 16678, Bedford County, Thirtieth Senatorial District, for appointment as District Justice, in and for the County of Bedford, Magisterial District 57-3-03, to serve until the first Monday of January 1994, vice Charles O. Guyer, resigned.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

DISTRICT JUSTICE

August 26, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Alfred B. Coleman, 1195 William Penn Avenue, Conemaugh 15909, Cambria County, Thirty-fifth Senatorial District, for appointment as District Justice, in and for the

County of Cambria, Magisterial District 47-3-01, to serve until the first Monday of January 1996, vice Stephen J. Yesenosky, resigned.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

DISTRICT JUSTICE

November 15, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Daniel R. Hoffman, II, 805 Seibert Road, Bellefonte 16823, Centre County, Thirty-fourth Senatorial District, for appointment as District Justice, in and for the County of Centre, Magisterial District 49-3-02, to serve until the first Monday of January 1994, vice Robert T. May, mandatory retirement.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

DISTRICT JUSTICE

September 3, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Rocco Gaspari, 1689 Hewes Avenue, Lower Chichester 19061, Delaware County, Ninth Senatorial District, for appointment as District Justice, in and for the County of Delaware, Magisterial District 32-1-36, to serve until the first Monday of January 1994, vice George W. Paige, mandatory retirement.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

DISTRICT JUSTICE

October 19, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Thomas A. Palladino, 640 Morello Drive, Stowe 19464, Montgomery County, Forty-fourth Senatorial District, for appointment as District Justice, in and for the County of Montgomery, Magisterial District 38-1-11, to serve until the first Monday of January 1994, vice Charles A. Dasch, mandatory retirement.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

**MEMBER OF THE BOARD OF TRUSTEES OF
EASTERN STATE SCHOOL AND HOSPITAL**

October 28, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Lucille Wienczkowski, 1110

Stanley Avenue, Bethlehem 18015, Lehigh County, Sixteenth Senatorial District, for reappointment as a member of the Board of Trustees of Eastern State School and Hospital, to serve until the third Tuesday of January 1999, and until her successor is appointed and qualified.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

MEMBER OF THE HEALTH POLICY BOARD

June 28, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Daniel Milliron, 101 South Beckman Drive, Altoona 16602, Blair County, Thirtieth Senatorial District, for appointment as a member of the Health Policy Board, to serve for a term of one year and until his successor is appointed and qualified, pursuant to Act 179, approved December 18, 1992.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

**MEMBER OF THE STATE BOARD
OF MEDICINE**

June 28, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Oliver Morris Johnson, II, Esquire (Public Member), 69 Radcliff Drive, Doylestown 18901, Bucks County, Tenth Senatorial District, for appointment as a member of the State Board of Medicine, to serve for a term of four years or until his successor is appointed and qualified, but not longer than six months beyond that period, vice Gerald A. Chesin, Ph.D., resigned.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

**MEMBER OF THE MUNICIPAL POLICE
OFFICERS' EDUCATION AND
TRAINING COMMISSION**

May 10, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Violet L. Stover, 112 Penn Street, Millheim 16854, Centre County, Thirty-fourth Senatorial District, for reappointment as a member of the Municipal Police Officers' Education and Training Commission, to serve until February 21, 1996 and until her successor is appointed and qualified.

ROBERT P. CASEY
Governor

MEMBER OF THE STATE BOARD
OF NURSING

August 2, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Kathryn H. Aumiller, 706 Linwood Street, New Cumberland 17070, Cumberland County, Thirty-first Senatorial District, for appointment as a member of the State Board of Nursing, to serve for a term of six years and until her successor is appointed and qualified, but not longer than six months beyond that period, vice Ruby L. Bollinger, Manheim, whose term expired.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

MEMBER OF THE STATE BOARD
OF NURSING

June 28, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Betty McFarland, 1757 Perry Highway, Volant 16156, Mercer County, Fiftieth Senatorial District, for appointment as a member of the State Board of Nursing, to serve for a term of six years or until her successor is appointed and qualified, but not longer than six months beyond that period, vice H. Jean Bruhn, Lancaster, resigned.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

MEMBER OF THE STATE BOARD
OF OCCUPATIONAL THERAPY
EDUCATION AND LICENSURE

August 2, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Patricia Sharer, 90 Providence Avenue, Doylestown 18901, Bucks County, Tenth Senatorial District, for appointment as a member of the State Board of Occupational Therapy Education and Licensure, to serve for a term of three years and until her successor is appointed and qualified, but not longer than six months beyond that period, vice Samuel E. Bishop, Philadelphia, terminated.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

MEMBER OF THE BOARD OF TRUSTEES OF
THE PENNSYLVANIA STATE UNIVERSITY

July 2, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Donald R. Lamuth, 1907 O'Block Road, Pittsburgh 15239, Allegheny County, Forty-fifth Senatorial District, for appointment as a member of the Board of Trustees of The Pennsylvania State University, to serve until July 1, 1996 and until his successor is appointed and qualified, vice Edward J. Shaffer, Jr., Tunkhannock, whose term expired.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

COMMONWEALTH TRUSTEE OF THE
UNIVERSITY OF PITTSBURGH--
OF THE COMMONWEALTH SYSTEM
OF HIGHER EDUCATION

June 7, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Frank J. Lucchino, 1717 North Negley Avenue, Pittsburgh 15206, Allegheny County, Thirty-eighth Senatorial District, for reappointment as a Commonwealth Trustee of the University of Pittsburgh--of the Commonwealth System of Higher Education, to serve until October 5, 1995, and until his successor is appointed and qualified.

ROBERT P. CASEY
Governor

MEMBER OF THE STATE REGISTRATION
BOARD FOR PROFESSIONAL ENGINEERS,
LAND SURVEYORS AND GEOLOGISTS

August 26, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Ronald L. Schrock, 602 Tayman Avenue, Somerset 15501, Somerset County, Thirty-second Senatorial District, for appointment as a member of the State Registration Board for Professional Engineers, Land Surveyors and Geologists, to serve for a term of six years or until his successor is appointed and qualified, but not longer than six months beyond that period, pursuant to Act 151, approved December 16, 1992.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

MEMBER OF THE STATE REGISTRATION
BOARD FOR PROFESSIONAL ENGINEERS,
LAND SURVEYORS AND GEOLOGISTS

August 26, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Richard E. Wright, 3240 Schoolhouse Road, Middletown 17057, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Registration Board for Professional Engineers, Land Surveyors and Geolo-

gists, to serve for a term of four years or until his successor is appointed and qualified, but not longer than six months beyond that period, pursuant to Act 151, approved December 16, 1992.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

PROTHONOTARY, CARBON COUNTY

August 3, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, William J. O'Gurek, 228 West Hazard Street, Summit Hill 18250, Carbon County, Twenty-ninth Senatorial District, for appointment as Prothonotary, in and for the County of Carbon, to serve until the first Monday of January 1994, vice Patrick E. Gallagher, resigned.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

MEMBER OF THE STATE REAL ESTATE COMMISSION

June 23, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Joseph Tarantino, Jr., 1030 Yellow Springs Road, Malvern 19355, Chester County, Nineteenth Senatorial District, for appointment as a member of the State Real Estate Commission, to serve for a term of five years or until his successor is appointed and qualified, but not longer than six months beyond that period, vice Edmund C. Wideman, Jr., Kingston, deceased.

MARK S. SINGEL
Lieutenant Governor
Acting Governor

MEMBER OF THE STATE BOARD OF SOCIAL WORK EXAMINERS

August 2, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Karen Marie McClarnon, 333 Broad Street, Butler 16001, Butler County, Twenty-first Senatorial District, for appointment as a member of the State Board of Social Work Examiners, to serve for a term of four years and until her successor is appointed and qualified, but not longer than six months beyond that period, vice John R. Baublitz, Erie, whose term expired.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

MEMBER OF THE BOARD OF TRUSTEES OF SOUTH MOUNTAIN RESTORATION CENTER

May 10, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, David G. Sciamanna, 575 Montgomery Avenue, Chambersburg 17201, Franklin County, Thirty-third Senatorial District, for reappointment as a member of the Board of Trustees of South Mountain Restoration Center, to serve until the third Tuesday of January 1995, and until his successor is appointed and qualified.

ROBERT P. CASEY
Governor

MEMBER OF THE STATE TRANSPORTATION COMMISSION

May 17, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Robert B. Pease, 326 Dewey Street, Pittsburgh 15218, Allegheny County, Thirty-eighth Senatorial District, for reappointment as a member of the State Transportation Commission, to serve for a term of six years and until his successor is appointed and qualified, but not longer than six months beyond that period.

ROBERT P. CASEY
Governor

NOMINATIONS LAID ON THE TABLE

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

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

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

Senator AFFLERBACH, by unanimous consent, reported from the Committee on Rules and Executive Nominations, communications from the office of His Excellency, the Governor of the Commonwealth, recalling the following nominations, which were read by the Clerk as follows:

MEMBER OF THE STATE BOARD OF AUCTIONEER EXAMINERS

September 23, 1993

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

In accordance with the power and authority vested in me as Acting Governor of the Commonwealth, I do hereby recall my nomination dated August 3, 1993 for the appointment of Paula Jean Cindric

(Public Member), 445 Olivet Avenue, Pittsburgh 15210, Allegheny County, Forty-second Senatorial District, as a member of the State Board of Auctioneer Examiners, to serve until April 16, 1994 or until her successor is appointed and qualified, but not longer than six months beyond that period, vice Margaret H. Hamilton, Franklin, deceased.

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

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

MEMBER OF THE STATE BOARD
OF DENTISTRY

November 8, 1993

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

In accordance with the power and authority vested in me as Acting Governor of the Commonwealth, I do hereby recall my nomination dated April 27, 1993 for the appointment of Daniel A. Lucyk, 17 Brookhill Road, Conyngham 18219, Luzerne County, Fourteenth Senatorial District, as a member of the State Board of Dentistry, to serve for a term of six years or until his successor is appointed and qualified, but not longer than six months beyond that period, vice Morris Jacobson, D.D.S., Williamsport, whose term expired.

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

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

DISTRICT JUSTICE

November 8, 1993

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

In accordance with the power and authority vested in me as Acting Governor of the Commonwealth, I do hereby recall my nomination dated September 3, 1993, for the appointment of Robert McNelis, 439 Wylie Avenue, Clairton 15025, Allegheny County, Forty-fifth Senatorial District, as District Justice, in and for the County of Allegheny, Magisterial District 5-3-09, to serve until the first Monday of January 1994, vice Sarge Fiore, mandatory retirement.

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

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

MEMBER OF THE PENNSYLVANIA
INDUSTRIAL DEVELOPMENT AUTHORITY

August 13, 1993

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

In accordance with the power and authority vested in me as Acting Governor of the Commonwealth, I do hereby recall my nomination dated July 12, 1993 for the appointment of Patrick Beaty, 202 Gettysburg Street, Dillsburg 17019, York County, Thirty-first Senatorial District, as a member of the Pennsylvania Industrial Development

Authority, to serve until July 24, 1993, and until his successor is appointed and qualified, vice Maurice A. Lawruk, terminated.

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

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

JUDGE, COURT OF COMMON PLEAS,
DAUPHIN COUNTY

November 8, 1993

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

In accordance with the power and authority vested in me as Acting Governor of the Commonwealth, I do hereby recall my nomination dated July 19, 1993 for the appointment of Louis J. Adler, Esquire, 4338 Brandywine Court, Harrisburg 17110, Dauphin County, Fifteenth Senatorial District, as Judge of the Court of Common Pleas of Dauphin County, to serve until the first Monday of January, 1994, vice The Honorable Herbert A. Schaffner, deceased.

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

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

JUDGE, SUPERIOR COURT
OF PENNSYLVANIA

November 23, 1993

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

In accordance with the power and authority vested in me as Acting Governor of the Commonwealth, I do hereby recall my nomination dated July 19, 1993 for the appointment of John Pushinsky, Esquire, 1312 Sheridan Avenue, Pittsburgh 15206, Allegheny County, Thirty-eighth Senatorial District, as Judge of the Superior Court of Pennsylvania, to serve until the first Monday of January, 1994, vice The Honorable Frank J. Montemuro, resigned.

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

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

MEMBER OF THE STATE BOARD
OF PSYCHOLOGY

September 23, 1993

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

In accordance with the power and authority vested in me as Acting Governor of the Commonwealth, I do hereby recall my nomination dated August 20, 1993 for the appointment of Nancy Marie Scalise, Esquire, 22 Oakland Square, Pittsburgh 15213, Allegheny County, Thirty-eighth Senatorial District, as a member of the State Board of Psychology, to serve for a term of four years or until his successor is appointed and qualified, but not longer than six months beyond that period, vice Quentin C. Weaver, Swarthmore, whose term expired.

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

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

MEMBER OF THE BOARD OF TRUSTEES
OF WARREN STATE HOSPITAL

November 3, 1993

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

In accordance with the power and authority vested in me as Acting Governor of the Commonwealth, I do hereby recall my nomination dated July 7, 1993 for the appointment of William W. Durney, 733 Cherry Lane, Bellefonte 16823, Centre County, Thirty-fourth Senatorial District, as a member of the Board of Trustees of Warren State Hospital, to serve until the third Tuesday of January, 1997, and until his successor is appointed and qualified, vice John D. Haggerty, Jr., Clarendon, resigned.

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

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

**NOMINATIONS RETURNED TO
THE ACTING GOVERNOR**

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

The motion was agreed to.

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

**UNFINISHED BUSINESS
REPORTS FROM COMMITTEES**

Senator DAWIDA, from the Committee on Finance, reported the following bills:

SB 709 (Pr. No. 762)

An Act amending the act of June 21, 1939 (P. L. 626, No. 294), entitled "Second Class County Assessment Law," providing for reduction of tax rates in certain cases.

SB 1314 (Pr. No. 1603)

An Act amending the act of March 11, 1971 (P. L. 104, No. 3), entitled, as amended, "Senior Citizens Rebate and Assistance Act," further providing for the definition of "income."

SB 1315 (Pr. No. 1604)

An Act amending the act of August 14, 1991 (P. L. 342, No. 36), entitled "Lottery Fund Preservation Act," further providing for the definition of "income" for purpose of determining eligibility for pharmaceutical assistance.

SB 1432 (Pr. No. 1737)

An Act amending the act of May 22, 1933 (P. L. 853, No. 155), entitled "The General County Assessment Law," further providing for exemptions from taxation.

HB 659 (Pr. No. 2749)

An Act amending the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, further providing for the jurisdiction of the coroner.

Senator LINCOLN, from the Committee on Rules and Executive Nominations, reported the following bill:

SB 926 (Pr. No. 1010) (Rereported)

An Act amending the act of April 6, 1937 (P. L. 200, No. 51), entitled "Pawnbrokers License Act," further providing for application for license; providing for a hearing and license renewal; and further providing for license fees, for powers of the Secretary of Banking and for interest and charges.

Senator O'PAKE, from the Committee on Intergovernmental Affairs, reported the following bills:

SB 1429 (Pr. No. 1729)

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), entitled "The Administrative Code of 1929," prohibiting appropriations for postsecondary educational programs for prisoners.

HB 1721 (Pr. No. 1999)

An Act amending Title 37 (Historical and Museums) of the Pennsylvania Consolidated Statutes, further providing for specific powers and duties.

CONGRATULATORY RESOLUTIONS

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

Congratulations of the Senate were extended to David K. Bausch by Senator Afflerbach.

Congratulations of the Senate were extended by Reverend and Mrs. Vernon Harris, Mr. and Mrs. Elmer A. Schnader, Mr. and Mrs. Vincent P. Weaver and to R. Clayton Alspach by Senator Armstrong.

Congratulations of the Senate were extended to Steven C. Schofield by Senator Baker.

Congratulations of the Senate were extended to Phillip Stewart and to the Duquesne Light Company by Senator Belan.

Congratulations of the Senate were extended to the Wilksburg Community Ministry of Pittsburgh by Senator Bodack.

Congratulations of the Senate were extended to Jerri Zimmerman and to Aaron Ray Manifold by Senator Bortner.

Congratulations of the Senate were extended to Michael T. Bender and to Krista Susan Wykoff by Senator Corman.

Congratulations of the Senate were extended to Scott Eric Mitts by Senator Dawida.

Congratulations of the Senate were extended to Leontine D. Scott by Senator Fattah.

Congratulations of the Senate were extended to June S. Delano, Fort Couch Middle School of Upper St. Clair, Independence Middle School of Bethel Park and to the Borough of Jefferson Auxiliary Police by Senator Fisher.

Congratulations of the Senate were extended to Ronald L. Dickerson, Gregory C. Antrim, Michael J. Kelly, Edward P. Hertzog, Gregory K. Balczarek, James M. Kelly, Mario Mele, R. Andrew Ferguson and to Bernard J. Hark by Senator Greenleaf.

Congratulations of the Senate were extended to Mr. and Mrs. Eugene Filsinger and to Mr. and Mrs. Roman Daniels by Senator Hart.

Congratulations of the Senate were extended to Mr. and Mrs. John S. Pych, Mr. and Mrs. Stanley Stankiewicz and to the Christian and Missionary Alliance Church of Shamokin by Senator Helfrick.

Congratulations of the Senate were extended to Robert Erich Adie and to Mike Piazza by Senator Holl.

Congratulations of the Senate were extended to James Walker and to the Masjidullah Economic Community Corporation of America of Philadelphia by Senator Jones.

Congratulations of the Senate were extended to Mr. and Mrs. Alvin Carl Hedrick, Mr. and Mrs. Harry R. Ermin, Mr. and Mrs. William Krapf, Mr. and Mrs. Paul Conrad Roesch, Mr. and Mrs. Robert J. Schmittle, Mr. and Mrs. A. E. Reynolds, Jr., Mr. and Mrs. Anthony Roscia, Mr. and Mrs. Robert L. English, Mr. and Mrs. George Rhodes, Mary Ann Hale and to Mary Kathryn Cort by Senator Jubelirer.

Congratulations of the Senate were extended to District Justice Stephen D. Mihalic and to Wayne J. Alexander and the Lawrence County Caring Foundation by Senator LaValle.

Congratulations of the Senate were extended to Lisa Roder by Senator Lemmond.

Congratulations of the Senate were extended to Henrietta Galley Edwards and to Thomas Savona by Senator Lincoln.

Congratulations of the Senate were extended to Mr. and Mrs. William Beaghley, Janene Miller, Sharon Potter and to Hettie Slear Nicely by Senator Madigan.

Congratulations of the Senate were extended to Mr. and Mrs. Joseph Luchansky by Senator Mellow.

Congratulations of the Senate were extended to Charles L. Jackson, John Abiuso and to the Grace United Methodist Church of Lemoyne by Senator Mowery.

Congratulations of the Senate were extended to Clifford L. Jones by Senators Mowery and Punt.

Congratulations of the Senate were extended to Cecilia McCarthy and to Shannon Mohrman by Senator Musto.

Congratulations of the Senate were extended to the Venango County Area Vocational Technical School of Oil City by Senator Peterson.

Congratulations of the Senate were extended to Mr. and Mrs. Charles S. Beatty, Mr. and Mrs. Logan D. Branthoover, James M. Masters, Aaron Joseph Huba, Neal Phillip Kling, Bradley Direnzi, Michael Edward Welc, Joshua Tyler Waldby, Scott David Hawk, William Joshua Stewart, Brian Daniel Doty and to Rick A. Martin III by Senator Porterfield.

Congratulations of the Senate were extended to Karen S. Peterson, Karen S. Miller, James R. Graham and to George W. Stock by Senator Punt.

Congratulations of the Senate were extended to Mr. and Mrs. Peter Louis Ducharme, Jr., by Senator Reibman.

Congratulations of the Senate were extended to Mr. and Mrs. Roland Price, Sr., Alicia Mansberry, Jennifer McArdle, Laura Pascoe, Harmony Harakal, W. David Lafko, Dr. Dwight R. Davis, Saint Paul United Church of Christ of Mahanoy City, Rape Crisis Center of Schuylkill County and to the Schuylkill Business/Education Partnership of Pottsville by Senator Rhoades.

Congratulations of the Senate were extended to Jason Wier by Senator Robbins.

Congratulations of the Senate were extended to James A. Theys by Senator Scanlon.

Congratulations of the Senate were extended to the Julia Reynolds Masterman Laboratory and Demonstration School of Philadelphia by Senator Schwartz.

Congratulations of the Senate were extended to Mr. and Mrs. Dick E. Davis, Mr. and Mrs. William McKissick and to Amy Bilyeu by Senator Shaffer.

Congratulations of the Senate were extended to the Honorable Warren G. Morgan, Phil Hearne, Lower Dauphin High School Girls Field Hockey Team of Hummelstown, Russell L. Sheaffer, Sally S. Klein, and Anthony M. Petrucci of the Dauphin County Courthouse and to the Investment Club of Greater Harrisburg by Senator Shumaker.

Congratulations of the Senate were extended to William D. Boswell by Senators Shumaker and Mowery.

Congratulations of the Senate were extended to Mr. and Mrs. William T. Gray, Mr. and Mrs. Vernon D. Fennell, Mr. and Mrs. Theodore F. Zakrzewski, Mr. and Mrs. Harold Kelley and to the Indian Haven Nursing Center of Indiana by Senator Stapleton.

Congratulations of the Senate were extended to Mini Pearl Gordon by Senator Stewart.

Congratulations of the Senate were extended to Mr. and Mrs. Dorse Carter, Mr. and Mrs. Henry Crowe, Mr. and Mrs. Jim Zimmerman, Mr. and Mrs. Frank Bell, Mr. and Mrs. Harlen Rhodes, Mr. and Mrs. Paul S. Moschel and to Mr. and Mrs. John Chupinsky by Senator Stout.

Congratulations of the Senate were extended to William L. Snyder by Senator Wenger.

Congratulations of the Senate were extended to Sergeant William E. Blackman and to Michael J. Duck by Senator Williams.

CONDOLENCE RESOLUTIONS

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

Condolences of the Senate were extended to the family of the late Louise G. Saxton by Senator Afflerbach.

Condolences of the Senate were extended to the family of the late Robert E. Bennett by Senators Afflerbach and Reibman.

Condolences of the Senate were extended to the family of the late Dr. Norman Miller, Sr., and to the family of the late John C. Toman by Senator Jubelirer.

BILLS ON FIRST CONSIDERATION

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

The motion was agreed to.

The bills were as follows:

SB 709, SB 738, SB 1237, SB 1314, SB 1315, SB 1404, SB 1432, SB 1429, HB 659, HB 1692 and HB 1721.

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

BILLS ON FIRST CONSIDERATION REREFERRED

Senator LINCOLN, Mr. President, I move that Senate Bill No. 1429 and House Bill No. 659 be rereferred to the Committee on Appropriations.

The motion was agreed to.

The PRESIDENT. Without objection, Senate Bill No. 1429 and House Bill No. 659 will be rereferred to the Committee on Appropriations.

PETITIONS AND REMONSTRANCES

The PRESIDENT. The Chair recognizes the gentleman from Schuylkill, Senator Rhoades.

Senator RHOADES. Mr. President, this morning an article appeared in the Philadelphia Inquirer entitled, "Panel Faults College Education," subtitled, "Universities fall short in instilling societal values, the report said." I would really like to place into the record the report, which said:

(Reading:)

A blue ribbon panel warned yesterday that the United States faces national decline unless its colleges do a better job of educating students and instill in them such basic core values as honesty and respect for life.

"We have too many people finishing four years of college with no more than a good high school education of a generation ago," said former Senator William Brock, chairman of the panel, known as the Wingspread Group on Higher Education.

"That's not near good enough in a global economy that is information-based," Brock said. "It's not near good enough in a country that has seen an explosion of violence and a lack of respect for human life."

The panel urged colleges and universities to examine themselves against a 42-point "self-assessment checklist" to determine how to improve the quality of the education they offer while also passing on key societal values.

It urges administrators to assure "that next year's entering students will graduate as individuals of character, more sensitive to the needs of community, more competent to contribute to society, and more civil in habits of thought, speech and action."

"We've simply got to get back to some values that constitute the core of any society, and higher education must play a role in inculcating those values," said Brock.

The panel called on undergraduate schools to develop strict "exit" standards so they can test whether their graduating students have mastered the skills they were supposed to learn.

It faulted colleges for offering credit for such "fanciful courses" as "Introduction to Tennis" and complained that too many students graduate without taking a single history or foreign language course.

As a result, too many graduates lack basic reading, writing and problem-solving skills, it said.

I read this into the record because I think it is very interesting that we here in Pennsylvania who are debating education reform and results-based education would have a blue ribbon panel out of Washington come up and basically say the same thing about higher education across the county that we are trying to do in basic education. I think it is something that we should take to heart and we should begin to look at most earnestly and sincerely, not only at the basic level but also at the higher education level.

Thank you, Mr. President.

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

Senator JUBELIRER. Mr. President, I think it is imperative that I at least have an opportunity to talk about the resolution that I offered earlier in the day and comment that since the Senate last convened there still has not been any definitive judgment rendered that settles accounts on the Second Senatorial District race. However, given the shortage of scheduled Session time, I think that it has been good that we have had the opportunity to debate consequential issues such as tax cuts. Hopefully, we will get on to things like welfare reform. The gentleman from Schuylkill, Senator Rhoades, is talking about education changes and other items high on the public want list that, frankly, I think as I look at Democratic initiatives and our initiatives, there really is not that much difference. Responsibility demands it, the public interest demands it.

Daily reiteration of the arguments about the propriety of the Stinson seating will not, in the short term, change the political reality the Senate is operating under. I read a story that comes out of Congress, and it said that during the time when former Speaker Jim Wright was Majority Leader, he made an emotional appeal to one of his chairmen, John Dingell, who had no intention of cooperating in the request. Dingell responded, and I quote, "Glorious leader, you have made that speech many times. We should label it speech number one. When the urge comes on you to deliver that speech again, you can put one finger in the air. We will take due notice and it will save us the time of listening to that speech again."

Mr. President, we do not waiver in our belief that the seating of William Stinson was wrong. Our argument is now before the Commonwealth Court, before the Court of Common Pleas in Philadelphia County, as well as investigations by both the Federal civil rights division of the Justice Department and Attorney General Ernie Preate. In fact, argument is scheduled before Commonwealth Court en banc next Wednesday, December 15. We are pleased that the court recognizes the urgency of a prompt hearing, and therefore, Mr. President, that was the reason that we offered the resolution, so at least we would not have to challenge that vote each and every time and that the

business of the people that the Senate needs to do can continue without that interruption. It is not pleasant for me, Mr. President, to have to interrupt each and every time, but by the same token, let it be clear that we are not backing off of our position on this matter. We believe to condone what happened in the Second Senatorial District of Pennsylvania in the Senate race would be an inappropriate thing and would send the wrong message for future elections.

And so, Mr. President, I offer these remarks for the record, as well as I would like to offer additional articles from the Philadelphia Inquirer recanting the problems with the election in the Second Senatorial District, as well as a letter from me to President pro tempore Robert Mellow regarding the status of William Stinson as well as the need to move on the agenda, and a brief on the constitutionality of actions taken during last Monday's Session. I offer these now for the record along with my remarks, Mr. President, and thank you for the opportunity of presenting the same.

The PRESIDENT. Without objection, these will be added to the record.

(The following articles, letter, and brief were made a part of the record at the request of the gentleman from Blair, Senator JUBELIRER:)

"19 SAY BALLOT SIGNATURES FORGED"

Two absentee voters hadn't lived in the city -- or the state -- for two years. Another had moved from the Second District in May. Others could have gone to the polls.

CANVASSERS MISLED US, VOTERS SAY

(The Philadelphia Inquirer 11/24/93)

Two years ago, Rose Fellman sold her home in North Philadelphia and moved to Nevada.

No matter. On Election Day, an absentee ballot was filed in her name -- in Philadelphia. The envelope carrying the ballot bore her old address in the 4700 block of B Street -- and what purported to be her signature. The ballot was counted.

"I lived in Philadelphia a long time, so I'm not surprised," Fellman said last night from Las Vegas. "I think this has been happening a long time in Philadelphia."

She was not the only far-off former Philadelphian whose name has surfaced in the Second Senate District race.

A ballot bearing the name of Elpiniki Kousis was also cast and counted. This came as a surprise to her father, Theodore. His daughter has been living in Greece for the last two years, he said, and could not possibly have voted.

The application for an absentee ballot lists an address in the 400 block of East Wyoming Avenue, where Theodore Kousis has a drycleaning shop and an apartment. The envelope in which the ballot was mailed to the city Board of Elections has the same address.

Both documents are signed. But the elder Kousis said the handwriting was not his daughter's.

"This is no good," he said.

A continuing review of city election records by The Inquirer has turned up 19 cases in which voters' names appear to have been forged on absentee voting documents.

On Sunday, the newspaper described 15 cases in which ballots were cast or obtained fraudulently. Four more emerged yesterday.

Since Nov. 2, more than 180 Second District voters have told The Inquirer about irregularities in absentee voting. And reporters

collected fresh accounts yesterday in which voters said street canvassers misled them about the law and urged them to file absentee ballots, even though they would be able to get to the polls on Election Day.

Absentee ballots enabled Democrat William G. Stinson to eke out a 459-vote victory over Republican Bruce Marks in the Senate race. Marks out-pollled Stinson on the voting machines by 566 votes, but Stinson got 1,391 of 1,757 absentee ballots.

Stinson took his Senate seat Monday in Harrisburg over fierce protests from Republicans, who have accused him of massive ballot fraud. His narrow victory gave the Democrats effective control of the Senate. Each party has 25 seats, but Lt. Gov. Mark S. Singel, a Democrat, holds a tie-breaking vote on procedural matters.

In interviews, voters have said the canvassers misled them about the rules for absentee ballots, filled out their ballots for them -- or had them sign forms for relatives. Many said they thought they were registering to vote or signing up for financial assistance.

And some -- surprised to discover that ballots were cast in their name -- have said their signatures were forged. Much of the activity was concentrated in a single rowhouse neighborhood of Greek, Latino and other residents -- the Sixth Division of the 42nd Ward in the Feltonville section.

The ballots cast in the names of Rose Fellman and Elpiniki Kousis bore addresses from this division.

So did the ballot issued for Niltha Schloeffel. It listed an address as 130 E. Mentor St.

Schloeffel, 43, said last night that she and her husband moved from the area in May. They now live outside the Second District, in the 6000 block of Frankford Avenue.

"Since I just moved, I didn't think I could vote this year," she said. "So I didn't go to the polls."

She said that she did not apply for or fill out an absentee ballot, and that she was stunned to learn one had been cast in her name.

"I've never voted absentee," she said. "That's for when you're sick or something."

When copies of the absentee-voting forms were shown to Schloeffel last night, she brought out settlement papers from the sale of her house on Mentor Street and asked reporters to compare the handwriting.

Pointing to the voting documents, she said, "That's not my signature."

Signs of ballot fraud were not confined to one neighborhood.

In the 43d Ward, 18th Division, an absentee ballot bearing the name of Nazareth Avedissian, a Hunting Park grocer, was filed with the elections board four days before Election Day.

City workers opened the envelope and counted the vote. From their standpoint, there was no reason not to. The envelope bore Avedissian's name, address and signature.

The only problem is that the signature was someone else's.

Avedissian, 47, shook his head yesterday when he was shown a copy of the absentee-ballot application. He had signed such a form, he said, but he thought it was the actual ballot. He assumed he'd exercised his franchise and thought no more about it.

The elections board later issued a ballot -- to someone else. That person filled out and returned the ballot. The signature on the ballot envelope does not look anything like Avedissian's signature on the application -- or like the one on his permanent voter-registration card.

In the 19th Ward, voters were not surprised to learn that absentee ballots had been cast in their name. What surprised them, they said, was that it was contrary to state law to do so.

Voters said that an unfamiliar man who went door-to-door before Election Day, signing people up for absentee ballots, did not mention that under state law, voters must vote at their local polling place unless they are too sick to make it or will be away on business.

Voters throughout the 19th Ward yesterday said they were home on Nov. 2 and could have voted by machine. In that ward, Stinson got 120 votes to Marks' nine.

Madelines Rivera, 30, of the 2100 block of North Phillip Street, said a visitor had her and her husband sign applications in late Octo-

ber and returned a few days later with the ballots. They did not know the man, she said, but he was persuasive.

"The person said it was better to vote this way," she said. "I like to go to the machines. I don't like to vote by paper."

She said she checked the box marked "Democrat" on the ballot, voting for all candidates of that party. She said her husband, Jose A. Rivera, wanted to vote Republican, but was dissuaded by the canvasser and voted a straight Democratic ticket. Jose Rivera was not home when a reporter visited.

Amelia Matias, of the 2600 block of North Fifth Street, said a visitor to her house touted "a new way to start voting." She said her daughter, Mariluz, told the man this sounded unusual, but he assured her it was legitimate. Both signed applications.

A few days later, the man came back with ballots. "The paper said Democrat," said Amelia Matias. "I didn't fill anything out. I just signed my name."

Her daughter was not home at the time, she said, but the man told her she could sign her ballot, too. The mother said she did so reluctantly.

Marta Hernandez, who lives in the 300 block of West York Street, said the canvassers told her she was entitled to vote absentee because she had children.

"He said it was a new law and it was OK. I always go and vote in the [polling] place, but that day he came and asked me to vote," she said.

Jeffery Pugliesi and Blanca Gonzalez, who both live on the 2400 block of North Fourth Street, said absentee ballots were brought to them by a neighbor.

"He said it would save me time," said Pugliesi.

Elsewhere in the 19th Ward, Modesto Hernandez said the visitors told him that anyone who was sick or receiving disability payments - or who simply didn't want to go out in the cold -- could legally vote absentee.

He said he and two relatives, believing this, signed up for and cast absentee ballots. "None of us voted by machine, though we do it all the time," he said. "This time, we took the opportunity to vote from here at home because we were told we could do it."

Election records show the Hernandez family had voted -- for the first time -- by absentee ballot.

Two members of the Hernandez family stated on their application forms that they expected to be out of town on Election Day. Neither was. On his application, Modesto cited a medical condition: *nervioso*, literally, "nervous."

Modesto said the canvassers told him to write this down, and that he had no physical condition that prevented him from going to the polls.

Milagros Robledo and her daughter, Elisbeth Diaz, said they were signed up for ballots by a Latino man who they said worked for Community Focus, a weekly Latino newspaper in North Philadelphia.

Robledo said that at the visitor's urging, she signed an application -- and later a ballot -- for both herself and her daughter. The applications state that the two women would be out of Philadelphia on Election Day.

"We weren't out of town," said a puzzled Robledo. "My daughter and I were told that we could vote from home."

"All my life, I've voted by the machine," said Robledo, who said she and her daughter were approached by the same Latino man twice about voting from home.

Ricardo Rosario said he could have gone to vote at the polls, but decided not to after a Spanish-speaking man said he was permitted to vote from home.

"I could've gone to vote in person, but it was easier to vote from here at home instead of going out to vote," he said.

On his application, Rosario indicated that he expected to be away Nov. 2.

"I was right here at home," he said. Ruben Liciaga, 73, has voted by machine many times. He said a canvasser told him it was his "privilege" to vote absentee because he had exercised his franchise so faithfully throughout his life.

"They said it was my privilege, and I believed him" he said.

Lucy Cruz said she was told she could vote absentee because she had been living in the same home for more than 10 years.

Aurea Figueroa, of the 200 block of West Indiana Street, said a man with a ponytail stopped by days before the election and told her: "Don't worry about going to the polls -- you can now vote from home."

Like the others, she said on her application that she would be out of town on Election Day.

"I was here at home," she said. "Did a lot of people get tricked this way?"

Damaris Colon, 20, of the 2800 block of North Fairhill Street, said she suspected something strange about the idea of voting from home. But the man who came to her door to sign her up convinced her it was necessary.

He said the at-home voting was unrelated to the Senate election. It was for some other purpose altogether -- some purpose she could not quite grasp.

"I asked him why do I need to vote this way when I usually go in person to vote around the corner," said Colon. "He said that voting at the polls had nothing to do with the November election at all."

"Then he says we need to sign here to vote," said Colon.

Like so many others, she went along.

"JUSTICES DECLINE TO HANDLE 2 CASES"

Bruce Marks' challenges to the results will be considered by a Common Pleas Court judge, the Supreme Court ruled.

(The Philadelphia Inquirer 11/24/93)

By Henry Goldman
and Vernon Loeb
Inquirer Staff Writers

In a terse, one-paragraph order, the state Supreme Court yesterday turned down emergency requests by Republican state Senate candidate Bruce Marks, who asked the high court to take control over his legal challenges to the declared winner, Democrat William Stinson.

The state's high court ruled unanimously, with Justice Stephen A. Zappala abstaining, that Philadelphia Common Pleas Court is the proper forum for Marks to bring two legal challenges to the election. Justice Nicholas P. Papadakos, while agreeing that the Common Pleas Court should hear the case, stated that he would have preferred that a senior appellate judge from outside Philadelphia hear the cases.

Instead, Philadelphia Common Pleas Court Judge Mark I. Bernstein was appointed by Judge Alex Bonavita, the court's administrative judge, to hear two cases: Marks' appeal of a Nov. 18 City Commissioners ruling declaring Stinson the winner, and a "formal, legal contest" to the election, filed by 64 voters in the Second Senate District, who say that the vote was so permeated with fraud as to place the results in doubt.

A conference has been scheduled between Bernstein and lawyers in the case for Monday.

Stinson's attorney, Ralph J. Teti, said he was pleased by the decision. "I don't think that these were matters the Supreme Court could or should have been involved in," he said.

Paul R. Rosen, who represents Marks, said he expected a fair hearing in Common Pleas Court. "It makes sense that one judge hears both the appeal and the legal challenge," he said.

Marks, who won the voting machine count but lost the election by 459 votes after Stinson carried the absentee ballots by 1,025 votes, has accused the Democrats of "widespread fraud" in soliciting absentee votes.

He first brought his complaint to Common Pleas Court, where Judge Eugene E. J. Maier ruled against him and ordered all the absentee ballots in the election removed from their sealed envelopes and counted.

The state Supreme Court then ruled that Maier had no jurisdiction in the case, and remanded it to the City Commissioners. They conducted an eight-hour hearing in which only one of 551 challenged voters testified as a witness, before declaring Stinson the winner just before 5 p.m. Within an hour, Stinson was sworn in in Harrisburg. He is the 25th Democrat in the legislature's upper house and gives the Democrats a 25-25 tie with Republicans.

Also yesterday, U.S. District Judge Eduardo C. Robreno asked attorneys for Stinson and the city to reply to a civil rights lawsuit filed by Marks, which alleges the City Commissioners and Stinson worked together to deny Marks a fair hearing on his allegations of fraud. The lawsuit asks that Stinson's certification as the winner be dissolved.

"REPUBLICANS ASK CLINTON FOR PA. PROBE"

By Steve Goldstein
(Inquirer Washington Bureau 11/24/93)

WASHINGTON -- Accusing the White House of holding a double standard when it comes to political dirty tricks, Republican congressional leaders pressed President Clinton yesterday for a federal probe into alleged voting fraud in Philadelphia's Second Senate District.

House Minority Whip Newt Gingrich of Georgia raised the issue directly with Clinton at a morning White House meeting, demanding that the Justice Department investigate allegations of widespread misuse of absentee ballots and fraudulent voting in the race between Democrat William Stinson and Republican Bruce Marks.

"I think we got a clear indication that the President is going to check with the attorney general," Gingrich, accompanied by House Minority Leader Robert Michel of Illinois, said afterward.

Later, during a photo opportunity, Clinton was asked by a reporter if he intended to pursue the allegations of vote-rigging in the Philadelphia race, which gave the Democrats control of the state Senate.

"The first I even knew about it was this morning," said Clinton. "I don't know enough about it to give an answer. I'll have to look into it. I knew nothing about it until he [Gingrich] mentioned it this morning."

There was no immediate response from Attorney General Janet Reno's office, where spokesman Myron Marlin said the matter was "under review."

In a letter that U.S. Sen. Arlen Specter received yesterday, Assistant Attorney General Sheila F. Anthony wrote that the matter "has been referred to our Civil Rights Division, where I assure you it will receive thorough and prompt review."

During the White House session, which included Clinton, Vice President Gore and White House chief of staff Thomas F. McLarty, Gingrich cited articles in *The Inquirer* describing how more than 150 voters in Philadelphia's Second Senate District, many of them Latino, attested to apparent irregularities in absentee voting. The Justice Department later requested copies of the articles.

"My impression was that they took this seriously," Gingrich said in an interview. "[Clinton] indicated clearly that he would call Reno."

In a letter to Clinton dated Nov. 19, Gingrich and Michel said the situation called for a complete investigation by the Justice Department "since this election determined control of the Pennsylvania State Senate."

It would be a "tragedy," the letter said, if a tainted election determined the outcome of legislation affecting all Pennsylvanians.

"We hope that you would see fit to condemn the voter fraud in Pennsylvania with the same rhetorical eloquence that you showed in your comments about the New Jersey gubernatorial race," Gingrich and Michel wrote, referring to Clinton's comments on claims by Republican political consultant Edward Rollins that the campaign of New Jersey Gov.-elect Christie Whitman had spent \$500,000 to suppress black voter turnout.

On Nov. 10, responding to a question on Rollins' statements, Clinton decried any such practice as "terribly wrong," adding that "people have died in this country...to give other Americans...the right to vote."

U.S. Rep. Curt Weldon of Delaware County, who joined with 22 other Republican House members in demanding a Justice Department probe, called Clinton a "hypocrite" Monday for remaining silent about a case in which a Republican candidate was allegedly wronged.

"What offends me as much as the massive voter fraud aimed at Latinos...is to have the President of the U.S. come out and make a personal comment about allegations in the New Jersey situation that were not documented and to this day not proven," said Weldon.

"CASEY ADMINISTRATION ACTED FAST FOR STINSON"

It rushed to certify the election, state officials acknowledged. This mires it, too, in the dispute, Republicans said.

(Inquirer Harrisburg Bureau 11/25/93)

By Robert Zausner

HARRISBURG -- The Casey administration played a critical role in the hastened swearing-in last week of Sen. William G. Stinson, expediting state certification of vote results in the Democrat's contested election victory.

Republicans said that without the rush job, they might have been able to deny Stinson's seating in the Senate through legal appeals and that the process was speeded by the administration to avert such challenges. Bruce Marks, the GOP candidate, is claiming widespread fraud in the Nov. 2 race in the Second Senate District.

"This is the first instance where the fingers of the Casey-Singel administration wind up in the midst of this controversy," said Stephen C. MacNett, general counsel for Senate Republicans, "in what is at its best a cutting of corners and at worst a rush to judgment and an illegal certification."

Administration officials acknowledged that they went to unusual lengths to quickly certify the election at the request of Senate Democratic leaders. But they said actions by the Department of State were made after consultations with a lawyer for Gov. Casey, who deemed them "legally permissible."

The department hurried the process by stationing Vincent G. Guest, deputy secretary of the commonwealth, in Philadelphia last Thursday to receive the election results as soon as they were certified by the city commissioners. Guest, who has legal authority to grant state certification, traveled to Philadelphia on permission from his boss, Brenda K. Mitchell.

Guest received the original document at 5:16 p.m., about 20 minutes after city commissioners made their certification. He then affirmed it was the genuine article, placed his initials on it, and sent it via fax to Mitchell, who granted state certification.

About 5:45 p.m., Senate President Pro Tempore Robert J. Mellow had Stinson sworn into office in a Senate chamber empty except for a half-dozen hastily assembled reporters and about 40 Senate staffers.

Generally such certifications are sent by mail to Harrisburg. But Democrats did not want to wait a day or even two hours -- the time it would have taken to drive the document to Harrisburg -- before getting state certification.

MacNett said an appeal of the city commissioners' ruling that declared Stinson the winner, or a "formal contest" to the election filed by 64 voters in the district, might have stopped Mitchell from certifying the election results. That, in turn, could have prevented Stinson's seating when the Senate convened on Monday.

MacNett contended that had it been the GOP seeking to expedite the certification, "I don't think there would have been anyone in Philadelphia to pick it up. They did it for their party. They were couriers for their party, not the people, that day."

Senate Minority Leader Robert C. Jubelirer (R., Blair) said that if Marks had won a close vote, the Casey administration "wouldn't

have certified him in Philadelphia or Harrisburg. They wouldn't have done it at all."

But for Stinson, he said, administration officials "just rammed it through."

"When one party controls everything," Jubelirer added, "they all are interwoven and it was a cut deal."

One ranking Senate Democrat, who asked not to be identified, acknowledged there were some partisan considerations. "You would expect an administration of your party to help expedite these things," he said.

Jubelirer said Republicans later appealed to the Casey administration to de-certify the election results based on their claims that the city commissioners' certification is invalid. The GOP says the commissioners violated the Sunshine Act, improperly denied Marks a stipulated 48-hour appeal period, and failed to wait a required five days between computing the votes and certification.

At one point, Jubelirer said, U.S. Sen. Arlen Specter (R., Pa.) tried to speak with Casey about the matter but Casey, who is recuperating from transplant surgery and is being temporarily replaced by Singel, declined. The senator did speak with Singel, though without success.

A spokesman for Singel said yesterday he was not involved "in any way" with the certification.

The administration knew that anything having to do with the hotly contested Stinson election might be scrutinized, which was why officials considered the legal ramifications of expediting the process.

Iris Crumbly, the State Department press secretary, said this week that the matter is "sensitive, and you and I both know that." She said department officials wanted to avoid "jeopardizing" anything.

To that end, they sought the advice of Casey's lawyer, who serves as liaison to the department, Gregory E. Dunlap.

"My judgment was that a responsible official, just to make everything indisputably legal...receive in person the original certificate from the county to examine and make sure it was authentic," Dunlap said.

He said he was first called about the matter by state Elections Commissioner William P. Boehm, who had been contacted by Senate Democrats about receiving the certification via fax.

It is unclear whether the department must receive an original certificate to act upon, since the state law dealing with the subject dates to 1937, long before fax machines were invented. But officials wanted to make sure that the state certification would be legal, and Dunlap said it was his opinion a faxed copy "was not appropriate."

"In the case of special elections there are always accommodations made to expedite certification when the General Assembly is about to reconvene so the person elected doesn't miss any days," he said.

But neither he nor Guest could recall another case in which a ranking government official was sent to personally receive an election certification.

"That's the first time I ever had to do that," said Guest, who went to Philadelphia late Wednesday afternoon and stayed overnight. Guest has been in his position two years.

Dunlap said that driving the certificate to Harrisburg was discussed but that Democratic Senate leaders "said they would have preferred not to wait several hours. I presume they were worried about the judicial action."

**"ABSENTEE-BALLOT CANVASSERS NAMED
DEMOCRATIC COMMITTEE PEOPLE, STINSON
WORKERS INVOLVED, VOTERS SAY"**

(The Philadelphia Inquirer 11/28/93)

Vanessa Williams
and Mark Fazlollah
Inquirer Staff Writers

In the Hunting Park section, voters say they were encouraged to cast absentee ballots by their Democratic committeewoman, Rose

Minniti, though their only excuse for not going to the polls on Election Day was that they had to work.

In the Feltonville section, voters said Democratic committee woman Fani Papanikolaou told them they could vote from home because it was more convenient.

And in the 2400 block of North Fourth Street, voters say their neighbor, Angel Ascencio, who says he was hired by a Stinson campaign official, gave them absentee ballots and told them they "would save time" by voting from home.

Over the last two weeks, more than 180 voters in Philadelphia's Second Senatorial District have told The Inquirer they were misled into voting by absentee ballot in the critical race between Democrat William Stinson and Republican Bruce Marks. Among them are 19 cases in which voters' names appear to have been forged on voting documents.

The vast majority of the voters who were interviewed said they were unable to name the canvassers who brought applications and absentee ballots to their homes.

About three dozen voters did name someone. In each case, they identified a Democratic Party committee member or Stinson campaign worker as the canvasser who approached them and assured them they could vote from home.

The committee people and campaign workers named by voters all said they did nothing improper. Stinson campaign officials said that identifying absentee voters and making sure they got applications to receive ballots was part of the campaign strategy that won the election held to fill the 14 months left in the term of State Sen. Francis J. Lynch, who died in May. The fact that they got 80 percent of the 1,757 absentee ballots cast in the Nov. 2 election, they said, merely means they outworked Marks.

Chris Simeral, spokesman for the Stinson campaign, said last week that Stinson field organizers had been given strict instructions about who was eligible to use absentee ballots. Memos spelling out the rules were posted all around the campaign office at Hunting Park and Castor Avenues, he said.

"You couldn't swing a dead cat without hitting one of those memos," Simeral said. "Furthermore, the memo said if you are in doubt about whether somebody qualifies, do not give them one. Period."

State law says absentee ballots should be cast only by those unable to vote at the polls because of illness or a disability or those who are out of the city on Election Day.

Based on the accounts of a number of Second District absentee voters, not everyone followed the rules.

In the 19th Ward, Jeffery Pugliesi and Blanca Gonzalez, who live in separate houses on the 2400 block of North Fourth Street, identified their neighbor, Angel Ascencio, as the source of their ballots.

"He said it would save me the time" from going to the polls on Election Day, Pugliesi said.

"He says I can vote this way," Gonzalez said. "He just came by and said it was easier."

Ascencio, out scrubbing his steps Tuesday, was reluctant to talk. At first, he stressed that he took ballots only to people who were infirm. When asked about his two neighbors, who are young and healthy, he shrugged. He insisted he had done nothing wrong. "I'll never do it again for what they paid me," he said.

In an earlier interview, Ascencio told The Inquirer that he was recruited by Josue Santiago, a field coordinator for the Stinson campaign, who promised to pay him \$20 a day to sign up people for absentee ballots and an additional \$1 each for each completed ballot he collected.

Ascencio delivers newspapers for Community Focus, a weekly Latino paper in North Philadelphia. Efrain Roche, the editor, says the newspaper was not involved in the campaign.

Other Community Focus delivery men also were recruited, but some said they quit after becoming concerned about whether their canvassing for absentee ballots was proper.

"I've never done it before and I don't know about absentee ballots, but it didn't seem illegal to do," Ascencio said. "I just did what I was told."

A Democratic committeeman in the 19th Ward, Peter Medina, said he distributed absentee ballots as a favor to Santiago.

On the Friday before the election, Medina said, Santiago gave him 14 ballot envelopes -- labeled with names and addresses of voters -- that Medina took to the voters' homes.

"I didn't tell people how to vote, Republican or Democrat," he said. "I didn't do anything but take the ballots to the people he [Santiago] told me to." Medina said he collected "11 or 12."

Medina, active in politics for 20 years, said his responsibilities in this campaign were different. "In the past, it wasn't unusual for me to help people with applying for an absentee ballot," he said. "This time, the unusual part is that I've never delivered the absentee ballots to people's homes."

When told that some voters said he misled them about absentee voting, Medina said, "I did what I was told and I thought the law had changed."

Contacted by telephone, Santiago early last week declined to discuss his role in the Stinson campaign. "I have to check with my superiors to talk to you," he said. Asked who those superiors are, he said: "Mr. Stinson."

On Friday night, Santiago referred all questions to Stinson's press secretary, Chris Simeral.

Simeral said he asked Santiago to provide him with information so he could answer questions from reporters. "He says he doesn't have the answers," Simeral said. "I can't make him talk to you, or to me."

Simeral said he had little knowledge of Santiago's activities in the campaign. He said that Santiago was field coordinator in the Latino community, and that Santiago and other field coordinators worked without any guidance from the campaign.

"Being field coordinators, I guess they wouldn't report to anyone," he said. "There was no chain of command."

Campaign finance records show that Santiago earned \$1,200 in the three weeks before the election. They also list an advance of \$500 on Oct 29 for "election day workers."

Simeral said that field operations, including canvassing for absentee voters, were under the command of Robert O'Brien, an official with Local 19 of the Sheet Metal Workers Union, and Ruth Birchett, who took a leave of absence from the Mayor's Office of Community Services. Both said their efforts to obtain absentee ballots were proper.

Some Democratic ward leaders and committee people said they resented the Stinson campaign going outside the party apparatus to recruit workers.

Donald J. Brophy, Democratic chairman of the Seventh Ward, said voters there reported that strangers combed their streets looking for absentee voters.

"There were people in these divisions who don't live here or belong here but doing these absentee ballot applications. These were not our committee people," Brophy said.

State Rep. Ralph Acosta, Democratic leader of the 19th Ward, one of 16 that make up the district, complained last week that an independent group of Latino political operatives had been brought in to work on the campaign. He said the volume of inquiries he received from constituents in the days before the election -- more 50 callers asked whether it were true that they could now vote from home -- prompted him to conclude that someone was misleading voters.

"I believe it happened," Acosta said. "I don't know for sure who did it...but the people involved should be prosecuted."

Voters in other wards say Democratic committee members were involved.

Ann M. Carrian, who lives in the 43d Ward, 18th Division, said she voted by absentee ballot for both herself and her friend, Louis Kaplan, because Rose Minniti said she could.

Kaplan is registered to vote from the Boulevard Nursing Home, where he has lived for three years. The nursing home is outside the district.

Carrian said Minniti told her "it was OK to vote for the ones in the nursing homes." So, Carrian said, she filled out an application and ballot for Kaplan.

Other voters said Minniti pressed absentee ballots on them even when they told her they would be in town.

"The lady, Rose, she came over for us to sign them," Awilda Ibrahim explained. "We just told her we would be working," Ibrahim said. So she and her husband, Mustafa, signed up for absentee ballots.

Minniti said last week she didn't want to talk about the absentee ballots. "I don't have to answer any questions," she said, "and I don't care what the people say."

Andres and Susie Morales of the 100 block of E. Loudon Street described a similar encounter with their committeewoman in Feltonville, in the 42d Ward, Sixth Division. There, they and other voters said, Democratic committeewoman Fani Papanikolau told them convenience was a legitimate reason to vote absentee.

"The problem was, we haven't been able to vote for the last five years," Susie Morales said, "because he gets home at 8:30 and I get home at 8 o'clock."

Susie Morales said that when they told Papanikolau this, the committeewoman said, "Let me see what I can do. Maybe I can get you an absentee ballot because you both work late." She came back and said, "I can do it."

Laura Rosario, 28, of the 400 block of East Loudon Street, said she voted absentee for the first time this year. She said Papanikolau came by, told her she could vote from home if it was more convenient, and left her business card when she picked up the completed absentee ballot.

Papanikolau said she remembered delivering absentee ballots to only two voters in her division, both of them elderly and infirm. "Some of my constituents asked me for applications and I dropped them off," she said in a brief interview last week.

Voters in the 19th Division of the 43d Ward said their committeewoman, Barbara Landers, also led them to believe they needed no special reason to use absentee ballots.

Edwina McCall, who lives on the 3800 block of Darien Street, said she could have gone to the polling place, but Landers told her she could use an absentee ballot and vote at home.

"Who wouldn't use the absentee ballot if they could?" McCall said. She said she questioned Landers about using the ballot. "She said I could do it. I said OK. I told her I wanted [to vote] Democrat. She checked it off for me. I signed my name."

Eunice Stockton, who also lives on the 3800 block of Darien Street, said she was not sure she could get to the polling place on Election Day, so Landers gave her an absentee ballot and told her it was all right to vote with it. So she did.

Told that several residents said she informed them they could cast absentee ballots for convenience, Landers responded: "It's their word against mine...I have done nothing wrong. I have nothing to talk about. As far as I'm concerned, the election is over. I'm through talking about it."

"WHY BALLOT CHALLENGES ARE TOUGH"

(The Philadelphia Inquirer 11/28/93)

By Vernon Loeb
Inquirer Staff Writer

Republican Bruce Marks knew he had a big problem four days before the Nov. 2 election.

That is when the city commissioners released a list showing that an astounding number of people -- more than 2,600, most of them Democrats -- had applied for absentee ballots in Marks' Second Senatorial District race against Democrat William Stinson.

State election law required the release of the list, just as it then required Marks to go out and individually investigate each and every case he considered questionable before challenging absentee ballots -- for specific cause -- on Election Day.

It was, Marks maintains, an impossible burden for him to meet in the final days of an exceedingly close contest, especially in light of the sheer number of absentee ballots.

"No campaign should be expected to direct its resources to investigating fraud by its opponent when you're trying to get elected," Marks said last week. "It is our view that the law does not provide an adequate remedy in the case of massive abuse."

While the debate on that point continues, there is broad agreement that the legal requirements for challenging absentee ballots are extremely labor-intensive.

And there is broad agreement that the Second District race -- won by Stinson on the basis of absentee ballots -- highlights a fundamental tension within the election code between combating fraud and protecting the sanctity of a ballot.

Yes, challenging absentee ballots is difficult, according to Frederick L. Voigt, executive secretary of the Committee of Seventy, an organization that has been monitoring elections in Philadelphia for decades.

"It's difficult because it's supposed to be difficult," Voigt said. "Since there's no voter there to fight for that absentee ballot, the code says you just can't allow votes to be thrown out -- without making it difficult. Because that would have the effect of disenfranchising people."

Underlying the challenge process is the belief that fairness is best served by having each political party keep an eye on the other.

When only a few votes one way or another are in question, that may not be a problem. But Marks has alleged "massive abuse" of the absentee-ballot process.

An Inquirer investigation has found irregularities with more than 180 absentee ballots. Attorney General Ernie Preate Jr. has launched a criminal investigation into allegations of election fraud. At stake is the seat that gives Democrats the final vote they need to keep a majority in the state Senate.

With so much riding on the result, some ask, is it reasonable to depend on partisan politics to keep the voting fair?

Had either Marks or Stinson won the race by a comfortable margin, there would have been little cause to scrutinize the 1,757 absentee ballots cast in the Second District -- 90 percent more than in 1986 and 50 percent more than in 1990.

But after Marks outpolled Stinson on the voting machines 19,701 to 19,139, Stinson's 1,391-366 edge in absentee ballots propelled him to a 463-vote win -- and the scrutiny was on.

By then, it was essentially too late for Marks to change the outcome, given the requirements of state law on absentee voting.

This is how that law works:

There are only two valid reasons in Pennsylvania for voting absentee -- absence from the county on Election Day, or a sickness or disability that makes it impossible to get to the polls.

Voters who meet either of these requirements can apply for absentee ballots beginning 50 days before Election Day. Their applications are public records that can be reviewed and challenged by candidates and campaign workers at any time.

All absentee ballots must be received by the city commissioners by the Friday before Election Day. On that Friday, the commissioners must compile and make public a list of all absentee applications.

That leaves Saturday, Sunday, Monday and Election Day itself -- a time when most campaigns are focused totally on getting out the vote -- for campaign workers to knock on doors, make calls and do whatever else is necessary to determine whether the people in whose names applications have been filed are legitimate absentee voters.

Suspicious applications and other cases of apparent fraud can be challenged on Election Day. An absentee ballot can also be challenged on the ground that the voter is present in the county or is neither sick nor disabled.

Every challenge to every ballot must be made on specific grounds -- and every challenge costs a \$10 fee. The fee is refunded if the challenge is successful, forfeited if it is not.

No voters' rights group, no neutral party, is permitted to challenge absentee ballots: Under the law, only candidates' legally designated pollwatchers can. It is an essentially partisan system that puts the burden of proving election fraud -- and, in effect, the burden of protecting the public -- squarely on the candidates.

Voigt said the Marks campaign had ample opportunity to scrutinize the ballot applications for weeks before the election. And it had four days before the election, he added, to send campaign workers out into neighborhoods thought to be Stinson strongholds searching for fraudulent cases so that specific challenges could be mounted on Election Day.

Voigt said Marks and several of his top campaign aides called him on the Sunday night before the election asking his advice. The Marks campaign, Voigt said, wanted to go to court to get all the absentee ballots impounded because of the unusually high number of applications.

"And I said to them," Voigt recalled, "The numbers aren't evidence."

Two Common Pleas Court judges refused Marks' pre-election requests for extraordinary relief. Marks' campaign proceeded on Election Day to challenge 550 ballots en masse, not stating a specific cause for a single challenge as required by law.

That requirement is proper, Voigt said, because protecting citizens' right to vote is of paramount importance. The law presumes each vote is good unless proven otherwise; and by putting the burden of proof on the challenger, it protects voters -- especially absentee voters, who presumably aren't around to speak for themselves.

"The process must be followed," Voigt said. "The code is not designed to do mass challenges of any sort. Voters are individuals."

Marks disagrees. The process, he argues, can't be followed by someone faced with investigating an unusually high number of absentee votes.

In his case, he said, the requirements of the law made success next to impossible.

And the way the law was implemented by election officials in Philadelphia, sealed his doom, he said.

Marks said he had no reason to suspect his opponents' obvious campaign strategy of producing as many absentee ballots as possible until the list of applicants was published four days before the election, because of a last-minute flood of applications.

He also noted that the list of more than 2,600 names was only a partial listing and said that a final, complete list was not made available, making it impossible to do any investigation on certain ballots.

Even to check out the 2,600 names, Marks said, would have meant diverting at least 50 workers from his campaign over the last critical weekend, when they needed to be out winning votes.

On Election Day, he said, those same operatives would have had to wait at the polls until absentee ballots were delivered from the city commissioners before scurrying out into the neighborhoods to prove that individual voters weren't sick or out of town.

If all that were not difficult enough, he said, more than half of the 550 absentee ballots he ultimately challenged were opened before the polls closed at 8 p.m., rendering the challenge apparatus moot.

That alone created insurmountable logistical problems. Like any other ballot, an absentee ballot is anonymous -- it has no voter's name on it. The voter's name, address and signature are on the envelope in which the ballot is sent to the polls. Once the envelopes are opened and the ballots mixed together, it is impossible to determine for which candidate an individual voted.

Challenging an opened absentee ballot is thus futile, since election officials would have no way of knowing which candidate loses the vote.

Finally, Marks asked, how is a candidate supposed to mount an effective challenge if he learns about systematic fraud only on Election Day or immediately thereafter?

"If fraud has occurred," Marks said, "you have to have a [post-election] remedy, which is what we've been looking for all along."

On the morning of the election, Marks' attorney, Tom Kline, appeared before Common Pleas Court Judge Eugene E. J. Maier and asked that all absentee ballots in the Second District be impounded so challenges could be lodged after the election.

Kline said he was worried that some ballots would be opened ahead of time, rendering challenges moot. He also said he had evidence to warrant such an impoundment by the court.

"The absentee ballots, from everything that we have been able to determine and from testimony which can be proffered here this morning," Kline said, "demonstrate a pattern of what clearly would constitute a prima facie case of abuse."

Kline said Marks' campaign workers had found things such as applications filed from empty houses and a street in the 43d Ward on which every voter had applied for an absentee ballot.

"So what you want to do is you want to challenge all the ballots now," Maier responded.

He cited what every judge is supposed to follow, the law.

Marks, Maier noted, was attempting to challenge ballots right there in court, "rather than following the procedures set forth in the election code."

Maier denied the request.

"MORE 2D DISTRICT VOTERS TELL OF FORGERY, DECEPTION"

Mystery voters and a vacant lot also turn up among absentee ballots.

(The Philadelphia Inquirer 12/1/93)

In Philadelphia's 37th Ward, 58 absentee ballots were cast in the Nov. 2 election in the Second Senate District.

All 58 went to Democrat William G. Stinson.

An Inquirer examination of the votes from that ward shows that:

* In five cases, voters' signatures appear to have been forged on voting documents.

* Thirty-nine of the ballots were cast by people who say they were misled into voting absentee even though they did not meet the legal requirements.

* Nine absentee ballots appear to have been filed legitimately.

Absentee votes gave Stinson a narrow margin of victory over Republican Bruce S. Marks. Marks outpolled Stinson on the voting machines, but Stinson took 80 percent of 1,757 absentee ballots, giving him a 461-vote edge overall. The victory gave Democrats control of the Senate.

Since the election, The Inquirer has interviewed about 220 Second District voters who described irregularities in absentee balloting. The newspaper has found 24 cases in the district in which voting documents appear to have been forged.

In an interview yesterday, Stinson said it appeared there were irregularities in absentee balloting, but he insisted his campaign was not responsible.

"What we did was a very aggressive campaign," he said, "but no one from this campaign was told to do anything illegal. They know what it takes to qualify for an absentee ballot. There were no novices that I know of working out there."

"I absolutely think something went on," Stinson said. He added that he had no idea who was responsible. "I don't have a clue. I absolutely don't have a clue....I wish I knew. I really wish I knew."

Stinson took his Senate seat last week over fierce protests from Republicans, who said the election was tainted. The U.S. Justice Department and the state Attorney General's Office are investigating allegations of absentee-ballot fraud.

A little finger of land in the 37th Ward -- seven voting divisions that lie in the Second District -- provides a window on what went wrong. In recent days, Inquirer reporters interviewed 53 of the 58 voters in whose names absentee ballots were cast. A 54th voter could

not be found. City records do not provide clear identities for the other four.

Many voters said unidentified street canvassers traced them into signing up for the ballots, saying that a new law allowed voting "from home." Some said the visitors encouraged them to sign documents for relatives and, in some instances, filled out ballots for them.

In November 1991, when Philadelphians elected a new mayor and City Council, this sad sliver of rowhouse North Philadelphia -- home to about 3,700 registered voters -- produced a single absentee ballot. In 1988, a presidential election year, there were 10.

Lawrance H. McDowell, Jr. was one of the 58 people listed as having cast an absentee ballot in the Stinson-Marks race.

Late last month, the city Board of Elections got a signed application bearing his name and address on the 2600 block of North Seventh Street. The form stated that McDowell would be out of town Nov. 2.

A ballot was duly issued. It was later returned to the elections board in a signed envelope and became one of the 58 votes tallied for Stinson.

McDowell, 38, an investigator for Community Legal Services, a federally funded legal-aid program, said this week that he did not apply for or cast a ballot. He said he was not at home Oct. 26, the date on the application.

"I wasn't even here. I was at work," he said. "That's a forgery."

Zachary Newson of the 600 block of Huntingdon Street, was equally surprised to learn from a reporter that the 58 Stinson ballots included one cast in his name.

Newson, 38, said a street canvasser who went door-to-door on his block in late October had him fill out an application for a ballot. Newson said he never received the ballot.

Someone else did. And in filling out the ballot envelope, someone misspelled his name as Zackhary -- once in block letters and again in script.

"I don't spell my name with a k," Newson said when shown a copy of the document.

He said the signature was a fake.

A ballot bearing the name of Maximina Martinez was also among those counted in the Stinson column.

Martinez, 26, a mother of four, said a canvasser knocked on her door in mid-October and spouted something about a new law that allowed people to vote from home. This would be especially convenient for someone with small children, the man said.

Martinez said she told the man she had moved a year ago but was still registered at her old address. He told her to put down the old address, she said. Martinez signed a ballot application, and the visitor departed.

Like Newson, Martinez said she never got a ballot. She expressed surprise when a reporter showed her a copy of a ballot envelope bearing her name and what purports to be her signature. The handwriting differs markedly from that on the application and on her voter registration card.

"Someone else signed it," she said. "I can't even write that way."

Olga Barcay said she, too, is a victim of forgery. Several days before the election, three men brought an absentee ballot to her home in the 3100 block of North Sixth Street.

She and her husband said the visitors asked her to check off Democratic candidates. The couple, who are Republicans, said they refused, took the ballot and later discarded it.

Before the men left, John Barcay said, one of them pleaded with his wife to sign a form, saying, "So I can show my boss I was here." She complied, and her husband printed her name in block letters below.

The form was an official absentee-ballot envelope. It was later filed with the elections board -- apparently with a marked ballot inside.

City records show that an absentee-ballot application and a voter registration form were filed in Olga Barcay's name on Oct. 4 -- the deadline for registering to vote in the Senate race.

Both documents list her date of birth as Sept. 1, 1962, which would make her 31. She is 75.

The signatures differ distinctly from the one she penned on the ballot envelope.

She says they are fakes.

Another Stinson ballot was cast in the name of Keith B. Moses, 22, of the 2700 block of North Darien Street. City records indicate he registered to vote and applied for an absentee ballot on Oct. 4.

His sister and mother said Moses moved out of the house last spring. They said the signatures on the voter registration form, the application and the envelope in which the ballot was returned to the Board of Elections appear to be forgeries. Moses could not be reached.

"That's not my brother's signature," his sister, Monique McMullen, 18, said yesterday as she examined copies of the documents. "He doesn't write that fancy. His signature is just some lines with some letters. It's chicken-scratch.

"This is all fake."

City records show that on Oct. 4, a Ron Johnson, 31, registered to vote and applied for an absentee ballot. That ballot was later cast in the Senate race, adding to Stinson's absentee landslide in the 37th Ward.

The voting documents list Johnson's address as a two-story rowhouse at 2851 N. Seventh St. But a tenant in that building and a man who said he worked for the owner told *The Inquirer* that no one by that name had ever lived there.

Officials at the branch post office said that they had not delivered mail to that address for a Ron Johnson in recent memory, and that Johnson had never filed a change-of-address form.

There were also instances where ballot applications appear to have been forged -- though no ballots were ever cast.

The pile of applications from the 37th Ward includes one from a Latanya Anderson of 602 W. Dauphin St. There is no such address. That entire side of the street is a vacant lot, filled with weeds, trash and an abandoned car.

The only resident of the block, Jonnie B. Rawls, said 602 W. Dauphin was demolished at least a decade ago. She added that she had never heard the name Latanya Anderson.

It remains unclear who organized the absentee-ballot drive. Clem Moragne, the Democratic leader of the 37th Ward, said he was frozen out of the Stinson campaign and knew nothing about how absentee votes were solicited.

Democratic committee people in the ward said the canvassing was done by outsiders unknown to them.

"The people who worked my ward -- I did not know who they were," said Sarah Ross, a committeewoman in the ward's 18th Division. "They were going door-to-door, putting out literature, trying to get out the vote for Stinson. I don't know who sent them out."

Chris Simeral, a spokesman for Stinson, referred questions about absentee voting to Ruth Birchett, who was Stinson's field coordinator for African American and Latino wards.

Birchett, who works in the Mayor's Office of Community Services, said she was barred by city personnel rules from discussing the campaign. "It's not something I'm going to talk about one way or another," she said.

Both Simeral and Kevin A. Feeley, Mayor Rendell's press secretary, said Birchett was free to discuss the matter.

The canvassers were not always content to sign people up for absentee voting and deliver them ballots. Some voters say the visitors told them how to vote or filled out their ballots for them -- a pattern *The Inquirer* has found elsewhere in the Second District.

Francisco Rivera said a man came to his house in the 2600 block of North Darien Street late last month and told him the voting laws had changed and he could now vote from home. Rivera, 33, said he signed up enthusiastically.

Rivera was not home when two men delivered a ballot several days later. His wife, Marisa, was. She said the men told her to fill out the ballot for her husband. "They said I had to vote Democratic," she said. She said she complied.

Marisa Rivera said the visitors also told her to sign her husband's name, and she did.

Robin Smith, who turned 18 last June and lives with her parents, voted for the first time in the Stinson-Marks race. She said a campaign worker registered her to vote Oct. 4 at her home in the 2700 block of North Darien Street.

A few days later, she said, a different man delivered an absentee ballot and asked whether she wanted to vote for Stinson. Smith said she responded that she did, and the visitor marked the ballot, had her sign it and left.

She said she never handled the ballot. Under state law, absentee ballots must be marked in secret. It is illegal to help someone fill one out unless the voter is physically unable to do so.

For Jeanette Soria, 18, of the 700 block of West Cambria Street, the Nov. 2 election also marked her first voting experience.

In late September, she said, a campaign worker who was going door-to-door told her that voting would be easy this year and had her fill out forms to cast an absentee ballot. A week or two later, she said, a man brought by an absentee ballot and filled it out for her.

"He said, 'You're voting Democratic, right?' and he put an X there," she said.

Omayra Figueroa, 21, of the 2900 block of North Sixth Street, gave a similar account. She said a canvasser had her sign an absentee-ballot application in late October. A man later brought the ballot to her house. The man filled it out for her, she said, and showed her where to sign.

"When I came to see my paper," she said, "it already said Democrat. I didn't put anything at all. I just signed my name."

Whatever else it accomplished, the massive effort to get out the absentee vote left many voters bewildered. Some who remembered talking with canvassers and signing forms were startled -- and shaken -- to learn from reporters that they had voted.

Vernon Carter, 40, of the 2800 block of North Ninth Street, said a canvasser knocked on his door in early October and encouraged him to register to vote -- and sign an absentee ballot while he was at it.

"He said it would save time," Carter said.

A few days later, another man returned with what Carter now recognizes was an absentee ballot. Carter said the man helped him fill out the form, showing him which boxes to mark and where to sign. Carter said he thought he was still going through the preliminaries, not actually voting.

"He said, 'Check here, sign here.' I asked him, 'When do I get to vote?' He said, 'You just voted.' I don't know who I voted for. I don't know what's happening."

Carmen Figueroa, 75, said she had no intention of voting. She and her husband are Jehovah's Witnesses, she said, and their faith forbids it. "I don't vote for anyone. I never have, not even in Puerto Rico," she said.

Yet an absentee ballot was cast in her name.

Figueroa, 75, said a young couple dropped by her house in the 2600 block of North Franklin Street and persuaded her and her husband, Herminio, 70, to sign what they thought was a population register.

The forms were actually absentee-ballot applications, but they were printed in English only. She cannot read the language at all, and her husband has difficulty with it.

A few days later, the canvassers returned and asked the Figueras to sign more forms. These were absentee ballots and included a Spanish translation. Reading it, Herminio realized that he and his wife -- contrary to their deepest convictions -- were involved in voting.

The husband refused to sign, but his wife had already done so.

"This will never happen again," Carmen Figueroa said, "because I will never again open my door for anyone."

"GOP SUES DEMOCRATS OVER PROCEDURE"

(The Philadelphia Inquirer 12/02/93)

By Robert Zausner

HARRISBURG -- Republicans fired another volley yesterday in their legal battle to remove Philadelphia Democrat William G. Stinson from the Senate, this time suing not over his contested election but over his votes upon arriving in the Senate.

The GOP's 25 senators claimed in Commonwealth Court that Stinson and the rest of the 25 Democrats violated the state Constitution in votes taken last week when the Senate reconvened from an extended summer recess. In particular, they questioned whether Stinson could vote on seating himself as a senator.

Democrats downplayed the Republicans' suit. Duke Horshock, spokesman for Senate Democrats, called it "just a continuation of their public relations campaign and their political campaign for next year's election."

Susan E. Woods, press secretary for Lt. Gov. Mark S. Singel, who serves as Senate president and also is a defendant in the suit, termed it "just more of the same."

Democrats say Stinson was duly sworn in as a Member of the Senate after being properly elected in a Nov. 2 special election later certified by the city and state officials.

But Republicans contend Stinson voted illegally to support his own seating in the Senate because he had a "personal and private interest" in the matter and thus was barred from voting. The suit notes there are "financial and professional benefits" to being a senator.

The suit claims Singel and the Democratic senators violated the constitution by delaying the seating of a second member, David W. Heckler, who was elected in a July 13 special election in Bucks County. Heckler was sworn in and allowed to vote only after votes on the seating of Stinson.

Senate Minority Leader Robert C. Jubelirer (R., Blair) said the legal action was "necessary because we do not condone a violation of the constitution, and this is a clear violation of the constitution, which says that no member is entitled to vote on any matter or issue in which they have an interest."

"So what do you do? You have a choice: Either condone it and allow a bad precedent to become just that, a bad precedent. Or you challenge it in a court of law so that it doesn't happen again," he said.

Stephen C. MacNett, general counsel for Senate Republicans, said the question is whether Stinson can vote in a way that "he can be a judge of his own case. That is what it really boils down to."

Stinson's vote gave Democrats a 25-24 voting edge on several procedural questions, including one over whether Stinson should be allowed to vote on whether he could vote in the Senate.

The first six pages of the lawsuit are filled with the names of the respondents and petitioners, followed by 10 pages of background and legal arguments, followed by more than 50 pages of evidence and transcripts from the Nov. 22 session.

Jubelirer said he expected the matter of Stinson's seating in the Senate could be settled relatively soon, but not necessarily by Commonwealth Court. A statewide investigating grand jury may get the case within days.

"As people are subpoenaed to appear before the grand jury, I'm sure we're going to learn more about who these people were," Jubelirer said about Stinson supporters who allegedly collected forged or fraudulent absentee ballots in the race.

"Somewhere, somehow, somebody had to bring these people in and give them orders. Somebody had to pay them. And somebody's going to talk before that grand jury," he said. "We're going to get to the truth."

Meanwhile Attorney General Ernie Preate Jr. said yesterday that the investigative team probing the election will open a storefront field office at 6391 Oxford Ave., in a shopping strip at Oxford Avenue and Levick Street in Northeast Philadelphia.

The office will be staffed from 8:30 a.m. to 9 p.m. Monday through Saturday. Investigators will be probing allegations of criminal election-law violations, including allegations of fraud in the solicitation of absentee ballots in the Second Senate District.

Preate said the office would also be available for use by U.S. Justice Department officials and FBI agents who are investigating allegations of vote fraud and civil-rights violations. Investigators said members of the public may contact them at 560-5901.

"RENDELL: 'BOTH SIDES' VIOLATED LAW
IN 2D DISTRICT"

The mayor expressed confidence in Preate's probe. But he said criticism should not focus on Stinson.

(The Philadelphia Inquirer 12/02/93)

By Steve Goldstein
Inquirer Washington Bureau

WASHINGTON - Mayor Rendell said yesterday there was "no question there's been some vote fraud, some illegalities, and some violation of the election code" in Philadelphia's Second Senate District.

But the mayor, making his most extensive comments on the controversial tally of the campaign between his former aide, Democrat William G. Stinson, and Republican candidate Bruce Marks, said it was wrong to focus criticism on Stinson.

"It occurred on both sides," Rendell said heatedly in an interview during a break at an intergovernmental commission meeting here. "Five paid people on [Marks'] campaign staff voted by absentee ballot for convenience even though they were in the district on Election Day."

Rendell said he was confident that State Attorney General Ernie Preate Jr., a Republican, would conduct a fair and thorough investigation. He said, however, he did not believe "there is any need for the [U.S.] Justice Department to jump in."

The Civil Rights Division of the Justice Department said Monday it would investigate the allegations of voting fraud in Philadelphia.

Also in Washington yesterday, Republican National Committee chairman Haley Barbour said the party would throw its legal and financial resources behind Marks in an effort to overturn his election loss.

At a news conference at Republican headquarters that featured Marks and five Latino voters who said they were fooled into voting for Stinson, Barbour said the GOP would "use this opportunity to fight for voters' rights."

Rendell, until yesterday, has had little to say about the complaints of tainted absentee votes for Stinson, a jeweler and beauty-shop owner who was an assistant deputy mayor for economic development.

The mayor has been a staunch supporter of Stinson's. On Oct 5, Rendell's mayoral campaign committee lent Stinson's campaign \$50,000. Stinson since has repaid \$30,000.

Rendell's campaign committee also paid the salaries of two of Stinson's top campaign officials, Joseph Martz and Ruth Birchett, city employees who took leaves of absence from the Rendell administration to work for Stinson's election.

Stinson collected fewer votes than Marks at the voting machines in the Nov. 2 special election to fill the remaining 14 months of the term of the late Sen. Francis Lynch, but he was credited with enough absentee votes to win election by 461 votes.

Over Marks' protest that many of Stinson's 1,391 absentee ballots were fraudulently obtained or cast, the city commissioners declared Stinson the winner on Nov. 18. Stinson was quickly sworn into office in Harrisburg.

Stinson's installation gave the Democrats virtual control of the state Senate, preserving for Sen. Vince Fumo of Philadelphia the important chairmanship of the Senate Appropriations Committee, a position vital to Philadelphia as it seeks to recover financial stability.

In the last two and a half weeks, The Inquirer has interviewed about 220 voters in the Second District who said they were misled into casting absentee ballots for which they did not appear to be qualified. Many said they were told they could vote from home merely as a convenience or that there was a "new way to vote."

In more than three dozen cases, voters said they were urged to vote absentee by Democratic committee members or Stinson campaign workers. In none of the cases have voters told The Inquirer they were approached by representatives of the Republican Party or the Marks campaign.

The Inquirer also has found 24 instances in which voters or their relatives said signatures on the envelopes containing absentee ballots or the applications for absentee ballots appeared to have been forged.

The voters' claims that they were misled were concentrated in wards and divisions where Stinson won by enormous margins. In the 37th Ward, where Stinson won the absentee vote by 58-0, about 75 percent of the individuals who cast absentee ballots told The Inquirer they were misled into casting an absentee ballot, or did not recognize the signatures that accompanied their absentee ballot.

The Inquirer also reported last week that four paid consultants from Marks' campaign violated state election law by casting absentee ballots in the Second District, while a fifth Marks employee voted illegally by absentee ballot elsewhere in the city.

Rendell yesterday accused Marks of being "an incredible hypocrite" for criticizing Democrats for voting practices that were also employed by Marks' workers.

"Has anyone checked his [Marks'] absentee ballots? No," said the mayor. "The fact is Stinson won, and Marks is just starting a campaign for next year's election."

Marks responded: "Obviously it's a far cry from a few of my people making a mistake as opposed to a massive effort in which between 500 and 1,000 absentee ballots were illegally cast."

Marks said the five campaign workers who voted by absentee ballot "misunderstood the law." He has said their votes should not be counted.

Rendell said that Marks "has no legal case to void the election. That has already been determined by the courts. The Pennsylvania Supreme Court has already ruled."

The state Supreme Court ruled only that the Marks campaign's allegations, which at the time were before a Common Pleas' judge, should have been heard first by the city commissioners. The Supreme Court sent the matter back to the commissioners.

When they voted to certify Stinson's victory, Marks then took the matter back to a Common Pleas judge, who is now presiding over the case. The matter could go to the state Supreme Court again.

"The proper forum for this is the attorney general of Pennsylvania's investigation," Rendell said. "I have tremendous confidence in the attorney general that he will do a fair job. With the state probe, I don't think there's any need for the Justice Department to jump in, particularly when the attorney general happens to be a Republican, so that Mr. Marks can't complain, as he has about everything that goes on in Philadelphia, that it's all a bunch of Democrats."

"If people broke the law on either side, they should be prosecuted appropriately under the law," he said.

Rendell added: "The election is over. Regardless of what The Inquirer wants, it's over. It's done. I would like to see those people...if they want people who violated the election code arrested, then five of his workers should be arrested. Marks admitted they did wrong."

At the Republican Party New conference here yesterday, Marks and Barbour tried to attract wider attention by presenting five Second District residents, all of them Hispanic, who told reporters for national media that they were defrauded.

"This story has been documented and substantiated in Philadelphia but has received no attention nationally," said Barbour, complaining that the Justice Department waited weeks before starting a probe

"MAYORAL MISCALCULATION"

The sins of Stinson are worse than Marks'

(The Philadelphia Inquirer 12/03/93)

Not for one minute do we believe that Mayor Rendell, a former prosecutor, would wink at the possibility that political operatives engaged in forgery, or did their darndest to steal the election in Philadelphia's Second Senate District.

The mayor ought to know, though, that some folks might just wonder, after reading his comments published in The Inquirer yesterday.

What the mayor said was that both sides in the disputed Senate race violated election laws, and so investigators shouldn't focus narrowly on the campaign of the apparent victor, Democrat William G. Stinson. They should look, among other things, at the fact that five campaign aides to Republican Bruce Marks voted improperly by absentee ballot.

The mayor, however, is really reaching with this plague-on-both-your-houses approach. Sure, it is hypocritical that some of the Marks workers who used absentee ballots would be the very ones challenging many of the Stinson campaign's absentee ballots. But nobody's offered reasonable evidence to suggest that the Marks campaign engaged in a widespread effort by campaign workers to bend the rules. This appears to be the case with the Stinson campaign.

The mayor's under the misimpression that no one has examined the Marks absentee ballots. In fact, Inquirer reporters obtained absentee-ballot applications for every Second District voter they could find before voting records were seized by the State Attorney General's Office. There was no way to know initially for whom the voters cast ballots. But when interviewed, around three dozen of these voters said the canvassers who signed them up were Democratic committee people, or Stinson field workers. In 200-plus interviews, not a single voter identified the worker as a Republican.

On the phone with us yesterday, the mayor made it clear he knew that there was "a different level of culpability" in forgery, and that if ballots were forged or cast on behalf of nonexistent voters, the people responsible should go to jail. He continued to insist, however, that there was also illegal "convenience voting" by absentee ballot for Mr. Marks, and makes the legalistic assertion that the number of voters who said they were misled still doesn't approach the number needed to overturn the Stinson win.

He's off the mark. Faced with an unfolding scandal that is doing untold damage to confidence in the electoral process -- and putting the spotlight on Rendell aides who worked for the Stinson campaign -- Mr. Rendell sounds too much the Democratic partisan, too little the mayor of the entire city. That's a disservice to him, and the city.

"AVOIDING THE TAINT"

Stinson's election should prompt changes to prevent abuses of absentee balloting

(The Philadelphia Inquirer 11/30/93)

Democrat William G. Stinson may not be in Harrisburg long, as interim state senator from Philadelphia's Second District. But he ought to decorate his new office anyway. A framed absentee ballot would be a nice touch. And how about a leather-bound copy of the state election code for the reception area?

Mr. Stinson, who must run for a full term next November, owes his election to the crafty use -- some would say abuse -- of the absentee ballot and the state's cumbersome election procedures. Such accoutrements for his office would be an acknowledgement that his victory over Republican Bruce Marks was tainted. Certainly, it was nothing that he, or his party, can be proud of.

It showed that when the stakes are high enough -- in this case, nothing less than Democratic control of the Senate's perks and legislative process -- some folks are willing to try almost anything. (And without being very savvy, since the city's interests may yet suffer because its few state Republican friends are fuming.)

According to voters, the Stinson crew and other Democratic workers resorted to trickery -- gathering hundreds of absentee ballots from voters who didn't qualify to vote from home. More than 180 voters told *The Inquirer* they were misled.

Stinson partisans also out-maneuvered the Marks camp at every turn of the Democratic-controlled vote-challenge process -- particularly with a hasty state-certification and swearing-in ceremony facilitated by the Casey administration at the express request of Senate Democratic leaders. Once sworn in, it was impossible to keep Mr. Stinson from taking his seat, no matter how shaky his claim.

That would have been bad enough, since it paints a dismal picture of big-city elections. But an ongoing investigation by *The Inquirer* has unearthed far worse: at least 19 instances where voters' signatures may have been forged on applications and ballot envelopes.

Evidence of possible vote-fraud and forgery must be investigated swiftly, and state Attorney General Ernie Preate Jr. has begun to do so. At the same time, the Justice Department, which launched an investigation of the Whitman campaign in New Jersey on a boast by a GOP strategist, should decide quickly whether to probe documented abuses by Democratic canvassers. Based on the latest disclosures in Sunday's *Inquirer*, it's clear that the Stinson campaign fielded the workers whom voters say misled them.

The only way to restore public confidence is to learn the full dimension of any election-related crimes and punish anyone who tampered with democracy's foundation.

Whatever the investigations reveal, state lawmakers need to examine election reforms that would make it more difficult to pull off a massive ballot scam -- and easier to combat such an attempt. Right now, the state's ballot-challenge procedures effectively make it impossible to thwart widespread fraud. Even within existing election law, the city could reduce the risk of fraud by tightening its lackadaisical procedures for distributing absentee ballots, and by insisting that poll workers wait until the polls close to open the mail ballots.

Meanwhile, Mr. Marks' best hope of unseating Mr. Stinson, and it's a slim hope, rests with the official contest of the election. Overturning the Stinson victory, however, may be left to the voters themselves -- when, and if, Mr. Stinson seeks re-election.

The voters, that is, who haven't been so totally alienated by the way their franchise was manipulated in this election.

"GRAND JURY MAY INVESTIGATE ALLEGATIONS IN 2D DISTRICT RACE"

The charges may be examined by the same panel that conducted the state Supreme Court probe.

(The Philadelphia Inquirer 12/1/93)

By Russell E. Eshleman Jr.
and Henry Goldman

HARRISBURG -- As early as next week, the same grand jury that recently recommended charges against state Supreme Court Justice Rolf Larsen may begin hearing testimony about alleged illegalities in Philadelphia's Second State District election.

Attorney General Ernie Preate Jr. said yesterday he would "probably" ask the Ninth Statewide Investigating Grand Jury to start probing allegations that massive vote fraud tipped the tight election in favor of Democrat William Stinson over Republican Bruce Marks.

Preate estimated the investigation would take about three months.

Speaking before the House Judiciary Committee, Preate said he would soon ask Judge G. Thomas Gates, supervising judge of the grand jury, to permit the Philadelphia investigation to go to the grand jury.

"It was his guess that it will probably end up there, and it will happen very soon," said Preate spokesman Robert Gentzel. "A case can be placed before the grand jury and they can begin hearing testimony quite quickly."

Preate's announcement came a day after the U.S. Justice Department said it had officially begun an investigation into irregularities in absentee balloting in the Nov. 2 election.

During the last three weeks, about 220 voters have told *The Inquirer* they were misled into voting by absentee ballot. In 24 cases, voters' names appear to have been forged on voting documents.

Gentzel said Preate telephoned U.S. Attorney General Janet Reno on Monday night to assure her that his investigators would cooperate with the federal probe. Preate also talked with Bob Reutter, special agent in charge of the FBI office in Philadelphia, to request the bureau's help. Meetings were held Monday in Philadelphia between FBI agents and representatives of the state, Gentzel said.

"The bottom line is that there will be a cooperative investigation," Gentzel said. "Clearly, they have jurisdiction over voting rights and civil rights, and we have very strong jurisdiction under the state crimes code."

Gentzel said the attorney general's investigation would focus on possible criminal violations of the election laws, as well as "any potential related crimes, the ones people are talking about: forgery, false swearing, tampering with public records, unsworn falsification and possibly others."

"It will be a very widespread effort; we will try to track down every lead," Gentzel said.

Gentzel said that unlike the Larsen investigation, a grand jury probe of the Second District would not require additional funding by the legislature. Preate received a supplemental appropriation for the Larsen investigation because he hired special counsel to conduct the probe.

The investigation into the Second District race is proceeding with 25 prosecutors, state police officers and other investigators, Gentzel said.

The state and federal investigations will focus on whether any crimes were committed, not on whether the election result should be overturned, Gentzel said.

The state investigation is headed by M. L. Ebert, director of the criminal law division. Other top state prosecutors include Joseph McGettigan, a former Philadelphia assistant district attorney; Mark Costanzo, a deputy attorney general stationed in Philadelphia full time, and Renardo Hicks, a Spanish-speaking native of North Philadelphia who is chief of the state Bureau of Consumer Protection but has been specially assigned to this investigation. Many of the voters in the district are Latino.

The grand jury, comprising 23 full-time members and seven alternates from throughout the state, was convened March 5 for 18 months. It meets for one week in Harrisburg each month.

"JUDGE IS ASKED TO NULLIFY ELECTION RESULT"

(The Philadelphia Inquirer 11/30/93)

Marks' lawyers plan a petition to bar Stinson from the Senate. Also pending: A challenge by 64 voters.

By Henry Goldman

Attorneys for Republican state Senate candidate Bruce Marks yesterday asked a Common Pleas Court judge to nullify the process by which Democrat William Stinson was declared the winner in Philadelphia's Second Senate District, arguing that the election was tainted by widespread fraud.

Judge Mark I. Bernstein refused to consider the oral request, directing the attorneys to file a written petition seeking a court order to temporarily bar Stinson from sitting in the Senate, pending further legal challenges to the election.

Such a petition will be filed today, said Paul R. Rosen, who represents Marks in an appeal of a Nov. 18 decision by the city commissioners declaring Stinson the winner. Within an hour of that decision in Philadelphia, Stinson was sworn into office at a hastily-conducted ceremony in Harrisburg.

The appeal of the city commissioners' decision, and a separate contest of the election that was brought by 64 voters in the district, will be heard by Bernstein at the same time.

Republicans previously had asked, in vain, that the state Supreme Court appoint a senior judge from outside Philadelphia to hear the case. Yesterday, Rosen questioned Bernstein's ability to decide impartially.

Rosen noted that Bernstein had been a Democratic leader of the 27th Ward in University City and a deputy city commissioner, and that he had been elected judge in 1987 with Stinson's help as Democratic leader in Northeast Philadelphia's 33d Ward.

Rosen's request that the judge recuse himself from the case was rejected by Bernstein, who said, "I have no doubt I can be fair." Bernstein said that he had been elected judge with bipartisan support, and that Rosen had not been joined in his motion by two of his allied attorneys -- Raymond Denworth Jr., who represents the Republican State Committee in the appeal, and Vito Canuso, who represents the voters in the election contest.

The judge set Dec. 14 for the start of testimony from what Marks' lawyers said might be as many as 500 witnesses: voters who said they were misled into filing improper absentee ballots; Stinson partisans accused by Marks of having solicited the ballots in violation of state election law, and election officials who the Republican contends helped the Stinson staff conduct the absentee ballot campaign.

Marks' demand on Sunday that Stinson, the mayor and the Democratic Party bring people forward to testify was mocked yesterday by Mayor Rendell, who said that Marks, as a lawyer, should know he can call anyone he wants to give sworn testimony at a deposition.

Before any witnesses appear, the judge will have to hear arguments from Stinson's lawyer, Ralph J. Teti, who said yesterday that the legal contest filed by 64 Marks supporters "was fatally flawed" because its allegations of fraud were not specific enough.

Teti also argued that Bernstein, as a member of the judiciary, could not unseat Stinson from the legislature without igniting a constitutional crisis.

"You are not sitting to transform the appeal of the Board of Election certification into an election contest...and to defrock a senator sitting in the legislature," Teti said. "It would go beyond any authority...for you to enjoin the senator from being a senator."

The appeal arises from the decision by the city commissioners, also known as the county Board of Elections, who declared Stinson the winner after a one-day hearing at which the commissioners heard legal arguments but took testimony from only one voter out of 551 who had cast absentee ballots that were challenged by the Marks campaign.

The city commissioners had ruled that Marks' challenges to the absentee ballots were not valid under state election law, which they said required that such challenges be made by poll watchers, not campaign workers as Marks had used. The commissioners also ruled that the challenges must be specific for each voter, not a blanket challenge to all the ballots, as Marks had done.

Yesterday, Marks' lawyers argued that the commissioners had been wrong, and that state election law did permit "any person" to file such challenges. They also contended that where widespread fraud is alleged, a general challenge to the ballots should be sufficient. In any event, they said, Bernstein as the judge on appeal has authority to hear their allegations of fraud and determine whether the election should be set aside.

Teti said the city commissioners had properly applied the law, and urged Bernstein to affirm the commissioners' decision to declare Stinson the winner.

Further complicating the legal issues is the fact that all the absentee ballots have been separated from envelopes bearing the names of

the voters, mixed together and counted -- making it impossible to match any challenged voter with the voter's ballot.

The commingling of counted absentee ballots was cited by the city commissioners as a factor that made it impossible to provide a remedy even if Marks could prove wide-spread improprieties.

As judge on appeal, Bernstein is empowered to throw out the tally and order a new election if he finds evidence of fraud so pervasive as to cast the result in doubt.

"INVESTIGATORS PICK UP LAST OF VOTING RECORDS"

State agents hauled away crates of ballots and forms. The Material will be used in the 2d District probe.

(The Philadelphia Inquirer 11/28/93)

By Mark Fazlollah

Agents from the state Attorney General's Office carted off virtually all the remaining absentee-ballot information yesterday from the Nov. 2 election for Philadelphia's Second Senatorial District seat.

Seven state agents worked until late afternoon on laptop computers to catalogue the last of the ballot information at the Board of Elections office at Delaware Avenue and Spring Garden Street. They then loaded the material into a rented truck and shipped it to their offices in Norristown and Philadelphia.

Crates of absentee ballots, ballot applications and poll records -- sealed with red evidence tape -- were taken as part of the Attorney General's probe. State agents took similar information from a limited number of wards in the Second District earlier in the week.

"We have taken the majority of the relevant material," chief deputy attorney general Joseph McGettigan, who supervised the evidence-gathering, said early yesterday.

McGettigan said the material would be used as the basis for the attorney general's criminal probe of allegations of voting fraud. He would not speculate on how long the investigation would take or when the ballot material would be returned to the Board of Elections.

Democrat William G. Stinson got 80 percent of the 1,757 absentee ballots cast, giving him a 461-vote victory over Republican Bruce Marks.

Stinson's win allowed Democrats to maintain their control of the Senate. There are 25 Democrats in the 50-member Senate, and Lt. Gov. Mark S. Singel, a Democrat, holds a tie-breaking vote on procedural matters.

Republicans have contended that Stinson won through widespread vote fraud and have called for the election results to be overturned.

Nearly 200 voters in the North Philadelphia wards of the Second District have told The Inquirer that they were duped into voting with absentee ballots. They say campaign workers falsely told them that voters could cast ballots at home for convenience sake. Twenty-one of those voters said their signatures were forged.

Under state law, absentee ballots may be cast only by voters who will be out of the county at the time of the election or who cannot go to the polls because of a disability.

Attorney General Ernie D. Preate Jr. said in a statement Wednesday that 25 agents and attorneys from his office and the state police would be participating by tomorrow in a criminal probe of the allegations of fraud.

"MARKS CALLS ON WORKERS TO TALK"

He demanded information in what he called "ballotgate." Stinson says his people are available.

(The Philadelphia Inquirer 11/29/93)

By Reid Kanaley

Republican Bruce Marks called on Democrat William Stinson, Mayor Rendell and the Democratic Party yesterday to produce individuals to testify about alleged voting fraud in the Second Senatorial District race.

"It is obvious that the Stinson campaign engaged in a massive effort to abuse absentee ballots, and voters are now naming names as to many of the perpetrators," Marks said during a news conference at his Bustleton Avenue campaign office.

He called the controversy "ballotgate."

Marks was reacting to an article yesterday in *The Inquirer* that said about three dozen voters named specific Democratic committee people or Stinson campaign workers who they said told them they could vote from home by absentee ballots.

The committee people and campaign workers named by the voters told *Inquirer* reporters that they had done nothing improper.

Stinson accused Marks last night of throwing up "a smoke screen" in his frequent news conferences on the balloting.

"My people have been available for comment from day one," Stinson said. "We have said from the beginning that we had no part in any fraud, and we are cooperating."

More than 180 voters in the district have told *The Inquirer* in the last two weeks that they were misled into voting by absentee ballot in the Stinson-Marks race. Voters' names appear to have been forged on voting documents in 19 of those cases.

Marks won the voting-machine count in the Nov. 2 election but lost by 461 votes after Stinson carried 80 percent of the 1,757 absentee ballots cast.

Stinson was certified the winner by the city Board of Elections on Nov. 18 and took his seat in the Senate last Monday. Senate Republicans tried to block him.

Stinson's win allowed Democrats to maintain control of the Senate. There are 25 Democrats in the 50-member Senate, and Lt. Gov. Mark S. Singel, a Democrat, holds a tie-breaking vote on procedural matters.

The vote is being challenged in state and federal courts. Pennsylvania Attorney General Ernie D. Preate Jr. said last week that 25 agents and attorneys from his office and the state police would be involved today in a criminal investigation of the alleged fraud.

Stinson asked yesterday of Marks: "Is he producing the people from his staff who conveniently moved into this town and voted absentee ballots?"

He was referring to four consultants and campaign workers for Marks who improperly cast absentee ballots in the district. Marks has said that their votes should not count.

"Bruce is a one-sided person," Stinson said.

Rendell spokesman Kevin Feeley said yesterday that Marks, in the context of the federal lawsuit that he filed, has the right "to notice anybody he wants for deposition."

"It's to the point where, literally, you can set your watch by this guy," Feeley said. "There's not a day that goes by without a press conference by Bruce Marks."

Marks also said yesterday that in a court conference this morning, he would challenge the appointment of Philadelphia Common Pleas Court Judge Mark I. Bernstein to hear his appeal of the Elections Board's decision to declare Stinson the winner. Marks said the judge was a former Democratic ward leader.

He said he wanted a judge from outside the city to hear the case.

"U.S. OFFICIALS LAUNCH PROBE IN 2D DISTRICT"

The Justice Department plans to investigate whether anyone's rights were violated. Both the Stinson and Marks camps said they welcomed the scrutiny.

(The Philadelphia Inquirer 11/30/93)

By Steve Goldstein
and Vanessa Williams

WASHINGTON -- The U.S. Justice Department has officially begun a probe into allegations of voter fraud in Philadelphia's Second Senate District, a spokesman said yesterday.

"We decided that the allegations of voting irregularities warranted an investigation to determine whether they [the charges] are true, and if federal law has been violated," said Justice Department spokesman Myron Marlin.

Over the last two weeks, more than 180 voters in the Second District have told *The Inquirer* they were misled into improperly voting by absentee ballot in the hotly contested race between Democrat William Stinson and Republican Bruce Marks.

In 19 cases, voters' names appear to have been forged on voting documents. Some voters have said canvassers told them there was "a new way to vote" -- from home -- then filled out ballots for them or had them sign documents for relatives. Others said they thought they were registering to vote or applying for a home-repair program.

While most voters who were interviewed said they could not identify the canvassers, about three dozen named Democratic committee people and Stinson campaign workers.

Chris Simeral, Stinson's campaign spokesman, said the campaign welcomed the Justice Department investigation. "Everybody in this office has assured the senator that everything they did was proper and I'm sure that will be shown to be true," he said.

"That's great news," Marks said. "I fully support the Justice Department coming to Philadelphia to investigate the fraud and abuse...which clearly targeted to the Latino and minority community."

State Attorney General Ernie Preate Jr., who last week began a criminal investigation into campaign activities in the contest, said he welcomed the assistance of the Justice Department.

Preate, in a statement issued yesterday, said his investigators were concentrating on possible violations of state election law and criminal acts "such as forgery and tampering with official documents." He said he was "confident...that the federal government will not duplicate the work of the 25 agents and state police officers who are already working on this investigation."

Meanwhile, Latino community leaders yesterday warned Preate not to single out Latino voters in his investigation.

Stinson, 49, a former aide to Mayor Rendell, was declared the winner of the race and last week took his seat amid name-calling between party leaders in the Senate. The race was to decide who serves the remaining 14 months in the term of Democratic Sen. Francis J. Lynch, who died in May.

Stinson's victory gave the Democrats a crucial 25th vote to force a tie with Republicans in the Senate and maintain control of the chamber. Lt. Gov. Mark Singel, also a Democrat, can vote on certain procedural matters.

Marks, 36, a former aide to Republican U.S. Sen. Arlen Specter, has protested since before the election that Stinson engaged in "massive fraud" in collecting absentee ballots.

Marks outpolled Stinson in ballots cast at the polls on Election Day, but Stinson got 80 percent of 1,757 absentee votes and was declared the winner by a 461-vote margin. Stinson and his campaign aides have maintained that they simply did a better job than Marks at identifying absentee voters.

The Justice Department's Marlin said the probe would focus on federal civil rights statutes and is being handled by the voting section of the department's civil rights division. Marlin said attorneys were "working from" information contained in articles that have appeared in *The Inquirer*.

The Justice Department has asked the U.S. Attorney's Office in Philadelphia to name a deputy to help coordinate the federal probe. Former Common Pleas Court Judge Michael Stiles, a college roommate and close friend of Rendell's, was sworn in as U.S. attorney a week ago. Specter said he was not troubled by that friendship.

"I gave Stiles his first job in my office when I was district attorney," said Specter. "I think he will do a first-rate job."

Specter said that because Latino voters were targeted, the alleged absentee ballot-rigging appears to violate the Voting Rights Act.

"There was coercion, artifice and deception in misleading voters, and the alleged forgeries were an attempt to deprive people of the right to vote -- both violations of the Civil Rights Act," Specter said.

Specter, who is serving as one of Marks' attorneys and who has pressed for an investigation, was pleased with the news.

"I think they're going to blow the lid right off this matter," Specter said. "I think, ultimately, that Stinson will be ousted. ...When the Justice Department goes after it...they mean business."

Republican lawmakers, who had blasted President Clinton for condemning alleged vote suppression by Republicans in the New Jersey gubernatorial contest while maintaining silence on the reported misdeeds by Democrats in Philadelphia, cheered yesterday's announcement.

"I think it's a very important first step," said House Minority Whip Newt Gingrich, (R., Ga.), speaking by telephone from his office in Atlanta. "I'm glad they're doing the correct thing. Now we have to see what they come up with." Gingrich raised the issue last week with Clinton, urging him to order Attorney General Janet Reno to begin an investigation.

"That's great. I'm happy," said U.S. Rep. Curt Weldon, who spoke from his home in Delaware County. Weldon got 22 of his House colleagues to petition Reno for an investigation.

State law permits only voters who are sick, disabled or will be out of the county on Election Day to use absentee ballots.

The Inquirer reported last week that four Marks campaign workers had illegally cast absentee ballots in the senate race. Yesterday, Simeral, Stinson's press secretary, said that the number is five and that he hopes investigators "look into both sides." Marks, he added, "should get his own house in order before he starts flinging accusations at other people."

Marks said yesterday that the absentee ballots cast by his campaign workers should be thrown out. "There was no concerted effort on the part of my campaign to deceive or intimidate voters."

At a news conference yesterday before the Justice Department said it was entering the case, leaders of the Philadelphia chapter of the National Congress for Puerto Rican Rights said it would be unfair to target only Latino voters during the state's investigation.

"We want to get to the bottom of this thing, but we don't want Latinos or African Americans harassed and intimidated during the investigation," said Wilfredo Rojas, the organization's president.

The state constitution prohibits prosecution of voters on the basis of statements made during the investigation of a contested election.

"IN 2D DISTRICT, VOTERS DEJECTED AND DISGUSTED"

Residents of the mostly Hispanic 19th Ward feel duped. A "new way to vote" was a sham.

(The Philadelphia Inquirer 12/05/93)

Doris Perez knows precisely what she will do the next time she sees the young man who came to her home before Election Day and claimed she could vote from home.

"Tell him not to come around here again because I'm going to smash him," she said. "I'd break one of his legs."

Mariluz Matias is seething over the way a Spanish-speaking stranger persuaded Matias' mother into signing a ballot in Matias' name.

"I think it's awful, just dreadful, that these people took advantage of us, especially my own mother, for a simple vote," said Matias.

Perhaps no voter in Philadelphia's Second Senate District is as angered as Miriam Diaz. She was told she was eligible to vote from home because the law had changed.

"The thing that really bothers me is that the people who did this to me, a Hispanic woman, were other Hispanics," said Diaz in Spanish.

"I will never vote again, my entire life," she said in disgust.

In the city's 19th Ward, a community of mostly Puerto Rican barrios extending from Diamond Street to Ontario Avenue in North Philadelphia, there were 129 absentee ballots cast in the contentious Second Senatorial District race between Democrat William Stinson and Republican Bruce Marks early last month.

Stinson got 120 of those absentee votes.

Marks received nine.

The Inquirer interviewed 122 of those voters.

Nine appear to have been legitimately qualified to cast absentee ballots.

Ninety seven -- 79.5 percent -- said they were misled into voting by absentee ballot.

Four said their signatures were forged on voting documents.

The others could not be identified or reached.

Among the voters who said they were misled, 32 said they do not recall ever being presented an official ballot to fill out, or said they saw the canvasser mark their ballot -- but did not realize until later that their vote had just been cast.

Many said they signed, and handed over, empty envelopes for absentee ballots, or signed documents that purported to be official ballots but were not.

Throughout the 19th Ward, the number of absentee ballots was itself unprecedented: Only four were recorded during the last two state Senate races, combined.

That pattern was evident throughout the Senate district in the days leading up to the Nov. 2 election, where an extraordinary number of individuals cast absentee ballots.

Since the election, The Inquirer has interviewed more than 280 voters in the district who described irregularities in absentee balloting; in 28 cases, voters' names appear to have been forged on absentee-voting documents.

In two wards where The Inquirer has interviewed nearly all the individuals in whose names absentee ballots were cast -- the 37th and the 19th -- the proportion of tainted ballots has exceeded 75 percent.

The absentee ballots held the key to Stinson's eventual certification as the winner.

Although Marks won more votes at the machines on Election Day, Stinson's lopsided victory among voters who cast absentee ballots -- nearly 80 percent of the 1,757 absentee voters -- provided him a 461-vote victory overall.

In block after block of the 19th Ward, residents have told The Inquirer they were pitched and sold on la nueva forma de votar -- the new way to vote.

Some described the person who came to their house as their Democratic committeeman. Others described their canvasser as a Spanish-speaking man with a ponytail. Some said they were approached by two black men. Most said they had never seen their canvasser before.

State election law permits registered voters to cast absentee ballots only if they are too sick to get to the polls or will be out of town on Election Day.

Delfina Martinez of the 100 block of West Dauphin Street said she was told that absentee balloting was "a new way to vote for the people working."

Luis Rodriguez of the 2300 block of North Palethorp Street said he was told absentee voting was available "in case it's cold outside..."

Ruben Liciaga of the 2900 block of North Orianna Street said he was told that "it was my privilege to vote from home because I had voted for so many years."

They all describe similar ploys that they say were used to get their votes.

Doris Perez, 40, said a husky Latino man was carrying absentee-ballot applications door-to-door in her neighborhood in the 300 block of North Orianna Street in the weeks before the election. He came to her house and asked about her medical condition and the name of her doctor. She said she signed an application for an absentee ballot although she was not infirm or going to be out of town.

Perez, who said she was never unable to vote in person, didn't think much of the encounter until she went to vote on Election Day.

The poll worker "said I voted twice. I said, 'What?' I didn't realize that I had voted when I signed," she said.

Later, she learned something else: The canvasser had described her on her application as having a problem with her nerves.

Perez became visibly angry when shown the application. She did not know who filled out the application, she said, "but if I find him, I'm going to punch him in the eye."

"MORE OUTRAGED VOTERS IN 2D DISTRICT
SAY THEY WERE DECEIVED"

(The Philadelphia Inquirer 12/05/93)

Mariluz Matias said she is outraged that somebody would take advantage of her mother.

This is her story.

Matias, 24, of the 2800 block of North Fifth Street, said she signed up for an absentee ballot because she was told it was a new way to vote.

"The first time this tall, black male came to the house and told me and my mother of this new way to vote," she said. "He told us that we didn't have to go to the polls and that it would be easier to vote this way."

"I thought, well, I have to take care of my baby all day, so, I thought I'd vote this new way," she said she remembers thinking.

Several days later, a Spanish-speaking man came to Matias' home in search of Mariluz Matias. She wasn't home, but that didn't stop the canvasser from getting a ballot.

"He arrived with these papers and asked if Mariluz lived here," said Amelia Maldonado, Matias' mother. "I said, yes."

"He then took out this big piece of paper to vote on and I said to him that I was not Mariluz," she recalled.

"He said, 'Oh, it doesn't matter, just sign it.'"

Maldonado said she was reluctant but signed her daughter's name because the man insisted it was no problem. "He said thanks and then left the house in a big hurry," she said.

Matias said she was furious when she learned what had happened.

"We felt so horrible afterwards," she said. "The most outrageous part about this whole thing is that I always vote -- in person -- always."

Indeed, city election records show, Matias has voted at the polls in every election held in Philadelphia since 1988.

Miriam Diaz said she now realizes that she was misled into voting from home. But that's not what makes her angry.

"The thing that really bothers me is that the people who did this to me were other Hispanics," said Diaz in Spanish.

Diaz said a Latino man came to her door and said it was not necessary to go to the polls to vote. "I thought he was talking about a new law in America that allowed people to vote from home," she said.

"When the first man left my house, he told me that I would receive a letter in the mail containing my ballot to vote," she said. "Later, a young Hispanic guy came to my door with a ballot for me to fill out and sign."

"I thought it was all right so I signed the ballot and gave it back to him," said Diaz. "The young man then left and I've never seen him since."

Alma Owczarzak, 78, had voted by absentee ballot once before, but this year her ballot didn't come in the mail. It was hand-delivered by a stranger.

This time, Owczarzak said, she didn't get a chance to mark the ballot.

"When I opened the door, he said, 'I have your absentee ballot....You're a Democrat?'"

"I said, 'Yes, I'm a registered Democrat.'"

Owczarzak, of the 2200 block of North Waterloo Street, said she signed the application and the envelope containing the absentee ballot on the same day.

She said she never saw the ballot. "He didn't let me. He opened [the absentee ballot envelope] up and he showed me where to sign it. It seemed like he was in a hurry."

"To tell you the truth, I really wanted to vote for that other boy," Owczarzak said, referring to Marks, the Republican candidate.

Adelina Rosario, 48, of the 500 block of West Westmoreland, said she remembered being approached twice at home, before the election, by strangers who told her there was a new law that allowed people to vote from home.

During both visits, Rosario signed the forms the two strangers presented to her.

What Rosario signed was an application for an absentee ballot and the envelope containing the official ballot.

Her application notes that she expected to be out of town on Election Day. Not true, said Rosario, who said she signed the official ballot and the back of the envelope.

"I'll go to the polls next time," said Rosario after being shown by a reporter signed copies of her application and ballot.

In about 15 cases, voters said the visitors who signed them up to vote absentee also filled out their ballots for them -- a violation of state election law.

Elba Jorge, 48, of the 2800 block of North Lawrence Street, said a Latino man with a ponytail had her fill out an absentee-ballot application on Oct. 4. She said he told her that since she was busy caring for several grandchildren, she was entitled to vote from home.

Later, another man delivered a ballot -- and voted for her, she said.

"He said I was a Democrat, and he marked the ballot," said Jorge, a registered Democrat. "Because things change every day, I thought it was OK."

Her application said she would be out of town on Election Day. She wasn't.

Carmen Diaz and her husband, Jaime, of the 3400 block of North Third Street are both illiterate. Carmen Diaz said the local Democratic committeeman, Peter Medina, told them this qualified them to vote absentee.

In fact, it did not. State law permits illiterates to vote by machine with assistance from poll workers. There are no special absentee-voting provisions for illiterates.

Diaz said Medina had her and her husband sign applications for absentee ballots and, later, the envelope that was to contain their absentee ballot.

But she said neither were presented, and neither filled out, a ballot. She did not know who filled out the two ballots that were submitted to the Board of Elections.

Medina acknowledged that he delivered absentee ballots to the homes of voters in the 19th Ward. He said that he did not tell any voter how to vote. He also said he never filled out a ballot for any voter.

Carmen Diaz says no one in her house did either: "I didn't mark the candidates. My husband didn't mark the candidates. We're not to blame. We can't read or write."

SENATE OF PENNSYLVANIA
Office of the Republican Leader
The State Capitol
Harrisburg, PA 17120-0030

December 3, 1993

Honorable Robert J. Mellow
Room 292, Main Capitol Building
Harrisburg, PA 17120

Dear Bob:

I have read and listened to your recent declarations about what Republicans will and will not do. Since there has not been any session for most of the time, and no serious working calendar even suggested by your leadership for the two days of November session, there is of course no basis for your contentions. To clear up any misconceptions, and to try once more to encourage cooperation toward legislative production, let me restate our position.

It is certain that the prolonged and record period of legislative inactivity has served no public interest, has solved no problem, and has infuriated the people in all our districts. The taxpayers see no right in any of this, only wrong. The five months are lost, the damage to the Senate's reputation done. Efforts to justify further inaction on important matters only make things worse.

Despite the significant questions as to the legitimacy of the actions taken on November 22nd and 23rd, they have left you and your leaders with the responsibility for a legislative agenda or continued lack thereof. Our standing objection to what we believe is the highly improper seating of William Stinson is not a bar to serious consideration of issues. The Senate can work on a legislative agenda while that matter is resolved in the courts.

There is still an opportunity to have Mr. Stinson stand aside so that passage of legislation is not tainted and later susceptible to legal challenge on the basis of his participation. His vote is not absolutely vital in the legislative context because, as we have both observed, legislation will need bipartisan backing to pass.

His vote does secure your control, and we understand you will do nothing to risk losing that. As we have offered before, if he is stood aside while the contest of election and appeals are adjudicated, we will forego disputes over control in order to clear the way for legislation. We will not move to replace you as President Pro Tempore, or to remove your committee chairmen. We will not seek to oust Frank Pecora. We will not change offices or seize any of the accounts, perks, or parking spaces that seem to dominate your concerns.

What we want is what you have claimed to want -- the chance to vote on the important issues that people care about, many of which were regrettably pulled back in your adjournment rush during June. The revised calendar, with the additional December session days a number of members suggested, and the possibility of more, affords us an opportunity to deal with substantive issues and have badly needed legislation move through both chambers.

All of our calls for session have focused on issues we believe warrant action: tax cuts for jobs, spending limits, welfare reform, education changes, industrial site reuse, Sunny Day funding, farmland preservation funding, health care, local tax reform, and others. Although the committees have generally been disappointingly unproductive during the extended recess, there is time to bring bills out for action if you are serious about living up to the promises you have made in the press.

While some of these issues have in the past broken down along partisan lines, many hold the promise of bipartisan support. They cannot be brought to a conclusion, however, if they do not come before the Senate for debate, amendment, and voting.

Your caucus had devoted a great deal of time, effort, and maneuvering to holding onto control. Now the people of Pennsylvania are waiting to see what you intend to do with this power.

Sincerely,

ROBERT C. JUBELIRER
Republican Leader

IN THE
COMMONWEALTH COURT OF PENNSYLVANIA

Senator Robert C. Jubelirer, :
et al, :
Petitioners :
v : 510 M.D. 1993
Lieutenant Governor Mark S. :
Singel, et al, :
Respondents :

PETITIONERS' BRIEF IN SUPPORT OF
APPLICATION FOR SUMMARY RELIEF
OR, IN THE ALTERNATIVE, FOR AN
EXPEDITED DECISION ON THE MERITS

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42 Pa. C.S. § 761(a)

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Pa. Const. art. III, §13

Pa. Const. art. VI, §3

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Practice of Legislative Assemblies in the United States of America, at 5, 311 (1856), republished by American Society of Legislative Clerks and Secretaries, Special Committee on Parliamentary Procedure (1989)

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I. STATEMENT OF JURISDICTION

This Court has jurisdiction over this matter pursuant to 42 Pa.C.S. §761 (a) which provides that this Court shall have original jurisdiction of all civil actions "[a]gainst the Commonwealth government, including any officer thereof, acting in his official capacity."

II. STATEMENT OF QUESTIONS INVOLVED

Whether a vote by a member of the Pennsylvania Senate on his or her right to be seated violates the prohibition against self-interested voting in Article III, Section 13 of the Pennsylvania Constitution?
Suggested Answer: Yes

Whether a duly elected member of the Senate, whose qualifications are not in doubt, has a Constitutional right to be seated as the first order of business when the Senate first reconvenes after the election?
Suggested Answer: Yes

Whether a vote on the seating of a member of the Senate, in which the member in question votes and in which a duly elected member is deprived of a vote, should be declared null and void.
Suggested Answer: Yes

III. STATEMENT OF THE CASE

A. Procedural History

The Petition for Review ("Petition") in this matter was filed with this Court and served on Respondents on November 30, 1993.

The application is brought pursuant to Pa. R.A.P. 1532 (b) for summary relief and, in the alternative, pursuant to Pa. R.A.P. 123 and 1532 (a) for an expedited decision on the merits. Rule 1532 (b) authorizes this Court, "[a]t any time after the filing of a petition for review...on application [to] enter judgment if the right of applicant thereto is clear." Rule 123 permits applications for relief to be filed in the alternative. Rule 1532 (a) authorizes such special relief as required in the interest of justice and consistent with the usages and principles of law.

B. Statement of Facts

1. Special Election in 10th Senatorial District

On January 5, 1993, a vacancy was created in the 10th Senatorial District when State Senator James Greenwood resigned, having been elected in the November 1992 general election to the United States House of Representatives. On that same day, the President issued a writ of election, scheduling the special election to fill the vacancy for July 13, 1993. The special election was held on July 13, 1993 and on July 21, 1993, the Bucks County Board of Elections certified David W. Heckler to the Secretary of the Commonwealth as the winner of the election, having received 15,146 of the 21,281 votes cast. (Exhibit "A" to Petition). On August 16, 1993, the Secretary of the Commonwealth certified to the President and the members of the Senate that David W. Heckler was duly elected to the office of Senator in the General Assembly from the 10th Senatorial District and had complied with all the requirements of Article XVI of the Pennsylvania Elections Code pertaining to primary and election expenses. (Exhibits "B" & "C" to Petition). On September 14, 1993, Judge Michael J. Kane of the Court of Common Pleas of Bucks County administered the oath of office prescribed by Pa. Const. art. VI, §3 to David W. Heckler in

the Senate Chamber. (Exhibit "D" to Petition). The Senate was not in session at that time. The President and President *pro tempore* had knowledge of the certification and swearing in of David W. Heckler prior to the opening of the Senate session on November 22, 1993.

2. Special Election for the 2nd Senatorial District

On May 31, 1993, a vacancy was created in the 2nd Senatorial District when State Senator Francis J. Lynch died. On June 8, 1993, the Lieutenant Governor ordered a special election for the vacancy in the 2nd Senatorial District for November 2, 1993. The special election was held on November 2, 1993. The tally of electors who voted at the polling places showed Bruce Marks, the Republican candidate, with 566 votes more than Mr. Stinson, the Democrat candidate. After the absentee ballots were counted, Mr. Stinson had more votes than Mr. Marks.

On November 2, 1993, challenges were made to numerous absentee ballots as illegally cast. On November 18, 1993, at approximately 5:00 p.m., the Philadelphia County Board of Elections certified Mr. Stinson as the winner of the election by 461 votes, and at 5:16 p.m., the Deputy Secretary of the Commonwealth noted his receipt of that certification. (Exhibit "E" to Petition). The Secretary of the Commonwealth then immediately certified to the President and the members of the Senate that Respondent Stinson had complied with all the requirements of Article XVI of the Pennsylvania Elections Code pertaining to primary and election expenses and certified that Mr. Stinson was duly elected a Senator in the General Assembly. (Exhibit "F" to Petition). At 5:46 p.m. on November 18, 1993, Judge Sebastian Natale of the Dauphin County Court of Common Pleas administered the oath of office prescribed by Pa. Const. art. VI, §3 to Mr. Stinson in the Senate Chamber. (Exhibit "G" to Petition at 22). The Senate was not in session at that time.

On November 19, 1993, two matters relating to the Special Election in the 2nd Senatorial District were filed in the Court of Common Pleas of Philadelphia County. One was a Class IV Election Contest Proceeding in accordance with sections 1741, 1742, and 1743 of the Pennsylvania Election Code, Act of June 3, 1937, P.L. 1323, *as amended*, 25 P.S. §§3401,3402 and 3403 brought by approximately 64 registered voters in the 2nd Senatorial District, docketed at November 1993 Term Civil Division No. 2887. The other was an appeal from the decision of the Philadelphia County Board of Elections denying Mr. Mark's challenges to absentee ballots pursuant to sections 1308 & 1407 of the Pennsylvania Election Code, 25 P.S. §§3146.8 & 3157, docketed at November 1993 Term Civil Division No. 2886. Those matters remain pending.

3. Senate Proceedings on November 22, 1993

On November 22, 1993, the Senate of the Commonwealth of Pennsylvania was in session for the first time since recessing on June 23, 1993. The proceedings of the Senate material to the Application and Petition are set forth in the draft Legislative Journal for the Senate attached to the Petition on Exhibit G. Both Petitioner Heckler and Respondent Stinson were present on the floor of the Senate and both remained there at all times material to the Application and Petition. One of the initial items of business called by the President was the presentation of the certification of the Secretary of the Commonwealth for the special election held in the 2nd Senatorial District. (Exhibit "G" to Petition at 12-13).

Immediately following the presentation, Senator Jubelirer moved that the certification be returned to the Secretary of the Commonwealth. (Exhibit "G" to Petition at 13). Senator Jubelirer then inquired whether a senator from the 2nd Senatorial District was on the roll and when informed by the President that there was, asked when Mr. Stinson was credentialed. (Exhibit "G" to Petition at 13). The President replied: "The Chair would advise the gentleman that [Mr. Stinson] was certified by the Philadelphia Elections Commission, certified by the Department of State, and sworn in as a member of the Senate last Thursday evening [November 18, 1993]." (Exhibit "G" to Petition at 13).

At this point, Senator Jubelirer raised a constitutional point of order as to whether Mr. Stinson was properly seated in the Senate, (Exhibit "G" to Petition at 13), and asked the President to rule on whether it was illegal for Mr. Stinson to vote on his own status because of his personal and private interest in the measure. (Exhibit "G" to Petition at 14). The President ruled that Mr. Stinson was capable of voting on the matter. (Exhibit "G" to Petition at 14).

Following the President's ruling, Senator Jubelirer appealed and asked for debate. (Exhibit "G" to Petition at 14). During debate, Senator Fumo moved the previous question, i.e., moved for a vote without further debate, and his motion received the required four seconds. (Exhibit "G" to Petition at 16).

Prior to the roll call vote on Senator Fumo's motion, Senator Jubelirer asked the President if Senator Heckler was on the roll of the Senate. The President responded no. (Exhibit "G" to Petition at 16). When asked for an explanation for why Senator Heckler was not on the roll but Mr. Stinson was, the President replied that he would get to that "in due time" and then immediately ordered the Clerk to call the roll on Senator Fumo's motion. (Exhibit "G" to Petition at 16).

Senator Fumo's motion passed 25-24, with Mr. Stinson voting for the motion; Senator Heckler's name was not called. (Exhibit "G" to Petition at 17). The Senate then voted 25-24, to defeat Senator Jubelirer's appeal of the President's ruling that Mr. Stinson was eligible to vote on the question of whether he was properly seated as a member of the Senate. Mr. Stinson voted to uphold the ruling of the Chair. Senator Heckler's name was not called. (Exhibit "G" to Petition at 18).

Senator Fisher asked for a verification of the roll, and upon receiving it, asked the President for an explanation of the absence of Senator Heckler's name and whether the President was ruling that Senator Heckler had not been duly sworn in as a member of the Senate. (Exhibit "G" to Petition at 19-20). The President ruled Senator Fisher out of order and an appeal of this ruling was defeated 25-24, with Mr. Stinson voting to defeat the appeal and Senator Heckler's name not being called. (Exhibit "G" to Petition at 19-20).

Senator Jubelirer moved as a special order of business that, while not believing it necessary, the Senate immediately invite Judge Clarence Morrison of the Court of Common Pleas of Dauphin County to administer the oath of office to Senator Heckler. In conjunction with this, Senator Jubelirer temporarily withdrew his constitutional point of order as to whether Mr. Stinson was properly seated. (Exhibit "G" to Petition at 20-21). Senator Lincoln immediately renewed Senator Jubelirer's constitutional point of order of whether Mr. Stinson was properly seated as a member of the Senate, (Exhibit "G" to Petition at 21), and Senator Williams moved the previous question, i.e. moved for a vote without further debate on the constitutional point of order raised by Senator Lincoln. Senator Williams' motion received the four necessary seconds and was sustained by a 25-24 vote, with Mr. Stinson voting for the motion and Mr. Heckler's name not being called. (Exhibit "G" to Petition at 21-22).

The Senate then voted 25-24 that Mr. Stinson was properly seated as a member of the Senate. Mr. Stinson voted that he was properly seated; Senator Heckler's name was not called. (Exhibit "G" to Petition at 22). After the vote on Mr. Stinson's seating, the President ordered the transcript of Mr. Stinson's swearing in that took place on November 18, 1993, inserted into the Senate Journal. (Exhibit "G" to Petition at 22). The President then had the Clerk of the Senate read the election returns for the July 13, 1993 special election in the 10th State Senatorial District and the certification of the Secretary of the Commonwealth, dated August 16, 1993. (Exhibit "G" to Petition at 24). After debate, Judge Morrison administered an oath of office to Senator Heckler. (Exhibit "G" to Petition at 26). Neither Senator Heckler's election nor his qualifications to assume the seat in the Senate as the State Senator from the 10th Senatorial District have ever been challenged.

III. SUMMARY OF ARGUMENT

Respondents are entitled to summary relief, since there are no genuine issues of material fact and since the Respondents clearly, plainly and palpably violated the Pennsylvania Constitution.

The proceedings in the Senate on November 22, 1993 violated Article III, Section 13 of the Pennsylvania Constitution at least twice: first, when Respondent Stinson voted on the question of whether he could vote on his own seating, and second, when he subsequently voted in favor of his own seating. Article III, Section 13 prohibits members of the General Assembly from voting on matters in which the member has a personal or private interest. It is well settled as a matter of common law and parliamentary procedure that a member, being personally interested in his or her own seating, should not vote on matters involving the same. Article III, section 13 constitutionalized the common law.

The Respondents also violated Article II of the Pennsylvania Constitution when they excluded Senator Heckler from participating. Respondents had a duty to recognize or to challenge the seating of a new member immediately upon reconvening after an election.

The Respondents also violated Article I of the Constitution when they precluded Senator Heckler from participating in the legislative process. Senator Heckler and his constituents were denied their right to due process and the equal protection of law. Respondents unfairly discriminated against Senator Heckler while permitting Mr. Stinson to participate.

IV ARGUMENT

A. Standard of Review

Petitioners are requesting this Court to enter judgment in the nature of summary relief pursuant to Pa. R.A.P. 1532 (b). "Summary relief is proper where the moving party establishes that the case is clear and free from doubt, that there exists no genuine issues of material fact to be tried and that the movant is entitled to relief as a matter of law." *Magazine Publishers of Am. v. Commonwealth, Dept. of Revenue*, 151 Pa. Commonwealth Ct. 592, 596, n.3, 618 A.2d 1056, 1058 n.3 (1992) (applying standard for summary relief in context of constitutional challenge, within court's original jurisdiction, to sales and use tax as applied to magazines and newspapers).

Petitioners have also requested alternative relief in the nature of expedited disposition on the merits, in the event that summary relief is denied. For reasons set forth in the Petition for Review and in this brief, Petitioners believe that the interests of justice will be served by expedited disposition. Pa. R.A.P. 123 and 1532 (a) authorize such action by the Court.

B. There Are No Genuine Issues of Material Fact

There is no genuine issue on any material fact. The factual assertions in the Petition for Review are matters of public record or occurred in public proceedings.

C. Respondents Are Entitled to Relief As a Matter of Law

While it has long been recognized that the judiciary should not unnecessarily interfere with a coordinate branch of government, "[i]t is a traditional and inherent power of the Courts to decide all questions of Constitutionality." *Stander v. Kelley*, 433 Pa. 406, 414, 250 A.2d 474, 478, cert. denied & appeal dismissed sub nom., *Lindsay v. Kelley*, 395 U.S. 827, 89 S.Ct. 2130, 23 L.Ed.2d 738 (1969) (noting that questions of constitutionality of constitutional amendment are justiciable even after voters approve challenged amendment). "Unquestionably the Senate has exclusive power over its internal affairs and proceedings. However, this power does not give the Senate the right to usurp the judiciary's function as ultimate interpreter of the Constitution under the guise of rulemaking, or for that matter to make rules violative of the Constitution." *Zemprelli v. Daniels*, 496 Pa. 247, 257, 436 A.2d 1165, 1170 (1981) (rejecting argument that constitu-

tional challenge to Senate Rule was a non-justiciable political question.)

As a consequence, the judicial branch is vested with the power to determine whether actions by the coordinate branches of government, and the members thereof, conform to the Pennsylvania Constitution. See *Sweeney v. Tucker*, 473 Pa. 493, 515-16, 375 A.2d 698, 708-09 (1977) (noting that limitations on the Legislature's power imposed in Sections 1-13 of Article III are judicially enforceable); see also *In re Jones*, 505 Pa. 50, 61, 476 A.2d 1287, 1293 (1984) (rejecting argument that Article II, Section 9 rendered *quo warranto* proceeding based on constitutional grounds non-justiciable and stating that courts must act to "preserve[] the integrity of our public institutions"). If the judiciary finds that the legislature has violated the Constitution, "it is the duty of the courts to invalidate [such] legislative action [as being] repugnant to the constitution." *Zemprelli*, 496 Pa. at 256, 436 A.2d at 1169. Thus, the issues presented herein are of the very type the judiciary, in carrying out its constitutionally defined role, must decide.

It is the role, or more accurately, the duty, of the judicial branch to declare a legislative determination unconstitutional when the legislature clearly, palpably and plainly violates the Constitution. See *Daly v. Hemphill*, 411 Pa. 263, 271, 191 A.2d 835, 840 (1963) (discussing various tests applied in context of constitutional challenge to act by legislature and adopting stated test as uniform standard). As will be discussed below, the undisputed facts in the instant case establish beyond doubt that the Respondents have clearly, palpably and plainly violated the Constitution. As a consequence, this Court has the duty to invalidate all acts of the Respondents which were repugnant to the Constitution.

1. Mr. Stinson violated Article III, Section 13 of the Pennsylvania Constitution when he voted on whether he could vote and, again, when he voted on whether he was properly seated.

Article II, Section 9 of the Pennsylvania Constitution provides that each house of the General Assembly shall judge the election and the qualifications of its members. While it is settled law that this provision confers upon the legislature jurisdiction over questions involving the qualifications of members and members-elect, the legislature is bound to exercise its authority within the constraints of the Constitution. See *Zemprelli*, 496 Pa. at 257, 436 A.2d at 1170; see also *In re Jones*, 505 Pa. at 58-62, 476 A.2d at 1291-92. In particular, when exercising its power the legislature must act within the limits defined in Article III of the Pennsylvania Constitution. See *Sweeney*, 473 Pa. at 515-16, 375 A.2d at 708-09. The Pennsylvania Supreme Court in *Sweeney* noted that the restrictions imposed by Article III are judicially enforceable. *Id.* (citing *Scudder v. Smith*, 331 Pa. 165, 200 A. 601 (1938) (joint resolution passed by both Houses and signed by the Governor held not to be a law and declared invalid because not passed by bill as required by Pa. Const. Art. III, §1); *Stewart v. Hadley*, 327 Pa. 66, 193 A. 41 (1937) (law declared invalid as violative of the constitutional provision prohibiting the Legislature from passing any bill containing more than one subject, clearly expressed in the title of the bill)).

The citizens of this Commonwealth imposed a constitutional "no self-interested voting" rule on members of the General Assembly when, in 1874, they ratified what is now Article II, Section 13 of the Pennsylvania Constitution.¹ This prohibition, which remains in effect today, states: "A member who has a personal or private interest in any measure or bill proposed or pending before the General Assembly shall disclose the fact to the House of which he is a member, and shall not vote thereon." Pa. Const. art. III, § 13. This constitutional prohibition was violated on November 22, 1993, when Mr. Stinson participated in votes not only on whether he could vote on whether he was properly seated, but also on whether he was properly seated.

a. Genesis of Article III, Section 13 of the Pennsylvania Constitution

The prohibition against self-interested voting and the other restrictions on the legislature contained in Article III of the Constitution of 1874 restored legislative accountability, after an era of political turmoil in Pennsylvania, by imposing limits on the previously boundless discretion of the legislative branch.

A Statement and Exposition published as a preamble to the newly drafted Constitution, in reference to Article III, stated:

The article upon legislation is mostly new, and is elaborate in its provisions. It contains a large body of limitations upon the Legislature and regulations for its action, the enumeration of all which would be inconvenient in this place; but they are of high importance.... Of the thirty-three sections of this article, fully three-fourths contain new matter, and are well calculated to elevate the character and secure the perfection of future laws.

A Statement and Exposition of the Changes Contained in the New Constitution of Pennsylvania, *reprinted in*, A.D. Harlan, Pennsylvania Constitutional Convention 1872 and 1873: Its Members and Officers and the Result of Their Labors, at 164 (1873).²

The Constitution of 1874 forever altered the legislative process in Pennsylvania by imposing limits upon the General Assembly and by doing so in the form of constitutional directives enforceable by the courts. Although these limits were in a large part drawn from well established principles of common law and parliamentary procedure, they were so commonly disregarded by the General Assembly that it was deemed necessary to put them in the Constitution to assure compliance.

The idea that elected officials should not vote upon matters in which they have a personal interest, while new to the Constitution in 1874, in fact, merely constitutionalized a prohibition long recognized at common law and in parliamentary rules governing legislatures. See *Commonwealth v. McCloskey*, 2 Rawles 369 (1830) (stating that newly elected representatives were not competent to decide validity of their own election); see also Luther S. Cushing, *Elements of the Law & Practice of Legislative Assemblies in the United States of America*, at 5, 311 (1856), *republished by* American Society of Legislative Clerks and Secretaries, *Special Committee on Parliamentary Procedure* (1989) (hereinafter "Cushing I").³ Thomas Jefferson considered this prohibition to be a thread woven into our social compact stating:

Where the private interests of a member are concerned in a bill or question, he is to withdraw. And where such an interest has appeared, his voice has been disallowed, even after division. In a case so contrary not only to the laws of decency, but to the fundamental principles of the social compact, which denies to any man to be a judge of his own cause, it is for the honor of the House that this rule of immemorial observance should be strictly adhered to.

Interpretive Commentary to Tex. Const. art. III, § 22 (quoting II, The Writings of Thomas Jefferson, 368 (Library ed. 1903)).

The reformists of 1874 incorporated into the Constitution a principle derived from the rules followed by the British Parliament. See Cushing I, *supra*, at 692. As Cushing set forth in his authoritative work which was relied upon by the delegates to the Constitutional Convention of 1873:

As the members of the house are also members of the body politic...it may, of course, sometimes happen, that they are themselves personally interested in the questions that come before them in their capacity of legislators. When this is the case, decency requires that members so situated should not sit as judges, and, by their suffrages, decide their own case.... It is a rule, therefore, that, when a member is personally concerned in a question,—either as involving his character and conduct,—his right as

a member, or his pecuniary interest; he is first to be heard in his place, if he desires it, and then is to withdraw from the house, during the debate and until the question is decided.

Id.

Cushing then added:

In determining whether a member is so personally concerned in a question as to make it necessary for him to withdraw, there can be little or no difficulty in cases where his character or conduct involved, or where his right to his seat is concerned.

Id. at 694.

In a later section of this book, which is specifically cited by Buckalew in his examination of Article III, Section 33 of the Constitution of 1874, Cushing explores the process which is to be followed if a representative's right to vote is challenged.

Cushing states:

When any question is made, as to the disallowance of a vote, the member himself is inquired of as to the fact alleged as the ground of the disallowance; and, after the motion has been made, and before it is proposed, he should be heard in his place and then withdraw.

Cushing I, *supra*, at 718, *cited in*, Buckalew, *supra* note 3, at 99.

By ratifying the Constitution of 1874, the citizens of Pennsylvania decided to hold their elected representatives to the General Assembly to the same standard of conduct imposed upon the rest of society by the common law. The voters reinforced "the well-founded and long-established public policy that one who has a direct personal interest in a matter under consideration by a representative public agency of which he is a member is disqualified from voting thereon." *Reckner v. German Twp. Sch. Dist.*, 341 Pa. 375, 377, 19 A.2d 402, 403 (1941) (noting that director of school district could not vote on question of increasing his own salary).

b. Pennsylvania Case Law

A review of the common law roots of this now constitutional prohibition against voting on matters in which one has a personal interest confirms that the prohibition is meant to extend to voting on one's own qualifications to hold elected office.⁴ It has long been recognized in the context of determining the fitness of a person for an office, that "[f]or a man to constitute himself a judge of his own cause, is indelicate and indecent." *Commonwealth v. McCloskey*, 2 Rawles 369, 378 (1830).

In *McCloskey*, an election was held in 1829 in the township of Moyamensing for the purpose of electing three commissioners to serve on a nine member Board. *Id.* at 369-70. The returns were certified and the judges of the election deemed the three respondents to be duly elected. *Id.* at 370. At the first meeting of the Board following the election, with eight commissioners present, the newly elected commissioners were sworn in. However, the citizens of the township brought a memorial before the Board alleging "corruption and illegality in the said election." *Id.* At this point, the three newly elected commissioners insisted on voting to approve their own election and two of the previously elected commissioners sided with them. The three remaining commissioners, later joined by the commissioner who had been absent, opposed. *Id.* at 371.

At this point, the Board split in two; each group acting as if it was the duly recognized Board. The Board consisting of the four old commissioners heard the memorial and called for a new election which quickly followed. This Board then joined with commissioners chosen in the new election. The instant action followed and the court was asked to decide whether the three commissioners who sought to vote to confirm their own election were entitled to act as commissioners. *Id.*

The *McCloskey* court quickly defined the core inquiry as "whether each of them who have been returned elected, are entitled to judge of their own election, with full power and authority to approve thereof." *Id.* at 373. While the court had no difficulty deciding that the

three were barred from voting on their own qualification, it is instructive to explore the court's rationale. The Court began its review of the legal principles underpinning the prohibition against self-interested voting stating:

It will be conceded, that where it can avoided, no man should be permitted to decide his own cause; nor can I perceive much difference, where he is called on to determine his right to an office of profit, or one of trust, accompanied as this is, with extensive patronage.... In *England*, it is said, that even an act of parliament, made against *natural equity*, as to make a judge in his own cause, is void in itself.... [I]f an act of parliament should ordain, that the same person should be party and judge, or which is the same thing, judge in his own cause, it would be a void act of parliament.... [O]ur courts appear equally adverse to the introduction of such a principle.

An act of the legislature, says Justice Chase in *Calder and Wife v. Bull*, 3 Dall. 386, contrary to the great first principle of the social compact, cannot be considered a rightful exercise of legislative authority.... [I]t is against all reason and justice, for a people to entrust a legislature with such powers; and therefore, it cannot be presumed, they have done it. The genius, the nature, and the spirit of our state governments, amount to a prohibition of such acts of legislation.... To maintain, that our federal or state legislatures possessed *such powers*, if they had not been expressly restrained, would be a political heresy, altogether inadmissible in a republican government.

Id. at 373 (emphasis in original).

Later in the opinion, the court observed that the right of the Board to confirm elections was analogous to the constitutionally provided right that Congress and the Pennsylvania General Assembly have to judge the qualifications of their own members. *Id.* at 377. After quoting the operative provisions in the United States Constitution and in the Pennsylvania Constitution, the court, referring to the right to vote on their own qualifications claimed by the three commissioners noted:

The right of determination is given to the house, who exercise their authority by the decision of the majority, as in the act [governing the election of commissioners] it is vested in the commissioners, or a majority. Under these different provisions, no instance can be produced, either in congress or our state legislature, where such a right [to vote on one's own qualifications] has ever been permitted, or even claimed.

*Id.*⁵

This fundamental principle of Pennsylvania law has been reaffirmed whenever the Pennsylvania Supreme Court has faced the issue. For example, in 1913, the Court stated: "There is a general rule of law that no member of a governing body shall vote on any question involving his own character or conduct, his right as a member, or his pecuniary interest, if that be immediate, particular and distinct from the public interest." *Commonwealth ex rel. Whitehouse v. Raudenbush*, 249 Pa. 86, 88, 94 A. 555, 555 (1913) (quoting 28 Cyc. 337) (holding that elected official could not vote to accept his own resignation and that resolution adopted in violation of this prohibition was ineffective).

Similarly, in a much more recent case, the Court stated that an elected official could not vote on his own appointment to public office because to do so would violate the prohibition against voting on matters in which the official had a "personal or pecuniary interest." *Commonwealth ex rel. McCreary v. Major*, 343 Pa. 355, 360, 22 A.2d 686, 689 (1941) The precise issue before the *McCreary* court was whether the a city council could appoint one of its own members to a municipal authority created by the city. The court concluded that voting on one's own appointment violated the common law rule that "[i]t is against public policy for a representative of a municipality to vote in its legislative body on any matter which affects him individually." *Id.* (quoting *Raudenbush*, 249 Pa. at 87, 94 A. at 555).

c. Case Law From Other States Is In Accord With Pennsylvania Law

Instances of misconduct such as the kind the instant Petition seeks to remedy have been rare. While there are correspondingly few decisions on the issues raised herein, all the case law uncovered through extensive research is in accord with Pennsylvania law.

Two Texas cases with facts similar to those now before this Court are illustrative. In *Hager v. TeVault*, 446 S.W.2d 43 (Tex. Civ. App. 1969), an election for the recall of a city council member was ordered by a court upon a writ of mandamus by residents of the City. An appeal from this order was filed by City Council after being authorized by a 3 to 2 vote of Council. One of the council members voting in favor of filing the appeal was the member who would be subject to the recall election. A motion to strike the appeal was made based on the invalidity of the authorization because it had been voted for by the individual who would be personally affected by the recall election. The court concluded that the council member was "personally concerned and interested in the matter in issue [because] [h]is tenure of office and whatever rights, privileges, and emoluments, if any, instant thereto are at stake." *Id.* at 48. The court noted that the authorities are "generally in accord that a public official is not eligible to participate in a matter which affects his personal pecuniary interest." *Id.* at 49. The court held that the Councilman's interest was not common with the interest to the general public, that it was personal to him and different from that of any other person. When the Councilman's vote was removed from the vote authorizing the appeal, the vote was only 2 to 2, which was insufficient for the authorization for the appeal to have been adopted. Therefore, the appeal was a nullity and the court had no jurisdiction.

Similarly, in *Robinson v. Hays*, 62 S.W.2d 1007 (Tex. Civ. App. 1933), a challenge to the propriety of a member of city council voting on his own qualifications in a contested reelection was made. The court held that the Council member was not permitted to participate in the determination of his qualifications because he had a direct and personal interest in the election contest.

At least one state Supreme Court has stated that the constitutional prohibition against self-interested voting applies to voting on qualifications. See *Melland v. Johanneson*, 160 N.W.2d 107, 116 (N.D. 1968). After declaring unconstitutional certain conflict of interest legislation, the *Melland* court unequivocally stated: "If § 43 of the Constitution [essentially identical to Article III, section 13 of the Pennsylvania Constitution] is not being enforced, it is certain that it could be enforced under the power of each house of the legislature to judge qualifications of its own members." *Id.* (emphasis added). Apparently, the court felt that the conflict of interest legislation was in part unnecessary given the fact that the legislature could reach the same result by enforcing the constitutional prohibition against self-interest voting. Accordingly, by referencing the legislature's authority to judge the qualifications of its members, the court was recognizing the legislature's authority to discipline its members and that a member under scrutiny would be unable to vote on his own qualifications.

d. Mr. Stinson By Voting on Whether He Could Vote On Whether He Was Properly Seated and By Voting On Whether He Was Properly Seated Violated Pa. Const. art. III, § 13.

Nothing has changed since 1830 that lessens the importance of the principle stated in *McCloskey* and embodied in the Pennsylvania Constitution. If it was "indecent and indelicate" for one to be the judge of his own cause in 1830, it is more so today. Today's legislators have power and perquisites beyond the imagination of the judiciary of 1830.

Mr. Stinson has a "personal or private interest" in whether he is properly seated as a member of the Senate. In one sense, this "interest" encompasses the financial and professional emoluments that accompany the office of State Senator, including but not limited to, salary, expenses, and participation in the State Employees Retirement

Fund. See, e.g., Section 4 of the Public Official Compensation Law, Act of Sept. 30, 1983, P.L. 160, 65 P.S. § 366.4 (providing that members of General Assembly are to be paid \$47,000.00 per year in salary); State Employees' retirement Code, 71 Pa.C.S. §§ 5101-5955. In a larger sense, the benefits that accrue to today's Senators cannot be properly measured in monetary terms. The members of the General Assembly not only appoint but themselves serve as members of many boards, commissions and agencies. They are full-time public servants in whom a far greater public trust has been vested than was vested in their predecessors of 1830.

The Pennsylvania Supreme Court of 1830 was unable to identify an occasion when a member of the state General Assembly or the United States Congress sought to vote on his or her own qualifications. Perhaps the rule against such self-interested voting was so well established that no one could conceive of violating it. The rule should be applied with at least equivalent force today.

Consequently, this salutary rule ought to apply to ban a legislator from voting not only on the merits of his or her qualifications but also on the threshold issue of whether he or she can vote on his or her seating. There is an equivalent interest in the outcome of this threshold determination, because the Senator whose seat is in jeopardy has a strong personal and private interest in the outcome of the proceedings before the Senate. Accordingly, in the instant case, Mr. Stinson violated the purpose, spirit and substance of Article III, Section 13 of the Pennsylvania Constitution by voting on whether he could vote on whether he was properly seated as a member of the Senate.

2. Since it was a violation of Article III, Section 13 of the Constitution for Mr. Stinson to vote on the question of whether he could vote on his own qualifications and then to vote on his own qualifications, a decision by the Respondents to allow Mr. Stinson to vote in violation of the Constitution was itself a violation of the Constitution.

The Respondents, by first allowing Mr. Stinson to vote on whether he could vote on whether he was properly seated and then allowing Mr. Stinson to vote on whether he was properly seated, violated the Pennsylvania Constitution. Each individual Senator acting in their capacity as a Senator is bound to "defend" the Constitution of the Commonwealth. Pa. Const. art. VI, § 3. The Senate, acting as a whole, is bound to conform to the Pennsylvania Constitution and, in particular, must conduct its business within the limits imposed by Article III. See *Sweeney*, 473 Pa. at 515-16, 375 A.2d at 708-09. The President of the Senate, who acts for the body, is also bound by the Pennsylvania Constitution.

Our system of government would be in jeopardy if our elected representatives could avoid the limitations imposed on their conduct by the Pennsylvania Constitution simply by voting to allow one of their number to violate that Constitution. Article III, Section 13 directs each member who has a personal or private interest in the matter before the Senate to disclose the matter to the Senate. This disclosure provision would be valueless if the Senate as a whole is not then bound to enforce the mandate that the interested member abstain from voting. Once the Senate is informed that a member has interest in a measure, to allow the member to proceed to vote on the measure does violence to the Constitution and renders the acquiescing members' oaths of office meaningless. The prohibition against a member voting on a question in which he has a personal or private interest is one of the article III limitations on how the Senate can conduct its proceedings. See *Sweeney*

3. The Proceedings By Which Respondent Stinson Was Seated Were Further Tainted By The Discriminatory Exclusion of A Duly Elected Senator
 - a. Respondents Excluded Senator Heckler in Violation of the Constitution

When the Respondents denied Senator Heckler the right to be seated and the accompanying right to participate in the legislative process, they violated the Constitution and the rights of the people of this Commonwealth. Our representative system is premised upon the understanding that our representatives, having been duly elected and acting without cause for disqualification, have a right, and an obligation, to take their seats and carry out their duty. It does great violence to our social compact if a group, itself consisting entirely of elected officials, can arbitrarily disregard another's right to take his seat in the Senate.

It is beyond question that, upon reconvening, representative bodies should first attend to seating all members whose qualifications are free from challenge. Accordingly, "[i]n all deliberative assemblies, the members of which are chosen or appointed to represent others, it is necessary, before proceeding to business, to ascertain who are duly elected and returned as members." Luther S. Cushing, *rules of Proceeding and Debate in Deliberative Assemblies*, at 10 (1876).

When Respondents refused to immediately seat Senator Heckler, they arbitrarily interposed procedures which violated the comprehensive provisions of Article II of the Pennsylvania Constitution. Article II defines the Senate. Article II, Section 5 delineates the qualifications for members, and Article II, Section 16 provides that there shall be fifty Senators. Article II, Section 2 directs the same result by providing for special elections to fill a vacancy "for the remainder of the term." When an individual whose certificate of election has been issued by the Secretary of the Commonwealth arrives for a session, it is the duty of the Senate to immediately act to seat (or to disqualify) the member-elect. If any preliminary formality or ceremony is viewed by the Senate as necessary, it is the duty of the Senate to attend to such formality first upon reconvening. Thus, any arbitrary attempt to prevent a duly elected member, whose qualifications are not otherwise subject to challenge, from taking a seat in the Senate is a violation of Article II taken as a whole.

On November 22, 1993, the Respondents arbitrarily reduced their prescribed number by delaying the recognition of Senator Heckler. This was accomplished, initially, by delaying the ceremonial recognition of Senator Heckler. The respondents' intent became clear, however, when Senator Jubelirer's attempt to move the ceremonial recognition of Senator Heckler forward was defeated by Respondents.⁶

The attempt to exclude Senator Heckler chilled the democratic process in the Senate and violated both the spirit and substance of Article II. In addition, the attempt to strip Senator Heckler of his right to participate also did violence to the personal rights protected by Article I of the Constitution.

As the Supreme Court has noted, Article I, Sections 1, 9 and 26 "combine to provide the counterpart of the federal due process and equal protection provision."⁷ *Gondelman v. Commonwealth*, 520 Pa. 451, 466 n.11, 554 A.2d 896, 903 n.11, cert. denied, *Katz v. Pennsylvania*, 493 U.S. 849, 110 S.Ct. 146, 107 L.Ed.2d 105 (1989) (noting that while such rights exist, they do not prevent imposition of mandatory retirement for judges). Additionally, the Supreme Court has held that the relevant question under Art. I, § 26 of the Pennsylvania Constitution "is whether a person has been somehow penalized for the exercise of a constitutional freedom." *Fischer v. Department of Public Welfare*, 509 Pa. 293, 311, 502 A.2d 114, 124 (1985) (applying stated test in context of challenge to state's decision to deny funding for abortions).

It is well settled that "[t]he members of a legislative assembly, who are duly returned, having taken the oaths necessary to qualify them to discharge the functions of members, are all precisely equal in point of right, among themselves, and have an equal right to participate in all proceedings of the assembly, so long as their election is not set aside, or until, in some way, they cease to be members of the assembly." Cushing I, *supra*, at 107. Cushing also notes: "The right to assume the functions of a member, in the first instance, and to participate in the preliminary proceedings and organization, depends wholly and exclusively upon the return or certificate of election; those persons who have declared elected and are duly returned, being con-

sidered as members, until their election is investigated and set aside" *Id.* at 87 (emphasis added).

By denying Senator Heckler his right to be seated and to participate, the Respondents violated Senator Heckler's right to due process and equal protection of the law. Senator Heckler was duly elected, certified and previously sworn in by a judge. He entered the Senate Chamber on September 22 with his election free from doubt. However, in an effort to deprive him of his right to vote, to deprive both him and his constituents of the equal protection of the laws, and to prevent Senator Heckler from exercising his constitutionally recognized right to free speech, the Respondents refused to place his name upon the roll of the Senate. Thus, the Respondents inflicted upon Senator Heckler a cognizable injury in his legislative capacity. See *Zemprelli*, 496 Pa. at 251-52 & n.3, 436 A.2d at 1167 & n.3.

Senator Heckler, however, was doubly wronged by Respondents. Our Constitution explicitly prohibits discrimination, the very essence of which is treating two similarly situated parties differently. At the same time the Respondents eviscerated Senator Heckler's constitutional rights, they allowed Respondent Stinson to participate as a full-fledged Senator, even before entering a transcript of Stinson's own swearing in ceremony into the Journal and even while proceedings challenging his election were pending. Respondents' discriminatory intent is clear. They treated two similarly situated parties differently based solely upon their desire to promote the view of the included party while smothering the view of the excluded one.

b. The Unconstitutional Exclusion of Senator Heckler Tainted the Process By Which Respondent Stinson Was Seated

The constitutionally violative exclusion of Senator Heckler from the proceedings on November 22, 1993, tainted all acts of the Senate carried out while the exclusion continued. The Senate may not unilaterally reduce its number by one so that the resulting majority can control. The power of this proposition can be felt by testing the opposite conclusion. What would be the result if the majority of the Senate could summarily exclude those not solidly aligned with them? What recourse, in a democracy, would citizens have whose elected representatives were excluded?

The taint cannot be removed from proceedings now closed, but the decisions reached therein must be declared void so that the questions presented may be properly considered by the Senate as a whole. To rule otherwise would reward those who chose to trample on the Constitution and who put themselves above the law.

D. The Case is Free From Doubt That Petitioners Are Entitled to the Declaratory Relief Requested.

The material facts in this case are all supported by the draft Legislative Journal of the Senate proceedings on November 27, 1993 and the documents establishing the election, the requisite certifications and the swearing in of David W. Heckler. They are not in dispute. Pennsylvania law clearly establishes that the judiciary has the power and the duty to determine whether the General Assembly has acted in accordance with the requirements of the Pennsylvania Constitution. Respondents' actions with respect to whether Mr. Stinson was properly seated as a member of the Senate and with respect to the seating of Senator Heckler were clearly violative of the Pennsylvania Constitution. Petitioners are entitled as a matter of law to the relief requested in their Petition for Review.

¹ Article III, §13 of the Pa. Const. of 1968 was originally ratified by the citizens as Article III, § 33 of the Pa. Const. of 1874.

² The reforms of the Constitution of 1874, imposing accountability on the legislative branch, are the final chapter in the history of a popular reform movement which swept through all three branches of government. The reforms instituted by the Constitution of 1838 stripped the governor of what were perceived as the excessive powers conferred by the federal-model Constitution of 1790. See Issac Sharpless, *Two Centuries of Pennsylvania History*, at 361 (1900). In 1850,

the judicial branch was made directly accountable to the people by way of an amendment to the Constitution of 1838 which provided for the election of judges. *Id.*

³ The delegates to the Constitutional Convention of 1873 relied upon Cushing as an authority in the area of parliamentary procedure and law. See Charles R. Buckalew, *An Examination of the Constitution of Pennsylvania*, at 99 (1883). In fact, Charles Buckalew, himself a delegate and a noted constitutional historian, cites to Cushing's work as a source of the rationale for the prohibition against self-interested voting. *Id.*

⁴ This inquiry is guided by the recognized principle of constitutional interpretation that constitutional provisions are to be given the meaning a voter ratifying them would have given and that, accordingly, a reviewing court is to adopt the interpretation that conforms to the intent of the framers and reflects the views of the ratifying voter. See *Zemprelli*, 496 Pa. at 257, 436 A.2d at 1170.

⁵ The *McCloskey* decision, in addition to providing an example of the common law rationale underpinning Art. III, § 13, also supports the proposition that implicit in Art. II, § 9 is a requirement that a Senator whose qualifications have been called into question must not vote on any measures coming before the Senate related to his or her qualifications. In *McCloskey*, by statute, the Board had the power to determine the qualifications of its members. The court, pointing to similar provisions in the Pennsylvania and United States Constitution, engrafted the equivalent of Art. III, § 13 onto the equivalent of Art. II, § 9. This indicates that even if Art III, § 13 was not in the Constitution, Stinson would be prohibited, under Art. II, § 9, from voting on his own qualifications.

⁶ Even if Respondents genuinely believed there was some material difference between the out-of-session swearing in of Senator Heckler and the out-of-session swearing in of Mr. Stinson, Petitioner Heckler should have been sworn in at the beginning of the session, before any other business was conducted, to avoid violation of Article II of the Constitution.

⁷ Art. I, § 1 provides:

All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.

Art. I, § 9 provides:

In all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, to meet the witnesses face to face, to have compulsory process for obtaining witnesses in his favor, and, in prosecutions by indictment or information, a speedy public trial by an impartial jury of vicinage; he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty or property, unless by the judgment of his peers or the law of the land. The use of a suppressed voluntary admission or voluntary confession to impeach the credibility of a person may be permitted and shall not be construed as compelling a person to give evidence against himself.

Art. I, § 26 provides:

Neither the Commonwealth nor any political subdivision thereof shall deny to any person the enjoyment of any civil right, nor discriminate against any person in the exercise of any civil right.

V. CONCLUSION

For the foregoing reasons, Petitioners are entitled to the summary relief requested in their application, or, in the alternative, to an expedited decision on the merits.

Respectfully Submitted,

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Attorneys for Petitioners

Dated: December 2, 1993

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

Senator LINCOLN. For the record, I am holding up one finger, Mr. President.

The PRESIDENT. The Chair thanks the gentleman.

Senator LINCOLN. Mr. President, that was supposed to be humorous. I mean, even my good friend, Senator Jubelirer, was not — I put up one finger and nobody reacted. What is this? Maybe I have that reputation, I do not know.

Senator JUBELIRER. Mr. President, I need to pay more attention, and I was not sure which finger he was putting up so I did not say a thing.

Senator LINCOLN. To you, my good friend, it is only my index finger.

Mr. President, with a little more seriousness, I believe it is incumbent upon me from this side of the aisle to make some response. I do not think what we have heard from Senator Jubelirer is just as he said, a recanting of facts. I do not think that a lot of them are facts. I think a lot of them are publicity and a lot of them are press releases and a lot of them are a number of other things that have been coming out of the Marks campaign and the Senate Republican Campaign Committee. I am content that the course is being run through both investigations and however many other court cases are involved. And it is the funniest thing. It just seems like a very unfair situation to me in that I am completely advised to keep my mouth shut about all of the things that are taking place, and yet I have to read papers and hear quotes and see press releases from Members of the other side of the aisle who go into great detail about this whole matter and I kind of wonder sometimes, if I were a person who had a law degree and I knew about these prohibitions that are supposed to be placed on you when you are in court, why I would be so free to make such public statements, I do not know. And I just think the record ought to reflect that a lot of times there would be a great deal more discussion on these issues coming from this side of the aisle if we were not advised that, since these cases are in court at some level in several different cases, it would be best not to get into too much detail about them. And I think probably what I am trying to prove in this little bit of debate is that maybe there is a great deal more interest in the publicity gained by some of these actions than finding some solid and positive legal solution on the part of the people who have been filing most of these.

I had a very strange occasion, just to kind of put it into the context of where I think it is getting to, I was interviewed by a reporter from the Washington Post a week or so ago when the Republican national chair held a press conference with a

couple Republican Congressmen on this race, and he wanted to know what I thought they were trying to get or trying to do, and I said, well, you know, the last thing in the world you would want to ask me is how a Republican thinks, but I said, I think the main thing is that I do not understand what they are trying to do because everything appears to be moving. It may not always be moving in a direction they want, but the courts are following up on their complaints. We have the Federal government investigating, we have the State government investigating, and I said that I had heard that my good friend, the gentleman from Blair, Senator Bob Jubelirer, had gone to Connecticut and found a retired Russian judge who assured him that the KGB would be in the next weekend to start the investigation on their terms, so I do not know. I mean, it is getting to the point where it is almost a little bit funny, if it were not so serious.

But I think it is very clear that we are in good standing here legally. I think we have done everything within the guidelines of the rules and the guidelines of the Constitution and the guidelines of the election law, and I feel that there is absolutely no question that Senator Stinson deserves to be in the Senate and his votes are legal and valid. And I think that I welcome, more than anyone will ever know, the final conclusion of these challenges and the court cases and the investigations, because I have no concern that they are going to come out in a manner other than that Senator Stinson will serve here for the rest of this term and for as long as he chooses to by going through the election process again.

UNFINISHED BUSINESS COMMUNICATIONS FROM THE ACTING GOVERNOR

NOMINATIONS REFERRED TO COMMITTEE

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

MEMBER OF THE BOARD OF CLAIMS

December 6, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, David C. Clipper, 41 Foxanna Drive, Hershey 17033, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Board of Claims, to serve until November 15, 1994 and until his successor is appointed and qualified, vice Fred C. Pace, Esquire, Pottsville, resigned.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

MEMBER OF THE STATE REAL
ESTATE COMMISSION

December 6, 1993

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Harvey M. Levin, 2020 Walnut Street, Apartment 22-B, Philadelphia 19103, Philadelphia County, First Senatorial District, for reappointment as a member of the State Real Estate Commission, to serve for a term of five years or until his successor is appointed and qualified, but not longer than six months beyond that period.

MARK S. SINGEL
Lieutenant Governor,
Acting Governor

**CORRECTION TO NOMINATION
REFERRED TO COMMITTEE**

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

MEMBER OF THE STATE BOARD
OF EDUCATION

December 6, 1993

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

Please note the nomination dated December 3, 1993 for the reappointment of Earl H. Horton, Ed.D., 321 North Homestead Drive, Landisville 17538, Lancaster County, Forty-seventh Senatorial District, as a member of the State Board of Education, to serve until October 1, 1998 or until his successor is appointed and qualified, should be corrected to read:

Earl H. Horton, Ed.D., 321 North Homestead Drive, Landisville 17538, Lancaster County, Thirty-sixth Senatorial District, as a member of the State Board of Education, to serve until October 1, 1998 or until his successor is appointed and qualified.

HOUSE MESSAGES

SENATE BILL RETURNED WITH AMENDMENTS

The Clerk of the House of Representatives returned to the Senate **SB 1193**, with the information the House has passed the same with amendments in which the concurrence of the Senate is requested.

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

**HOUSE CONCURS IN SENATE
CONCURRENT RESOLUTION**

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

Weekly adjournment.

ANNOUNCEMENTS BY THE SECRETARY

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

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

TUESDAY, DECEMBER 7, 1993

| | | |
|------------|--|--------------------------|
| 10:00 A.M. | ENVIRONMENTAL RESOURCES AND ENERGY (to consider House Bills No. 337, 1898 and House Resolution No. 147) | Room 461 Main Capitol |
| 11:00 A.M. | LOCAL GOVERNMENT (to consider Senate Bills No. 846, 1009, 1327 and House Bills No. 437 and 675) | Room 8E-B East Wing |
| 11:30 A.M. | EDUCATION (to consider Senate Bills No. 382, 638, 910, 1029, 1030 and 1447; and House Bills No. 464 and 1512) | Room 461 Main Capitol |
| 11:30 A.M. | JUDICIARY (to consider Senate Bills No. 794, 1384 and House Bill No. 1432; and Judges Court of Common Pleas nominees: Kathleen R. Mulligan, John A. Zottola, Frederic J. Ammerman, Todd A. Hoover, William R. Carpenter and John E. Domalakes) | Room 8E-A East Wing |
| 12:30 P.M. | APPROPRIATIONS (to consider Senate Bills No. 422 and 709; and House Bill No. 659) | Room 8E-B East Wing |

ADJOURNMENT

Senator LINCOLN. Mr. President, I move that the Senate do now adjourn until Tuesday, December 7, 1993, at 1 p.m., Eastern Standard Time.

The motion was agreed to.

The Senate adjourned at 7:10 p.m., Eastern Standard Time.