

COMMONWEALTH OF PENNSYLVANIA
Legislative Journal

MONDAY, MAY 4, 1998

SESSION OF 1998

182ND OF THE GENERAL ASSEMBLY

No. 30

SENATE

MONDAY, May 4, 1998

The Senate met at 2 p.m., Eastern Daylight Saving Time.

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

PRAYER

The Chaplain, Reverend CHARLES McDONALD, of St. Anthony Padua Church, Lancaster, offered the following prayer:

God, You are our origin and Father, ours, mine, and everyone's in this world. As long as there are people on earth, You can be found. We meet You unexpectedly wherever we may go. We cling to this grace. You speak and call a word that needs an answer, a name that invites love and gives it. What You have sown in us You will reap when Your day has come, and what You have begun here in our midst You will complete.

Lord, make us honor Your presence. Help us to serve You and others without pushing ourselves forward, so that we may help all while leaving each with their dignity. Make us dedicate ourselves to everything that is lowly and unimportant in the world's eyes but of great value in Your eyes, so that we may do the things that no one else takes on. Make us wise enough and strong enough to build each other up into Your city on earth, a world fit to live in where we will know You in each other. Amen.

The PRESIDENT. The Chair thanks Reverend McDonald, who is the guest today of Senator Armstrong.

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of April 29, 1998.

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

COMMUNICATIONS FROM THE GOVERNOR

NOMINATIONS REFERRED TO COMMITTEE

The PRESIDENT laid before the Senate the following communications in writing from His Excellency, the Governor of

the Commonwealth, which were read as follows and referred to the Committee on Rules and Executive Nominations:

**MEMBER OF THE BOARD OF TRUSTEES
OF DANVILLE STATE HOSPITAL**

April 30, 1998

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, Daron Smith, 755 Kruetz Creek Road, York 17406, York County, Twenty-eighth Senatorial District, for appointment as a member of the Board of Trustees of Danville State Hospital, to serve until the third Tuesday of January 2003, and until his successor is appointed and qualified, vice Esther V. Cotner, Washingtonville, resigned.

THOMAS J. RIDGE
Governor

**MEMBER OF THE BOARD OF TRUSTEES OF
SOUTH MOUNTAIN RESTORATION CENTER**

April 30, 1998

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, M. Lee Hartzok, 270 Overhill Drive, 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 2003, and until his successor is appointed and qualified.

THOMAS J. RIDGE
Governor

**MEMBER OF THE BOARD OF TRUSTEES OF
SOUTH MOUNTAIN RESTORATION CENTER**

April 30, 1998

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, Frederick A. Reddig, 108 Park Place West, Shippensburg 17257, 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 2003, and until his successor is appointed and qualified.

THOMAS J. RIDGE
Governor

DISTRICT JUSTICE

April 30, 1998

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, Elizabeth A. Doyle, Esquire, 417 Union Street, Hollidaysburg 16648, Blair County, Thirtieth Senatorial District, for appointment as District Justice, in and for the County of Blair, Magisterial District 24-3-03, to serve until the first Monday of January 2000, vice Frederick L. Klepser, resigned.

THOMAS J. RIDGE
Governor

MEMBER OF THE BOARD OF TRUSTEES
OF HAMBURG CENTER

May 1, 1998

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, Annabelle Good, 916 Chew Street, Allentown 18102, Lehigh County, Sixteenth Senatorial District, for appointment as a member of the Board of Trustees of Hamburg Center, to serve until the third Tuesday of January 2003, and until her successor is appointed and qualified, vice Thomas J. Gombar, Reading, resigned.

THOMAS J. RIDGE
Governor

MEMBER OF THE BOARD OF TRUSTEES
OF WHITE HAVEN CENTER

May 1, 1998

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, Harold C. Snowden, Jr., 420 Wyoming Avenue, Kingston 18704, Luzerne County, Fourteenth Senatorial District, for appointment as a member of the Board of Trustees of White Haven Center, to serve until the third Tuesday of January 1999, and until his successor is appointed and qualified, vice M. Grace Calvello, deceased.

THOMAS J. RIDGE
Governor

MEMBER OF THE WARREN COUNTY
BOARD OF ASSISTANCE

May 1, 1998

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, Joyce Brecht (Republican), 9 Jackson Road, Warren 16365, Warren County, Twenty-fifth Senatorial District, for appointment as a member of the Warren County Board of Assistance, to serve until December 31, 2000, and until her successor is appointed and qualified, to add to complement.

THOMAS J. RIDGE
Governor

MEMBER OF THE WARREN COUNTY
BOARD OF ASSISTANCE

May 1, 1998

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, Nora Doyle (Republican), 2727 Penn Avenue, West, Warren 16365, Warren County, Twenty-fifth Senatorial District, for appointment as a member of the Warren County Board of Assistance, to serve until December 31, 2000, and until her successor is appointed and qualified, vice Bettie A. Ford, Warren, whose term expired.

THOMAS J. RIDGE
Governor

MEMBER OF THE WARREN COUNTY
BOARD OF ASSISTANCE

May 1, 1998

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, Ines Lindsey (Republican), 1 Mill Street, Sheffield 16347, Warren County, Twenty-fifth Senatorial District, for appointment as a member of the Warren County Board of Assistance, to serve until December 31, 2000, and until her successor is appointed and qualified, to add to complement.

THOMAS J. RIDGE
Governor

MEMBER OF THE WARREN COUNTY
BOARD OF ASSISTANCE

May 1, 1998

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, Andrea Wagner (Democrat), 80 Cobham Park Road, Warren 16365, Warren County, Twenty-fifth Senatorial District, for appointment as a member of the Warren County Board of Assistance, to serve until December 31, 1999, and until her successor is appointed and qualified, vice James A. Cerra, Warren, whose term expired.

THOMAS J. RIDGE
Governor

MEMBER OF THE WASHINGTON COUNTY
BOARD OF ASSISTANCE

May 1, 1998

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, Loretta J. Manus (Democrat), 65 Delsandro Drive, Donora 15033, Washington County, Forty-sixth Senatorial District, for appointment as a member of the Washington County Board of Assistance, to serve until December 31, 2000, and

until her successor is appointed and qualified, vice Robert E. Hemmis, Washington, whose term expired.

THOMAS J. RIDGE
Governor

MEMBER OF THE WASHINGTON COUNTY
BOARD OF ASSISTANCE

May 1, 1998

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 R. Paluso, M.D. (Republican), 29 Dire Drive, Hickory 15340, Washington County, Forty-sixth Senatorial District, for appointment as a member of the Washington County Board of Assistance, to serve until December 31, 2000, and until his successor is appointed and qualified, to add to complement.

THOMAS J. RIDGE
Governor

MEMBER OF THE WASHINGTON COUNTY
BOARD OF ASSISTANCE

May 1, 1998

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, Keith Sparbanie (Republican), P. O. Box 268, 100 Highland Avenue, West Alexander 15376, Washington County, Forty-sixth Senatorial District, for appointment as a member of the Washington County Board of Assistance, to serve until December 31, 2000, and until his successor is appointed and qualified, to add to complement.

THOMAS J. RIDGE
Governor

DISTRICT JUSTICE

May 1, 1998

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. Householder, Jr., 9 Lynn Avenue, Oreland 19075, Montgomery County, Twenty-fourth Senatorial District, for appointment as District Justice, in and for the County of Montgomery, Magisterial District 38-1-08, to serve until the first Monday of January 2000, vice Francis Griffin, mandatory retirement.

THOMAS J. RIDGE
Governor

HOUSE MESSAGES

HOUSE CONCURS IN SENATE AMENDMENTS
TO HOUSE AMENDMENTS TO SENATE BILL

The Clerk of the House of Representatives informed the Senate that the House has concurred in the amendments made by the Senate to House amendments to **SB 669**.

SENATE BILL RETURNED WITH AMENDMENTS

The Clerk of the House of Representatives returned to the Senate **SB 682**, 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 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:

April 29, 1998

HB 591 -- Committee on Local Government.

May 1, 1998

HB 332 -- Committee on Consumer Protection and Professional Licensure.

BILLS INTRODUCED AND REFERRED

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

May 1, 1998

Senators THOMPSON, STAPLETON, TOMLINSON, SALVATORE, HELFRICK, BELL, RHOADES, BELAN, AFFLERBACH, EARLL, GERLACH, TARTAGLIONE, SLOCUM, CONTI, ROBBINS and LEMMOND 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 the Pennsylvania State Police.

Which was committed to the Committee on LAW AND JUSTICE, May 1, 1998.

Senators CONTI, TOMLINSON, HELFRICK, MOWERY, AFFLERBACH, COSTA, GERLACH, PUNT, WAGNER, SALVATORE, KASUNIC, WHITE, HART, BRIGHTBILL, O'PAKE, RHOADES, ROBBINS, MELLOW and SLOCUM presented to the Chair **SB 1445**, entitled:

An Act amending the act of March 4, 1971 (P.L.6, No.2), entitled Tax Reform Code of 1971, further providing for the rate of inheritance tax.

Which was committed to the Committee on FINANCE, May 1, 1998.

Senators SALVATORE, LOEPER and HART presented to the Chair **SB 1446**, entitled:

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for the selection of the chairman of the Legislative Reapportionment Commission; and providing for the effective date of newly reapportioned districts and for the election of Senators in certain circumstances.

Which was committed to the Committee on RULES AND EXECUTIVE NOMINATIONS, May 1, 1998.

May 4, 1998

Senators GREENLEAF, O'PAKE, HART, KUKOVICH, WAGNER and WILLIAMS presented to the Chair SB 1447, entitled:

An Act amending Titles 13 (Commercial Code) and 15 (Corporations and Unincorporated Associations) of the Pennsylvania Consolidated Statutes, further providing for place of filing financing statements and for fee schedule for filing of financing statements.

Which was committed to the Committee on BANKING AND INSURANCE, May 4, 1998.

Senator GREENLEAF presented to the Chair SB 1448, entitled:

An Act amending the act of August 26, 1971 (PL.351, No.91), entitled State Lottery Law, further prohibiting certain sales.

Which was committed to the Committee on FINANCE, May 4, 1998.

Senators GREENLEAF, GERLACH, LEMMOND, BELL, HELFRICK, KASUNIC, TOMLINSON, WOZNIAK, RHOADES and STOUT presented to the Chair SB 1449, entitled:

An Act imposing civil liability on persons participating in the illegal drug market; providing for the recovery of damages by certain persons; and establishing the procedure for bringing an action to recover damages.

Which was committed to the Committee on JUDICIARY, May 4, 1998.

RESOLUTION INTRODUCED AND REFERRED

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

May 1, 1998

Senators MOWERY, ROBBINS, AFFLERBACH, BELAN, BELL, COSTA, EARLL, GERLACH, HELFRICK, KASUNIC, MUSTO, PICCOLA, SALVATORE, STAPLETON, THOMPSON, TILGHMAN, TOMLINSON, WAGNER, WHITE, WOZNIAK, LEMMOND, RHOADES, ULIANA, O'PAKE, BRIGHTBILL, WENGER, LOEPER, SCHWARTZ and SLOCUM presented to the Chair SR 197, entitled:

A Resolution designating the week of May 10 through 16, 1998, as "MADD Week" in Pennsylvania.

Which was committed to the Committee on RULES AND EXECUTIVE NOMINATIONS, May 1, 1998.

GENERAL COMMUNICATIONS

COMMISSION ON CRIME AND DELINQUENCY APPLICATION FOR FEDERAL GRANT MONIES

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

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Commission on
Crime and Delinquency

April 28, 1998

Honorable Robert C. Jubelirer
President Pro Tempore
Senate of Pennsylvania
Main Capitol, Room 535
Harrisburg, Pennsylvania 17120

Dear Senator Jubelirer:

On behalf of the Pennsylvania Commission on Crime and Delinquency (PCCD), I am pleased to forward to you a copy of our federal FY-1998 state application for funds provided through the Drug Control and System Improvement Formula Grant Program established by the Anti-Drug Abuse Act of 1988. Under the Act, all state applications are to be submitted for legislative review, but shall be deemed to be reviewed if the state Legislature does not comment on the application within 30 days.

The Drug Control and System Improvement Formula Grant Program provides assistance to states and units of local government for the purpose of enforcing state and local drug laws, and to improve the functioning of the criminal justice system with emphasis on violent crime and serious offenders. PCCD was designated by the Governor as the state office to apply for and administer these funds.

PCCD will utilize the funds to continue state and local projects begun with the federal Drug Control and System Improvement Formula Grant Program FY-1995, 1996, and 1997 allocations, and it is anticipated that a number of new initiatives will be implemented. The enclosed application, which has been submitted to the federal Bureau of Justice Assistance, is consistent with the 1998-99 General Fund Budget.

I will be pleased to answer any questions you may have concerning this application.

Sincerely yours,

JAMES THOMAS
Executive Director

The PRESIDENT. This will be referred to the Committee on Appropriations.

ANNUAL REPORT OF THE WORKERS' COMPENSATION ADVISORY COUNCIL

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

April 27, 1998

Honorable Robert C. Jubelirer
President Pro-Tempore of the Senate
Room 292 Main Capitol
Harrisburg, PA 17120

Dear Senator Jubelirer:

On behalf of the Workers' Compensation Advisory Council, I am pleased to provide you with a copy of the Council's Annual Report pursuant to Section 447(b)(4) of the Workers' Compensation Act which mandates that the report be submitted by May 1st.

If you have any questions regarding this report, please feel free to contact me at (717) 787-3756.

Sincerely,

JOHNNY J. BUTLER, Secretary
Department of Labor and Industry

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

ANNUAL REPORT ON THE FARMLAND PROTECTION PROGRAM

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

COMMONWEALTH OF PENNSYLVANIA
Department of Agriculture
2301 North Cameron St.
Harrisburg, PA 17110-9408

April 28, 1998

Mark R. Corrigan
Secretary of the Senate
Room 461, Main Capitol Building
Harrisburg, Pennsylvania 17120

Dear Mr. Corrigan:

The Pennsylvania Department of Agriculture is pleased to submit to the General Assembly, an annual report for the period April 30, 1997 through April 30, 1998, in accordance with Section 14.4 of Act 149 of 1988 (the Agricultural Area Security Law).

In the nine years since the authorizing legislation became effective, the Farmland Protection Program has permanently preserved 115,604 acres of farmland in 39 counties. Act 149 provides for permanent preservation of agricultural land through the purchase of conservation easements from qualifying farmers. Easements can be purchased entirely with Commonwealth funds, with a combination of state and county funds, or solely with county matching funds. The Pennsylvania program is the fastest growing farmland protection effort of its kind in the nation.

The Department is currently preparing a more extensive report to highlight the accomplishments of the Commonwealth in farmland preservation over the past ten years. This report will be provided to all members of the General Assembly, in the near future. Should you have any questions about the data supplied in this report, or require additional information, please contact my office.

It is hoped you enjoy a nice springtime.

With warm personal regards, I remain

Sincerely,

SAMUEL E. HAYES, JR.
Secretary

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

BILL SIGNED

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

SB 669.

REPORTS FROM COMMITTEES

Senator LOEPER, from the Committee on Rules and Executive Nominations, reported the following bills:

SB 284 (Pr. No. 1987) (Amended) (Rereported) (Concurrence)

An Act amending the act of December 18, 1984 (P.L.1005, No.205), entitled Municipal Pension Plan Funding Standard and Recovery Act, further providing for additions to the actuarial valuation report, for supplemental State assistance and for a home rule municipality formerly classified as a city of the second class; authorizing the reestablishment of initial unfunded actuarial accrued liability; specifying a new 40-year amortization period; and prescribing the calculation of the amortization contribution for the pension funds.

SB 888 (Pr. No. 1640) (Rereported) (Concurrence)

An Act regulating the construction, equipment, maintenance, operation and inspection of boilers and unfired pressure vessels; granting certain authority to and imposing certain duties upon the Department of Labor and Industry; providing for penalties; and making a repeal.

SB 981 (Pr. No. 1615) (Rereported) (Concurrence)

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, further adding to the powers and duties of the Adjutant General; further providing for maintenance, construction and repair contracts to be performed by the Armory Board; and making a repeal.

SB 1446 (Pr. No. 1981)

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for the selection of the chairman of the Legislative Reapportionment Commission; and providing for the effective date of newly reapportioned districts and for the election of Senators in certain circumstances.

HB 413 (Pr. No. 3523) (Amended) (Rereported)

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for restitution for personal or property injuries and for arson and related offenses and for obscenity; and prohibiting transportation of minors in open trucks.

Senator HELFRICK, from the Committee on Game and Fisheries, reported the following bills:

SB 304 (Pr. No. 1986) (Amended)

An Act amending Title 30 (Fish) of the Pennsylvania Consolidated Statutes, requiring the establishment of a mandatory boater education program; and fixing additional fees.

SB 1232 (Pr. No. 1565)

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, to provide for the right to hunt and fish.

SB 1429 (Pr. No. 1933)

An Act amending Title 34 (Game) of the Pennsylvania Consolidated Statutes, further providing for disabled person permits.

Senator ARMSTRONG, from the Committee on Labor and Industry, reported the following bill:

HB 2038 (Pr. No. 2947)

An Act establishing a food service employee incentive program.

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

SB 930 (Pr. No. 1983) (Amended) (Rereported)

An Act amending the act of June 30, 1981 (P.L.128, No.43), entitled Agricultural Area Security Law, further providing for the State Agricultural Land Preservation Board; providing for local government unit participation; and making editorial changes.

SB 1077 (Pr. No. 1984) (Amended) (Rereported)

An Act providing for property and casualty insurance rate and form filings; providing for the making of rates; providing for powers and duties of the Insurance Commissioner; providing for rating organizations; imposing penalties; and making repeals.

SB 1423 (Pr. No. 1922) (Rereported)

An Act amending the act of December 12, 1994 (P.L.900, No.130), entitled Agriculture-Linked Investment Program Act, further providing for legislative intent, for definitions, for the nature and implementation of the program and for liability.

SB 1440 (Pr. No. 1985) (Amended) (Rereported)

An Act amending the act of December 2, 1992 (P.L.741, No.113), entitled Children's Health Care Act, further providing for legislative findings and intent, for definitions, for children's health care, for outreach, for payor of last resort and for limitation on expenditure of funds.

HB 9 (Pr. No. 2510) (Rereported)

An Act amending the act of June 26, 1992 (P.L.322, No.64), known as the Agriculture Education Loan Forgiveness Act, further providing for expiration of act.

RESOLUTIONS REPORTED FROM COMMITTEE

Senator LOEPER, from the Committee on Rules and Executive Nominations, reported the following resolutions:

SR 189 (Pr. No. 1962)

A Resolution recognizing May 1 through May 7, 1998, as "Elks National Youth Week."

SR 190 (Pr. No. 1963)

A Resolution memorializing the Governor to proclaim the week of May 2 through 9, 1998, as "Pennsylvania Safe Kids Week."

SR 191 (Pr. No. 1964)

A Resolution designating June 6, 1998, as "Kids' Day" in Pennsylvania.

SR 197 (Pr. No. 1982)

A Resolution designating the week of May 10 through 16, 1998, as "MADD Week" in Pennsylvania.

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

LEGISLATIVE LEAVES

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

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

The PRESIDENT. Senator Loeper requests a legislative leave for Senator Mowery. Without objection, that leave is granted.

The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I request legislative leaves for Senator Hughes and Senator Williams.

The PRESIDENT. Senator Mellow requests legislative leaves for Senator Hughes and Senator Williams. Without objection, those leaves are granted.

SENATE CONCURRENT RESOLUTION

RECESS ADJOURNMENT

Senator LOEPER offered the following resolution, which was read as follows:

In the Senate, May 4, 1998

RESOLVED, (the House of Representatives concurring), That when the Senate adjourns this week it reconvene on Monday, June 1, 1998, unless sooner recalled by the President Pro Tempore of the Senate; and be it further

RESOLVED, That when the House of Representatives adjourns this week it reconvene on Monday, June 1, 1998, unless sooner recalled by the Speaker of the House of Representatives.

On the question,

Will the Senate adopt the resolution?

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

YEA-50

Afflerbach	Greenleaf	Mellow	Stout
Armstrong	Hart	Mowery	Tartaglione
Belan	Helfrick	Murphy	Thompson
Bell	Holl	Musto	Tilghman
Bodack	Hughes	O'Pake	Tomlinson
Brightbill	Jubelirer	Piccola	Uliana
Conti	Kasunic	Punt	Wagner
Corman	Kitchen	Rhoades	Wenger
Costa	Kukovich	Robbins	White
Delp	LaValle	Salvatore	Williams
Earl	Lemmond	Schwartz	Wozniak
Fumo	Loeper	Slocum	
Gerlach	Madigan	Stapleton	

NAY-0

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

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

**SPECIAL ORDER OF BUSINESS
GUESTS OF SENATOR JAMES W. GERLACH
AND SENATOR ROBERT J. THOMPSON
PRESENTED TO THE SENATE**

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

Senator GERLACH. Mr. President, in sports, just as in politics, some victories can be attributed to luck, some to skill, and some to a combination of the two. But in the case of the State Championship Downingtown High School Girls' Basketball Team, there is no doubt that skill and determination played the key role in elevating this extraordinary team heads and shoulders above their competition.

Not once but twice in a row the Downingtown Whippets captured the PIAA Class AAAA Championship, most recently defeating—excuse me, Senator Jubelirer—Altoona by a score of 63 to 36. The 27-point margin of victory was the second largest in the history of the title match. Along the way to its second victory in 2 years, the team amassed a winning streak of 55 games, dating back to December 1996. They ended this year with a perfect 33-0 record, capturing the fifth State Championship title for Downingtown.

The victory also means that Downingtown now has the most PIAA Class AAAA titles of any school in the State. That kind of record and achievement does not depend on luck but on hard work, dedication to excellence, and commitment. That kind of winning streak proves that this team is something truly special.

Several of the players here today are graduating and will be going on to college at the end of this year, so it will be a different team taking to the court next year to extend the amazing winning streak of Downingtown High School. But I would like to congratulate and extend congratulations to all the team members, regardless of whether they are graduating this year, and particularly to head coach Bob Schnure and his assistant coaches, Dave Johnson and Allison Long, for their outstanding success this season and their longstanding success and track record. Their success is based not only on luck and chance but on teamwork, dedication, and commitment to excellence.

In addition to the team members and coaches who are here today, joining us in the Senate gallery are also some other members of the Downingtown School District. They are the principal of the high school, Walt Kottmeyer, as well as five of the school board members from Downingtown Area School District: Cynthia Hallman, Peggy LaGarde, Norman Long, Diane Pribanic, and Jim Wygel.

On behalf of Senator Thompson, who also has a portion of the school district in his district, I would appreciate it if the Senate would give its courtesy and warm welcome to the team and the coaches and the school district officials for joining us today.

The PRESIDENT. Would our special athletes please rise, along with the coaches, so we may acknowledge you.

(Applause.)

The PRESIDENT. The Chair thanks Senator Gerlach, and it is certainly justifiable praise.

**GUESTS OF SENATOR ROBERT J. THOMPSON
PRESENTED TO THE SENATE**

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

Senator THOMPSON. Mr. President, it is a double honor for me not only to welcome the Girls' State Champion Basketball Team from Downingtown High School but also to welcome a group of winners from Henderson High School in West Chester, the Science Bowl Team. Last month in Dallas, Texas, this team of talented high school juniors and seniors took first place in the National Science Bowl, which was sponsored by the National Organization of Black Chemists and Chemical Engineers.

Mr. President, this is the third time in 4 years that a team from West Chester School District has won the National Science Bowl title, which certainly says a lot about the quality of the science programs in that district. I should also point out that before moving on to the national competition, the team also placed first in their division in the Northeast Regional Science Bowl, which was sponsored by the same organization.

These honors truly are an outstanding achievement for the West Chester School District and for the Science Bowl Team of Henderson High School, and I would like to name the members of the team who have earned this remarkable accomplishment. They are John Foster, Dan Hubbard, Stephen Lu, and Rob Roscioli. They are coached by their physics teacher, Charles Wood. They are accompanied today by Mr. Michael DeBartholomeo, the high school principal, as well as John Foster's parents and Mr. Roscioli, father of Rob.

Mr. President, these young people represent the best of Pennsylvania's young minds, and they serve as an excellent example of what can be accomplished with dedication and hard work. I would appreciate it if the Senate would give them its usual warm welcome.

The PRESIDENT. Would our special guests and accomplished students from Henderson High School please rise so the Senate may greet you.

(Applause.)

**GUESTS OF SENATOR JAMES J. RHOADES
PRESENTED TO THE SENATE**

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

Senator RHOADES. Mr. President, with us in the gallery today is Mr. Brian Jeremiah, president of the Shamokin Area School District, and Dr. Jerry Nesvold, the superintendent of the Shamokin Area School District. They are here visiting relative to some educational issues, and I would appreciate it if the Senate would extend its usual warm welcome to them.

The PRESIDENT. Would our guest educators please rise so the Senate may welcome you.

(Applause.)

GUESTS OF SENATOR ROBERT D. ROBBINS PRESENTED TO THE SENATE

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

Senator ROBBINS. Mr. President, I am pleased today to introduce Annie Watson, Brianne Williams, and Sarah Volyard, who are serving as guest Pages in the Senate today. All residents of Mercer County, Annie and Brianne are eighth grade students attending St. Michael's School in Greenville, and Sarah is a ninth grader attending Mercer Area High School in Mercer.

Annie and Brianne are accompanied here today by their teacher from St. Michael's, Mrs. Nancy Kremm, and Sarah is accompanied by her mother, Mrs. Becky Volyard, a teacher with the Hermitage School District, who are seated in the gallery.

Also seated in the gallery are Matthew Cascio, Darryl Fisher, and Andrew Lauffer. These students are additionally in Mrs. Kremm's eighth grade class at St. Michael's and are serving as guest Pages in the House of Representatives today with Representative Wilt. Please join me in welcoming my guests to the Senate of Pennsylvania.

The PRESIDENT. Would our special guests please rise so the Senate may acknowledge your presence.

(Applause.)

DISCHARGE PETITIONS

The PRESIDENT laid before the Senate the following communications, which were read by the Clerk as follows:

In the Senate, May 4, 1998

A PETITION

To place before the Senate the nomination of Daron Smith, as a member of the State Board of Examiners of Nursing Home Administrators.

TO: The President Officer of the Senate:

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of Daron Smith, as a member of the State Board of Examiners of Nursing Home Administrators, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

Raphael J. Musto
Robert J. Mellow
Leonard J. Bodack
Michael A. O'Pake
Patrick J. Stapleton
Vincent J. Fumo

In the Senate, May 4, 1998

A PETITION

To place before the Senate the nomination of Dr. Robert Lange, as a member of the Health Policy Board.

TO: The President Officer of the Senate:

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of Dr. Robert Lange, as a member of the Health Policy Board, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

Raphael J. Musto
Robert J. Mellow
Leonard J. Bodack
Michael A. O'Pake
Patrick J. Stapleton
Vincent J. Fumo

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

RECESS

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

Senator LOEPER. Mr. President, at this time I request a recess of the Senate for the purpose of a Republican caucus to begin immediately in the first floor caucus room, with an expectation of returning to the floor at approximately 4 p.m.

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

Senator MELLOW. Mr. President, I request that the Democratic Members report immediately to our caucus room.

The PRESIDENT. For purposes of Republican and Democratic caucuses, with the intention of returning at approximately 4 p.m., this Senate stands in recess.

AFTER RECESS

The PRESIDENT pro tempore (Robert C. Jubelirer) in the Chair.

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

LEGISLATIVE LEAVES

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

Senator MELLOW. Mr. President, I request temporary Capitol leaves for Senator Afflerbach and Senator O'Pake.

The PRESIDENT pro tempore. Senator Mellow requests temporary Capitol leaves for Senator Afflerbach and Senator O'Pake. Without objection, those leaves are granted.

SPECIAL ORDER OF BUSINESS SUPPLEMENTAL CALENDAR No. 1

Without objection, the bills on Supplemental Calendar No. 1 were called out of order by Senator LOEPER, as Special Orders of Business.

BILLS REREPORTED FROM COMMITTEE AS AMENDED ON SECOND CONSIDERATION

HB 413 (Pr. No. 3523) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for restitution for personal or property injuries and for arson and related offenses and for obscenity; and prohibiting transportation of minors in open trucks.

Considered the second time and agreed to,

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

SB 930 (Pr. No. 1983) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 30, 1981 (P.L.128, No.43), entitled Agricultural Area Security Law, further providing for the State Agricultural Land Preservation Board; providing for local government unit participation; and making editorial changes.

Considered the second time and agreed to,

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

SB 1440 (Pr. No. 1985) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 2, 1992 (P.L.741, No.113), entitled Children's Health Care Act, further providing for legislative findings and intent, for definitions, for children's health care, for outreach, for payor of last resort and for limitation on expenditure of funds.

Considered the second time and agreed to,

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

BILL ON SECOND CONSIDERATION

SB 1423 (Pr. No. 1922) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 12, 1994 (P.L.900, No.130), entitled Agriculture-Linked Investment Program Act, further providing for legislative intent, for definitions, for the nature and implementation of the program and for liability.

Considered the second time and agreed to,

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

LEGISLATIVE LEAVE

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

Senator LOEPER. Mr. President, Senator Delp has been called to his office, and I request a temporary Capitol leave on his behalf.

The PRESIDENT pro tempore. Senator Loeper requests a temporary Capitol leave for Senator Delp. Without objection, that leave will be granted.

SUPPLEMENTAL CALENDAR No. 1 RESUMED

SENATE CONCURS IN HOUSE AMENDMENTS

SB 888 (Pr. No. 1640) -- The Senate proceeded to consideration of the bill, entitled:

An Act regulating the construction, equipment, maintenance, operation and inspection of boilers and unfired pressure vessels; granting certain authority to and imposing certain duties upon the Department of Labor and Industry; providing for penalties; and making a repeal.

On the question,

Will the Senate concur in the amendments made by the House to Senate Bill No. 888?

Senator LOEPER. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 888.

On the question,

Will the Senate agree to the motion?

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

YEA-50

Afflerbach	Greenleaf	Mellow	Stout
Armstrong	Hart	Mowery	Tartaglione
Belan	Helfrick	Murphy	Thompson
Bell	Holl	Musto	Tilghman
Bodack	Hughes	O'Pake	Tomlinson
Brightbill	Jubelirer	Piccola	Uliana
Conti	Kasunic	Punt	Wagner
Corman	Kitchen	Rhoades	Wenger
Costa	Kukovich	Robbins	White
Delp	LaValle	Salvatore	Williams
Earll	Lemmond	Schwartz	Wozniak
Fumo	Loeper	Slocum	
Gerlach	Madigan	Stapleton	

NAY-0

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

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

SENATE CONCURS IN HOUSE AMENDMENTS

SB 981 (Pr. No. 1615) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, further adding to the powers and duties of the Adjutant General; further providing for maintenance, construction and repair contracts to be performed by the Armory Board; and making a repeal.

On the question,

Will the Senate concur in the amendments made by the House to Senate Bill No. 981?

Senator LOEPER. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 981.

On the question,

Will the Senate agree to the motion?

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

YEA-50

Afflerbach	Greenleaf	Mellow	Stout
Armstrong	Hart	Mowery	Tartaglione
Belan	Helfrick	Murphy	Thompson
Bell	Holl	Musto	Tiighman
Bodack	Hughes	O'Pake	Tomlinson
Brightbill	Jubelirer	Piccola	Uliana
Conti	Kasunic	Punt	Wagner
Corman	Kitchen	Rhoades	Wenger
Costa	Kukovich	Robbins	White
Delp	LaValle	Salvatore	Williams
Earll	Lemmond	Schwartz	Wozniak
Fumo	Loeper	Slocum	
Gerlach	Madigan	Stapleton	

NAY-0

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

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

CALENDAR

BILL ON CONCURRENCE IN HOUSE AMENDMENTS

SENATE CONCURS IN HOUSE AMENDMENTS

SB 5 (Pr. No. 1924) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 62 (Procurement), 1 (General Provisions) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, adding provisions relating to procurement; and making repeals.

On the question,

Will the Senate concur in the amendments made by the House to Senate Bill No. 5?

Senator LOEPER. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 5.

On the question,

Will the Senate agree to the motion?

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Chester, Senator Thompson.

Senator THOMPSON. Mr. President, as my colleagues are aware, Senate Bill No. 5 will, for the first time in decades, change the way the State does business when it comes to buying goods and services from the numerous vendors and contractors we deal with on a daily basis. For the longest time, our outdated procurement system created a great deal of red tape and bureaucracy that simply was not necessary, and as a result the Commonwealth wasted far too much money.

Senate Bill No. 5, for which we are now poised to grant final approval following amendments in the House, is truly a groundbreaking piece of legislation because it will have a positive impact on the citizens of Pennsylvania for many years. It not only promises to generate significant savings for taxpayers, it also will create better customer service and improved ac-

countability for citizens as well as those companies with whom we do business. Quite simply, it will make government more efficient and more cost-effective, which is one of the top priorities of the Ridge administration.

As for one specific part of the bill, Chapter 39, Contracts for Public Works, this chapter contains a definition for "State-aided institution" as any institution which receives State funding directly or indirectly for construction as defined in section 103. The phrase "directly or indirectly" was originally deleted in the Senate version of the bill due to a concern that State-aided institutions would be subject to provisions of Chapter 39 for internally funded construction projects. As part of the amendment process, the House restored the phrase "directly or indirectly."

This amendment was intended to maintain the language under existing law with regard to the procedure to be followed in public works construction projects. I understand, however, that even under the law currently in effect, such projects are not considered subject to the public works procedures. Thus, there was no need to change the definition to eliminate the phrase, quote, "directly or indirectly," unquote. In restoring the phrase, however, the intent is to maintain the existing law and practice. This change is not intended to reflect an intent to modify current practices at State-aided institutions as to internally funded construction projects.

As with the passage of any significant piece of legislation, Senate Bill No. 5 represents the results of a team effort. I want to thank Senator Lemmond, chairman of the Senate Committee on State Government; Senator Kukovich, Democratic chairman of the Senate Committee on State Government; Department of General Services Secretary Gary Crowell and his staff; representatives of the Governor's Office; stakeholders throughout the Commonwealth; members of the IMPACCT Commission; the Joint State Government Commission; the Pennsylvania Bar Association, especially Jim Marsh; my staff member, Charlie Dexter; as well as Gladys Brown of Senator Mellow's staff, for an outstanding effort to provide the consensus necessary to bring us to this point.

I also want to take this time to say thank you to Lieutenant Governor Schweiker for his leadership on the PRIME Council and the IMPACCT Commission, for helping with this legislation.

Mr. President, by granting final approval to Senate Bill No. 5 today, we are living up to our promise to re-engineer State government and change the way we do business here in the Commonwealth of Pennsylvania, and I urge a positive vote.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Westmoreland, Senator Kukovich.

Senator KUKOVICH. Mr. President, I would like to also thank Senator Thompson for the work he did on this bill, in particular the language changes that he made to support the, I think, approximately 98 member agencies throughout the State which represent the Pennsylvania Industries for the Blind and Handicapped.

There is one issue, though, that I would like to clarify for purposes of legislative intent, and I would respectfully ask Senator Thompson if he would stand for one interrogatory.

The PRESIDENT pro tempore. You may proceed, Senator Kukovich. Senator Thompson is at the microphone.

Senator KUKOVICH. Mr. President, is it the intent of Senate Bill No. 5 to ensure that people with disabilities will have the first right of refusal when the issue of labor contracts comes up, specifically over prison labor?

Senator THOMPSON. Mr. President, it is the intent, yes.

Senator KUKOVICH. Thank you, that is all the interrogation I have.

Senator Thompson and I had discussed this, and I think it is important that we make that intent part of the record. I would like to thank Senator Thompson and his staff for the work they did. This legislation has been a long time coming, and it certainly has not been easy. There have been a lot of competing interests, but Senator Thompson handled it skillfully and dealt with virtually every problem that came up. I also ask the Members for an affirmative vote on Senate Bill No. 5.

Thank you.

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT pro tempore. The Chair notes the presence on the floor of Senator Mowery, and his legislative leave is hereby cancelled.

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

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

YEA-50

Afflerbach	Greenleaf	Mellow	Stout
Armstrong	Hart	Mowery	Tartaglione
Belan	Helfrick	Murphy	Thompson
Bell	Holl	Musto	Tilghman
Bodack	Hughes	O'Pake	Tomlinson
Brightbill	Jubelirer	Piccola	Uliana
Conti	Kasunic	Punt	Wagner
Corman	Kitchen	Rhoades	Wenger
Costa	Kukovich	Robbins	White
Delp	LaValle	Salvatore	Williams
Earll	Lemmond	Schwartz	Wozniak
Fumo	Loeper	Slocum	
Gerlach	Madigan	Stapleton	

NAY-0

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

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

THIRD CONSIDERATION CALENDAR

**NONPREFERRED APPROPRIATION BILL
OVER IN ORDER**

HB 2381 -- Without objection, the bill was passed over in its order at the request of Senator LOEPER.

**REPORT FROM COMMITTEE ON
RULES AND EXECUTIVE NOMINATIONS**

Senator SALVATORE, from the Committee on Rules and Executive Nominations, reported the following nomination made by His Excellency, the Governor of the Commonwealth, which was read by the Clerk as follows:

**MEMBER OF THE PROFESSIONAL STANDARDS
AND PRACTICES COMMISSION**

March 19, 1998

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 P. Muldowney, 1971 Howard Avenue, Pottsville 17901, Schuylkill County, Twenty-ninth Senatorial District, for appointment as a member of the Professional Standards and Practices Commission, to serve until the third Tuesday of January 1999 and until his successor is appointed and qualified, vice Robert B. Cormany, Ed.D., Carlisle, confirmed to another position.

THOMAS J. RIDGE
Governor

NOMINATION LAID ON THE TABLE

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

The PRESIDENT pro tempore. The nomination will be laid on the table.

EXECUTIVE NOMINATIONS

EXECUTIVE SESSION

Motion was made by Senator SALVATORE,
That the Senate do now resolve itself into Executive Session for the purpose of considering certain nominations made by the Governor.

Which was agreed to.

NOMINATIONS TAKEN FROM THE TABLE

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

The Clerk read the nominations as follows:

**JUDGE, COURT OF COMMON PLEAS,
ALLEGHENY COUNTY**

April 2, 1998

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, Terrence F. McVerry, 46 Ordale Boulevard, Mount Lebanon 15228, Allegheny County, Thirty-seventh Senatorial District, for appointment as Judge of the Court of Common Pleas of Allegheny County, to serve until the first Monday of January 2000, vice The Honorable Joan Orié Melvin, resigned.

THOMAS J. RIDGE
Governor

JUDGE, COURT OF COMMON PLEAS,
ALLEGHENY COUNTY

April 2, 1998

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, Eugene F. Scanlon, Jr., 901 Cumberland Road, Pittsburgh 15237-5915, Allegheny County, Fortieth Senatorial District, for appointment as Judge of the Court of Common Pleas of Allegheny County, to serve until the first Monday of January 2000, vice The Honorable John L. Musmanno, elected to Superior Court.

THOMAS J. RIDGE
Governor

JUDGE, COURT OF COMMON PLEAS,
LACKAWANNA COUNTY

April 2, 1998

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, Terrence R. Nealon, 821 Grandview Street, Scranton 18509, Lackawanna County, Twenty-second Senatorial District, for appointment as Judge of the Court of Common Pleas of Lackawanna County, to serve until the first Monday of January 2000, vice The Honorable Francis P. Eagen, III, lost retention election.

THOMAS J. RIDGE
Governor

JUDGE, COURT OF COMMON PLEAS,
LUZERNE COUNTY

April 2, 1998

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 F. Burke, Jr., 910 Susquehanna Avenue, West Pittston 18643, Luzerne County, Fourteenth Senatorial District, for appointment as Judge of the Court of Common Pleas of Luzerne County, to serve until the first Monday of January 2000, vice The Honorable Correale F. Stevens, resigned.

THOMAS J. RIDGE
Governor

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

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

YEA-50

Afflerbach	Greenleaf	Mellow	Stout
Armstrong	Hart	Mowery	Tartaglione
Belan	Helfrick	Murphy	Thompson
Bell	Holl	Musto	Tilghman
Bodack	Hughes	O'Pake	Tomlinson
Brightbill	Jubelirer	Piccola	Uliana
Conti	Kasunic	Punt	Wagner

Corman	Kitchen	Rhoades	Wenger
Costa	Kukovich	Robbins	White
Delp	LaValle	Salvatore	Williams
Earll	Lemmond	Schwartz	Wozniak
Fumo	Loeper	Slocum	
Gerlach	Madigan	Stapleton	

NAY-0

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

Ordered, That the Governor be informed accordingly.

EXECUTIVE SESSION RISES

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

The motion was agreed to.

THIRD CONSIDERATION CALENDAR RESUMED

Without objection, the bills on today's Calendar were called out of order by Senator LOEPER.

BILLS OVER IN ORDER TEMPORARILY

SB 491 and SB 555 -- Without objection, the bills were passed over in their order temporarily at the request of Senator LOEPER.

BILL LAID ON THE TABLE

SB 212 (Pr. No. 1473) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing immunity for employers who disclose certain information regarding current or former employees.

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

BILLS OVER IN ORDER

SB 664, SB 665, SB 666 and SB 668 -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

**BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE**

SB 962 (Pr. No. 1945) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of November 17, 1982 (P.L.676, No.192), entitled Manufactured Housing Construction and Safety Standards Authorization Act, adding definitions; further providing for manufactured home standards; providing for installation of manufactured homes; establishing additional fees; establishing the Industrialized Housing Account; and further providing for labeling requirement and for administration of act.

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

On the question,
Shall the bill pass finally?

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

Senator LOEPER. Mr. President, I would just remind the Members that this was a bill that we had some significant discussion on in our caucus today.

Thank you.

And the question recurring,
Shall the bill pass finally?

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

YEA-46

Afflerbach	Greenleaf	Madigan	Stout
Armstrong	Hart	Mellow	Tartaglione
Belan	Helfrick	Mowery	Thompson
Bell	Holl	Murphy	Tilghman
Bodack	Hughes	Musto	Tomlinson
Conti	Jubelirer	O'Pake	Uliana
Corman	Kasunic	Piccola	Wagner
Costa	Kitchen	Punt	Wenger
Delp	Kukovich	Rhoades	Williams
Earl	LaValle	Salvatore	Wozniak
Fumo	Lemmond	Schwartz	
Gerlach	Loeper	Stapleton	

NAY-4

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

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

BILL OVER IN ORDER

SB 1387 -- Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILL AMENDED

HB 1756 (Pr. No. 2180) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of August 6, 1941 (P.L.861, No.323), referred to as the Pennsylvania Board of Probation and Parole Law, further providing for the power to parole.

On the question,

Will the Senate agree to the bill on third consideration?

Senator MELLOW offered the following amendment No. A0194:

Amend Sec. 1 (Sec. 21), page 3, line 17, by striking out "notify" and inserting: provide written notice to

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 LOEPER.

BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE

HB 2098 (Pr. No. 2747) -- The Senate proceeded to consideration of the bill, entitled:

An Act repealing the act of May 2, 1901 (P.L.131, No.98), entitled "An act to fix, regulate and establish the fees to be charged and received by constables in this Commonwealth for executing an order of relief of a pauper."

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:

YEA-50

Afflerbach	Greenleaf	Mellow	Stout
Armstrong	Hart	Mowery	Tartaglione
Belan	Helfrick	Murphy	Thompson
Bell	Holl	Musto	Tilghman
Bodack	Hughes	O'Pake	Tomlinson
Brightbill	Jubelirer	Piccola	Uliana
Conti	Kasunic	Punt	Wagner
Corman	Kitchen	Rhoades	Wenger
Costa	Kukovich	Robbins	White
Delp	LaValle	Salvatore	Williams
Earl	Lemmond	Schwartz	Wozniak
Fumo	Loeper	Slocum	
Gerlach	Madigan	Stapleton	

NAY-0

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

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

SECOND CONSIDERATION CALENDAR

BILL REREPORTED FROM COMMITTEE
AS AMENDED REREFERRED

SB 270 (Pr. No. 1954) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of July 31, 1968 (P.L.805, No.247), entitled, as amended, Pennsylvania Municipalities Planning Code, further providing for the purpose of the act; adding certain definitions; authorizing intergovernmental cooperation; further providing for various matters relating to comprehensive plans; and adding provisions concerning zoning ordinances and jurisdictional challenges.

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

BILLS REREFERRED

HB 135 (Pr. No. 3472) -- The Senate proceeded to consideration of the bill, entitled:

An Act establishing an osteoporosis prevention and education program; and providing for additional duties of the Department of Health.

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

SB 634 (Pr. No. 666) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 23, 1956 (1955 P.L.1510, No.500), entitled, as amended, Disease Prevention and Control Law of 1955, further providing for HIV testing.

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

BILL ON SECOND CONSIDERATION

SB 636 (Pr. No. 668) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 19, 1990 (P.L.799, No.193), entitled County Intermediate Punishment Act, changing definitions; further providing for county intermediate punishment programs; providing for advice to county prison boards; further providing for county intermediate punishment plans and for regulations of the Pennsylvania Commission on Crime and Delinquency; and further providing for use of funds, for application of the act to certain grants and for construction of the act.

Considered the second time and agreed to,

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

BILL REREFERRED

SB 938 (Pr. No. 1952) -- The Senate proceeded to consideration of the bill, entitled:

An Act establishing the Universal Newborn Hearing Screening Program.

Upon motion of Senator LOEPER, and agreed to, the bill was rereferred to the Committee on Rules and Executive Nominations.

BILL ON SECOND CONSIDERATION

HB 1108 (Pr. No. 3467) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of August 9, 1955 (P.L.323, No.130), known as The County Code, further providing for assistant district attorneys and for contract procedures.

Considered the second time and agreed to,

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

BILL OVER IN ORDER

SB 1206 -- Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILLS REREFERRED

SB 1248 (Pr. No. 1590) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 13, 1982 (P.L.1127, No.257), entitled Commonwealth Agency Adjudicatory Expenses Award Law, further defining "adversary adjudication" and "fees and expenses"; and further providing for award of fees and expenses in certain agency actions.

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

SB 1249 (Pr. No. 1591) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 25, 1982 (P.L.633, No.181), entitled, as reenacted, Regulatory Review Act, further providing for final-form regulations and final-omitted regulations and the procedures and criteria for their review.

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

SB 1250 (Pr. No. 1592) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of July 31, 1968 (P.L.769, No.240), entitled Commonwealth Documents Law, further providing for notice of proposed rulemaking; and providing for restrictions in rulemaking where Federal regulations exist.

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

BILL ON SECOND CONSIDERATION

SB 1396 (Pr. No. 1956) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further regulating confidentiality of Social Security information; and making a repeal.

Considered the second time and agreed to,

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

BILL ON SECOND CONSIDERATION AND REREFERRED

HB 1597 (Pr. No. 3337) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 23, 1931 (P.L.899, No.299), known as the Public Bathing Law, further providing for definitions; requiring lifeguards; and providing for the use of certain pesticides in swimming pools.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

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

BILL OVER IN ORDER

HB 1628 -- Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILL REREFERRED

HB 1873 (Pr. No. 3473) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 29, 1996 (P.L.46, No.15), known as the Hepatitis B Prevention Act, providing for additional requirements.

Upon motion of Senator LOEPER, and agreed to, the bill was rereferred to the Committee on Rules and Executive Nominations.

BILLS ON SECOND CONSIDERATION

HB 1979 (Pr. No. 2553) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for 20-years limitation.

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

HB 1992 (Pr. No. 3485) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for immunity, for special procedures for operating privilege and for release of information in confidential reports relating to child abuse.

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

HB 2194 (Pr. No. 2890) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 11, 1889 (P.L.188, No.210), entitled, "A further supplement to an act, entitled 'An act to establish a board of wardens for the Port of Philadelphia, and for the regulation of pilots and pilotage, and for other purposes,' approved March twenty-ninth, one thousand eight hundred and three, and for regulating the rates of pilotage and number of pilots," further providing for rates of pilotage; and specifying fees for certain services.

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

BILL OVER IN ORDER

HB 2200 -- Without objection, the bill was passed over in its order at the request of Senator LOEPER.

RESOLUTION REREFERRED

Senator LOEPER, without objection, called up from page 6 of the Calendar, **Senate Resolution No. 174**, entitled:

A Resolution memorializing the Pennsylvania Historical and Museum Commission to establish an advisory committee to provide advice and guidance in the effort to restore Pennsylvania monuments at the Gettysburg National Military Park.

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

SB 491 CALLED UP

SB 491 (Pr. No. 511) -- Without objection, the bill, which previously went over in its order temporarily, was called up, from page 2 of the Third Consideration Calendar, by Senator LOEPER.

BILL AMENDED

SB 491 (Pr. No. 511) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of July 11, 1996 (P.L.677, No.116), entitled Infrastructure Development Act, providing for job retention.

On the question,
Will the Senate agree to the bill on third consideration?
Senator SCHWARTZ offered the following amendment No. A2602:

Amend Title, page 1, line 7, by inserting after "repeals,"; expanding the Infrastructure Development Program to include projects located on long-term vacant commercial sites; and

Amend Bill, page 1, lines 10 through 12, by striking out all of said lines and inserting:

Section 1. The definitions of "infrastructure improvements" and "private developer" in section 2 of the act of July 11, 1996 (P.L.677, No.116), known as the Infrastructure Development Act, are amended and the section is amended by adding definitions to read:

Section 2. Definitions.

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

* * *

"Commercial property." Either of the following:

(1) A building, structure or facility, or portion thereof, which has been used or occupied or is intended, arranged or designed to be used or occupied for the purpose of operating a business, office, manufactory or public accommodation.

(2) Vacant land previously used for manufacturing, industrial, commercial or retail purposes which is offered for sale, lease or held for the purpose of constructing or locating thereon a building, structure or facility for the purpose of operating a business, office, manufactory or public accommodation.

* * *

"Infrastructure improvements." The term includes the following:

- (1) The construction or rehabilitation of the following:
 - (i) Drainage systems.
 - (ii) Energy facilities which generate and distribute power.
 - (iii) Sewer systems, including, but not limited to, the construction or repair of sewage collection lines and sewage treatment facilities.
 - (iv) Transportation facilities directly affecting the site of the proposed private investment, including:
 - (A) Roads providing access to the site.
 - (B) Parking facilities.
 - (C) Sidewalks.
 - (D) Bridges.
 - (E) Rails, including, but not limited to, the construction or rehabilitation of rail switches and signals, rail crossings and intermodal facilities.
 - (F) Ports, including, but not limited to, docking facilities, bulkheads and intermodal facilities, but not warehouses.

(G) Waterways, including, but not limited to, channel realignment, dredging and the construction or rehabilitation of locks.

(H) Airports, including, but not limited to, the construction or rehabilitation of runways, but not airport buildings.

(I) Pipelines transporting natural gas, but not vehicles associated with the operation of the pipelines.

(J) Facilities for the transmission of information, including, but not limited to, fiber-optic telecommunication lines.

(v) Water supply facilities, including, but not limited to, water lines and water storage, treatment and distribution facilities.

(2) The acquisition of land, rights-of-way and easements necessary to construct eligible infrastructure improvements.

(3) At former industrial sites:

(i) The acquisition of land and buildings by private developers.

(ii) The construction of new multitenant industrial or manufacturing buildings by developers.

(iii) The conversion of existing industrial or manufacturing buildings into multitenant buildings by private developers.

(3.1) At long-term vacant commercial sites:

(i) The acquisition of land and buildings by private developers.

(ii) The construction of new buildings for commercial use by developers.

(iii) The conversion of existing commercial buildings or structures by private developers.

(4) The demolition of buildings.

(5) The clearing and preparation of land.

(6) The cleanup of hazardous waste materials.

(7) The engineering, design and inspection costs associated with other eligible infrastructure improvements.

"Long-term vacant commercial site." Commercial property which has been unoccupied and unused for at least one year prior to the date of application.

* * *

"Private developer." Any person, partnership, corporation or other for-profit business entity, or any nonprofit corporation whose purpose is the promotion or construction of industrial development projects, that is engaged in the development of real estate, for use by more than one private company or for the reuse of long-term vacant commercial sites, and that is determined by the department to be financially responsible to assume all obligations proposed to be undertaken, including, but not limited to, acquisition, development, construction, leasing, sale, operation and financing.

* * *

Section 2. Section 4 of the act is amended by adding a subsection to read:

Amend Bill, page 1, by inserting between lines 19 and 20:

Section 3. Section 5 of the act are amended to read:

Section 5. Application procedure.

(a) Letter of intent.—An application for a grant, grant-to-loan or loan shall be initiated by a private company or private developer through a letter of intent to locate, expand, build or renovate a facility. The letter of intent shall be submitted to an applicant whose service area includes, at least in part, the site of the facility.

(b) Application.—Upon receipt of the letter of intent, an applicant may submit the letter of intent along with a request for an application to the department. Upon receipt of this information and a preliminary indication of project eligibility, the department shall provide an applicant with the application materials.

(c) Evaluation.—Upon receipt of a complete application, the department shall review the application based on the following criteria:

(1) The number of full-time equivalent jobs that will be created and retained and the amount of additional State and local tax revenue that will be directly generated by the private company's or private developer's new or expanded investment.

(2) In the case of a grant-to-loan or loan, the ability of the applicant, private company or private developer to repay the interest and principal.

(3) The increase in the Commonwealth's share of domestic and international commerce.

(4) For former industrial sites and long-term vacant commercial sites, the creation of opportunities to develop new facilities or expand existing facilities for private companies by eliminating, reducing or otherwise alleviating blight at the site.

Amend Sec. 2, page 1, line 20, by striking out "2" and inserting:
4

On the question,

Will the Senate agree to the amendment?

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

Senator SCHWARTZ. Mr. President, I just wanted to briefly explain that this amendment that has been agreed to does expand the eligibility for the Infrastructure Loan Fund to abandoned commercial properties. It is a major issue in many of our districts that not only industrial sites are often abandoned and need to be redeveloped, but we also have a number of commercial sites in our districts. I appreciate very much Senator Tomlinson and a number of other Senators who helped create agreement on this amendment and to be able to open the eligibility a bit to additional kinds of uses.

I thank you very much.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Bucks, Senator Tomlinson.

Senator TOMLINSON. Mr. President, I just rise to support Senator Schwartz in this amendment. Many of us in suburban areas and rural areas and urban areas have commercial sites that are abandoned and need some attention, and for that reason I agree to this amendment.

And the question recurring,

Will the Senate agree to the amendment?

It was agreed to.

The PRESIDENT pro tempore. Senate Bill No. 491 will go over in its order as amended.

SB 555 CALLED UP

SB 555 (Pr. No. 585) -- Without objection, the bill, which previously went over in its order temporarily, was called up, from page 2 of the Third Consideration Calendar, by Senator LOEPER.

BILL AMENDED

SB 555 (Pr. No. 585) -- The Senate proceeded to consideration of the bill, entitled:

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for trial by jury.

On the question,

Will the Senate agree to the bill on third consideration?

Senator LOEPER offered the following amendment No. A2589:

Amend Sec. 2, page 1, lines 15 through 17; page 2, lines 1 through 6, by striking out "(a) Upon the first passage by the General" in line 15, all of lines 16 and 17, page 1, all of lines 1 through 5 and "(b) Upon the second" in line 6, page 2 and inserting: Upon Amend Sec. 2, page 2, line 16, by striking out "primary,"

On the question,

Will the Senate agree to the amendment?

It was agreed to.

On the question,

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

Senator KUKOVICH offered the following amendment No. A1964:

Amend Sec. 1 (Sec. 6), page 1, lines 12 through 14, by striking out "Furthermore, in criminal cases" in line 12, all of lines 13 and 14 and inserting: Furthermore, in all criminal cases, the Commonwealth may petition the court for a trial by jury, however the determination of the court presiding over the matter shall be plenary.

On the question,

Will the Senate agree to the amendment?

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Westmoreland, Senator Kukovich.

Senator KUKOVICH. Mr. President, historically, our constitutional Bill of Rights protects the individual. Under our Constitution, a defendant has the right to a jury trial. What this bill does is amend the Constitution to give the Commonwealth, the prosecution, the right to have a jury trial, in essence to negate that defendant's right. My concern is that by shifting power away from the judiciary to the DAs, away from the individual to the State, we are having a shift in the balance of power which can be too easily subject to abuse and manipulation.

This amendment basically says that in all criminal cases, not other types but just in criminal cases, to be very clear, the Commonwealth for the first time would have in the Constitution language where they could petition the court for a trial by jury. However, the trial court would still have the ultimate plenary power. The compromise that I am trying to reach in this language is that for the first time the district attorneys, the prosecution, would have a voice. Part of their argument for this bill is that they have had no voice. Under this amendment they would have a voice, yet the ultimate control over the trial process would still reside with the judge. I think that is a reasonable compromise under the circumstances, and I ask for an affirmative vote.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Montgomery, Senator Greenleaf.

Senator GREENLEAF. Mr. President, I rise in opposition to the amendment for the purpose that by adopting this language we would be placing the court in absolute control of whether the Commonwealth would have the right to a jury trial or not, and in fact we would negate everything in the proposed constitutional amendment by saying that you have the right but the court can override that right.

In fact, we would be right back to where we are now in a situation where there is judge-shopping going on by defendants. They will search out who they feel will be a sympathetic

judge, and when they find that person, that judge, they will waive their jury trial and be tried by that trial judge. On many occasions the result is not to the benefit of the victim or to the people of this Commonwealth, and so this amendment, in effect, negates the Commonwealth's right to have a jury trial. I ask that a "no" vote be cast.

And the question recurring,

Will the Senate agree to the amendment?

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

YEA-19

Belan	Kasunic	Musto	Wagner
Bodack	Kitchen	O'Pake	White
Costa	Kukovich	Schwartz	Williams
Fumo	LaValle	Stapleton	Wozniak
Hughes	Mellow	Tartaglione	

NAY-31

Afflerbach	Gerlach	Madigan	Slocum
Armstrong	Greenleaf	Mowery	Stout
Bell	Hart	Murphy	Thompson
Brightbill	Helfrick	Piccola	Tilghman
Conti	Holl	Punt	Tomlinson
Corman	Jubelirer	Rhoades	Uliana
Delp	Lemmond	Robbins	Wenger
Earl	Loeper	Salvatore	

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

And the question recurring,

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

Senator KUKOVICH offered the following amendment No. A1969:

Amend Sec. 1 (Sec. 6), page 1, lines 13 and 14, by striking out all of said lines and inserting: the accused may waive the right to a jury trial only with the approval of the court and the consent of the Commonwealth.

On the question,

Will the Senate agree to the amendment?

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Westmoreland, Senator Kukovich.

Senator KUKOVICH. Mr. President, this amendment is different from the first in that it does give more power directly to the prosecution. It states that the accused may waive the right to a jury trial only with the approval of the court and the consent of the Commonwealth.

This is the language that has been used by many of the States in the Federal system. There is a U.S. Supreme Court case, *United States v. Patton*, which has said that this language is acceptable. I would suggest that if this amendment does not go in and this bill passes, we will be tied up with litigation on this issue for some years to come. As a matter of fact, of the 25 States cited in the District Attorneys Association's testimony and materials, 11 of those States have used this language.

Basically, what we are doing is agreeing to cede a certain amount of power to the prosecution but at least allowing the trial court some say-so in the process. Hopefully, reasonable minds will be able to agree. In those cases where a defense counsel is truly forum shopping, they will be able to use this in an equitable way. Hopefully, in those cases where it is a very emotional, high-profile case, a district attorney might not be able to use it for improper or political reasons.

I would be hopeful that because the language explicitly provides deference to the trial court superior authority pursuant to Article V of the Constitution, we will not have any legal entanglements which are sure to come up if this bill passes as amended. For all those reasons, I ask for an affirmative vote.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Montgomery, Senator Greenleaf.

Senator GREENLEAF. Mr. President, I rise to oppose this amendment. As the previous amendment did, it would again not accomplish the purpose of the offerer of the amendment. In this amendment, what it does is basically accomplish what the bill accomplishes now. There is really no need for this amendment. And what it causes me to believe then, if that is the case, then are we just trying to derail the process by offering this amendment?

The proposal provides that the Commonwealth will have the same right to a jury trial as the defendant has the right to a jury trial, and in fact what it does is gives the Commonwealth the ability to block a judge-shopping defendant, which happens all too often, and gives the victim and the district attorney equal power and levels the playing field in regard to their ability to thwart that type of judge-shopping activity. This amendment is not needed. It says basically in another way what this bill does, and, in fact, though, the bill provides a much stronger right. It says specifically that the Commonwealth has the right to a jury trial.

The District Attorneys Association, in a letter addressed to the Committee on Judiciary--and, by the way, this amendment was offered in the Committee on Judiciary as well and it was defeated--the District Attorneys Association set forth a number of instances throughout the Commonwealth in all size counties, whether it be Montgomery, Westmoreland, Lackawanna, Wyoming, Philadelphia, or Cumberland, in case after case in which a defendant chose a bench trial, or trial without a jury in front of a judge, the results were really outrageous. I think it is important for us to give the district attorney the right when they feel that an injustice will occur to have that right to stop the defendant from having a trial just in front of a judge but to ask for a trial in front of a jury.

What we are really doing here is giving the defendant what he is entitled to under the Constitution, a jury trial. What is so terrible about that? The allegations that there is going to be misuse by district attorneys, I have no evidence of that, but what we do have evidence of is defendants judge-shopping for the judge they want and then trying to get a favorable reaction or verdict. Why not require, in appropriate circumstances, to allow the Commonwealth to insist that that case be heard by a jury?

This is not the first time that the Commonwealth will have this right. This goes back many years, and most recent history goes back to 1935 in which the Commonwealth did have the right to a jury trial, and that right continued on until in a Pennsylvania Supreme Court decision in the early 1980s, *Commonwealth vs. Sorrell*, in a 4 to 3 decision, they held that the legislature, when they passed the law giving the Commonwealth the right to a jury trial, they found that that was in conflict with the Supreme Court's rights and struck that law down. A dissenting opinion by Justice McDermott at the time indicated that he felt there was no precedent for it and that the Supreme Court was wrong. So we are in a situation now that this is why we have this need for a constitutional amendment, because of the Pennsylvania Supreme Court's previous decision.

In addition, this recognizes victim's rights, because in every prosecution there is a victim, and the Commonwealth is representing those victims. And it is important to recognize that that victim should not be subject to the whims of the defendant, and it puts that victim on an equal playing field with the defendant. In addition, Federal law, 24 other States, the District of Columbia, and the American Bar Association recently recommended that the Commonwealth have the right to a jury trial.

I just want to mention one case in Montgomery County that was mentioned in the Pennsylvania District Attorneys Association's letter in which they said that in 1997 in Montgomery County, a 7-year-old girl was pummelled by her mother's boyfriend. He crushed her spleen and her colon and caused her to be hospitalized for 28 days. The judge convicted only of misdemeanor charges, effectively agreeing that the defendant had committed the crime but found that he had not intentionally or recklessly caused serious bodily injury.

Also mentioned here is a case very similar in nature in 1996 in Westmoreland County in which the father beat his son, a 7-month-old boy, broke his skull, 16 other bones, and the judge convicted the defendant of only simple assault and lesser misdemeanors, asserting that the boy had not suffered serious bodily injury.

There was a 1997 Lackawanna case very similar to this and also similar situations in Philadelphia and Cumberland Counties. In Philadelphia, for example, 69 percent of defendants charged with first- or second-degree murder were given life sentences when tried by a jury. When tried by a judge alone, only 17 percent of such defendants were sentenced to life.

I believe that we have in this Commonwealth overall a good judiciary, but there are times when the Commonwealth can see that there may be a judge who has a predilection toward a particular type of offense and will be more sympathetic than possibly they should be. In those cases, the Commonwealth, in a very limited amount of cases, should be able to exercise the ability to say no in that case in order to have a fair hearing and the Commonwealth should be able to say we want a jury trial. For those reasons, I ask that we vote "no" on this amendment.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Westmoreland, Senator Kukovich.

Senator KUKOVICH. Mr. President, I feel compelled to respond on at least three points. Let me start by addressing the fact situations of the cases that we just heard. Now, keep in mind that for many years every time, especially if there is a high-profile case that does not go the way a prosecutor wants, we end up usually facing some constitutional amendment. That is all right. My concern is that I saw those six cases that were cited by the DA Association's letter. I have had the opportunity to talk to the judge in one of the cases, who sent me a transcript of the medical testimony that showed that under the current definition of serious bodily injury, he was probably right in that case.

In one of the cases cited, I have a letter from the defense attorney that shows that in that case it was the prosecuting attorney who first suggested that the case be tried before a judge instead of a jury, and the District Attorneys Association just sort of left out the fact that the Commonwealth's key witness recanted his story. The point is this: You can trot out these horror stories, but it is not fair to the people on this floor who have to vote not to give us the whole story. I would submit that we are not being given the whole fact situation but just frightened into voting for whatever the District Attorneys Association wants to amend the Constitution.

Secondly, I am surprised that this language is not acceptable, since early last Session this same language was proposed by the District Attorneys Association, sponsored by Senator Shaffer, and passed by this Chamber. This amended language was voted on by this Chamber. Eventually it was changed by the House and came back and on final passage it was different, but this language has been supported before.

Thirdly, on the argument that my real attempt is to derail this legislation, when we amend the Constitution, there is a reason why we need to do it in two successive bills passed in identical form by successive legislative delegations, and that is so we do not rush to judgment too quickly to amend the Constitution. The purpose of this amendment is not to kill the bill. And we have had instances before where we have changed the amendment, passed it this Session, had the proper public notification, and we could come back early next Session and have this on the ballot in May.

The purpose is to prevent protracted litigation. That is why this Chamber, in a bill sponsored by Senator Shaffer a couple of years ago, passed this language, and that is why I am offering this amendment now because it conforms to the standards set by the United States Supreme Court in the opinion of *United States v. Patton*, and it is something that I am sure, if it goes into law, is above challenge.

Now, if you really want to do something to protect victims, I would suggest that if we are going to amend the Constitution that we do it in a way that will be effective, but, most importantly, looking at some of the cases cited by the District Attorneys Association, maybe instead of just amending the Constitution to shift the balance of power in our criminal justice system we should amend the statutes and maybe amend the definition of serious bodily injury so we can give judges the power to make decisions that are in the long-term best interest of victims. Maybe that is what we should do instead of changing

the Constitution every time a case goes the wrong way for a prosecutor.

I think this is a very reasonable amendment, and I ask for an affirmative vote.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Montgomery, Senator Greenleaf.

Senator GREENLEAF. Mr. President, I would say in regard to the facts, I suppose that is what jury trials are all about, that we are going to resolve the facts of the issue, and there are always two sides and maybe more in regard to what happened in any particular incident. I certainly would accept the version that has been written and signed by the Pennsylvania District Attorneys Association and signed by the president of that association of what the facts are in these cases, and probably many more throughout the Commonwealth.

In regard to the language of this proposal, the problem with it is that we are accomplishing what this amendment proposes to accomplish, but in a better way, because we make it clear that the Commonwealth has the right to a jury trial.

Thirdly, if we do amend this legislation now, the language of the proposed constitutional amendment, that will end a 3-year effort to amend the Constitution in this way because, as we know, in order to change the Constitution, we must pass the same language in two successive legislative Sessions. If we change this language now, it will not go on the ballot this fall, and then we will have to wait at least a year or probably several years more before we can have this on the ballot. And how many more injustices will occur, how many more years will pass without victims and the people having the right to say that they want a jury trial? I would ask for a "no" vote.

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

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

YEA-20

Belan	Jubelirer	Mellow	Stout
Bodack	Kasunic	Musto	Tartaglione
Costa	Kitchen	O'Pake	Wagner
Fumo	Kukovich	Schwartz	Williams
Hughes	LaValle	Stapleton	Wozniak

NAY-30

Afflerbach	Gerlach	Mowery	Thompson
Armstrong	Greenleaf	Murphy	Tilghman
Bell	Hart	Piccola	Tomlinson
Brightbill	Helfrick	Punt	Uliana
Conti	Holl	Rhoades	Wenger
Corman	Lemmond	Robbins	White
Delp	Loeper	Salvatore	
Earl	Madigan	Slocum	

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

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

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Westmoreland, Senator Kukovich.

Senator KUKOVICH. Mr. President, I would like to respond once again to an argument that was previously made about the delay it would cause. I spoke earlier about how we could speed this process up. To those Members who are worried about how long it would take, I would ask them to look back to 1992 and 1993.

POINT OF ORDER

Senator LOEPER. Point of order, Mr. President.

The PRESIDENT pro tempore. The gentleman from Delaware, Senator Loeper, will state his point.

Senator LOEPER. Mr. President, not to interrupt the gentleman, but I believe if the gentleman is on the substance of the bill, the bill should go over at this point, because a technical amendment already was inserted in the bill and we cannot consider final passage at this time.

BILL OVER IN ORDER

The PRESIDENT pro tempore. The Chair accepts responsibility for that. I called on him, and the gentleman is absolutely correct. The bill will go over in its order, as amended, a technical amendment having been adopted. Senate Bill No. 555 is hereby placed over in its order, as amended.

RECONSIDERATION OF SB 962

BILL ON FINAL PASSAGE

SB 962 (Pr. No. 1945) -- Senator LOEPER. Mr. President, I move that the Senate do now reconsider the vote by which Senate Bill No. 962 passed finally.

The motion was agreed to.

And the question recurring,
Shall the bill pass finally?

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

YEA-41

Afflerbach	Holl	Mowery	Tartaglione
Armstrong	Hughes	Murphy	Thompson
Belan	Jubelirer	Musto	Tilghman
Bodack	Kasunic	O'Pake	Tomlinson
Conti	Kitchen	Piccola	Uliana
Costa	Kukovich	Punt	Wagner
Delp	LaValle	Rhoades	Williams
Fumo	Lemmond	Salvatore	Wozniak
Gerlach	Loeper	Schwartz	
Greenleaf	Madigan	Stapleton	
Helfrick	Mellow	Stout	

NAY-9

Bell	Earll	Robbins	Wenger
Brightbill	Har*	Slocum	White
Corman			

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.

RECONSIDERATION OF SB 888

SENATE NONCONCURS IN HOUSE AMENDMENTS

SB 888 (Pr. No. 1640) -- Senator MELLOW. Mr. President, I move to reconsider the vote by which the Senate concurred in House amendments to Senate Bill No. 888, on Supplemental Calendar No. 1.

The motion was agreed to.

And the question recurring,
Will the Senate concur in the amendments made by the House to Senate Bill No. 888?

Senator LOEPER. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 888.

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

LEGISLATIVE LEAVES

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

Senator LOEPER. Mr. President, Senator Salvatore and Senator Hart have been called to their offices, and I request temporary Capitol leaves for them.

The PRESIDENT pro tempore. Senator Loeper requests temporary Capitol leaves for Senator Salvatore and Senator Hart. Without objection, those leaves will be granted.

The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I request a temporary Capitol leave for Senator Fumo.

The PRESIDENT pro tempore. Senator Mellow requests a temporary Capitol leave for Senator Fumo. Without objection, that leave will be granted.

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

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

YEA-25

Armstrong	Greenleaf	Madigan	Thompson
Brightbill	Hart	Mowery	Tilghman
Conti	Helfrick	Murphy	Wenger
Corman	Holl	Piccola	White
Delp	Jubelirer	Punt	
Earll	Lemmond	Robbins	
Gerlach	Loeper	Slocum	

NAY-25

Afflerbach	Kasunic	Rhoades	Uliana
Belan	Kitchen	Salvatore	Wagner
Bell	Kukovich	Schwartz	Williams

Bodack	LaValle	Stapleton	Wozniak
Costa	Mellow	Stout	
Fumo	Musto	Tartaglione	
Hughes	O'Pake	Tomlinson	

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

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

RECONSIDERATION OF VOTE AND BILL OVER IN ORDER

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

Senator LOEPER. Mr. President, I move that we reconsider the vote by which the amendments to Senate Bill No. 888 were nonconcurrent in and move that Senate Bill No. 888 go over in its order.

The motion was agreed to.

The PRESIDENT pro tempore. Senate Bill No. 888 will go over in its order.

SPECIAL ORDER OF BUSINESS SUPPLEMENTAL CALENDAR No. 2

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 1756 (Pr. No. 3524) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of August 6, 1941 (PL.861, No.323), referred to as the Pennsylvania Board of Probation and Parole Law, further providing for the power to parole.

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

On the question, Shall the bill pass finally?

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

YEA-50

Afflerbach	Greenleaf	Mellow	Stout
Armstrong	Hart	Mowery	Tartaglione
Belan	Helfrick	Murphy	Thompson
Bell	Holl	Musto	Tilghman
Bodack	Hughes	O'Pake	Tomlinson
Brightbill	Jubelirer	Piccola	Uliana
Conti	Kasunic	Punt	Wagner
Corman	Kitchen	Rhoades	Wenger
Costa	Kukovich	Robbins	White
Delp	LaValle	Salvatore	Williams
Earl	Lemmond	Schwartz	Wozniak
Fumo	Loeper	Slocum	
Gerlach	Madigan	Stapleton	

NAY-0

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

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

SPECIAL ORDER OF BUSINESS SUPPLEMENTAL CALENDAR No. 3

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 555 (Pr. No. 1988) -- The Senate proceeded to consideration of the bill, entitled:

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for trial by jury.

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

On the question, Shall the bill pass finally?

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Westmoreland, Senator Kukovich.

Senator KUKOVICH. Mr. President, I want the record to be clear, because there have been some statements on the timeframe regarding a constitutional amendment. I thought we had an agreement on the potential timeframe program within the Committee on Judiciary. I would only have the Members look at a recent precedent when we amended the Constitution by passing a bill in late 1992 and then early in the Session in 1993, and got it on the ballot for that primary. That amended Article V to create the Court of Judicial Discipline. We did it very quickly and promptly, and if we had amended this bill, we could have had this on the ballot by next May.

I would just say that I have a number of concerns about this piece of legislation. There are roughly 15,000 criminal cases a year where the individuals who are accused must defend themselves without any type of help from a public defender or any other type of assistance from the courts. If you are someone of rather moderate means and your options are do you face a rather quick bench trial or maybe a protracted jury trial, and they look at the fiscal impact of a protracted jury trial which they cannot afford, I am suggesting that there are circumstances whereby the prosecution could use that fiscal hammer as a threat to compel a guilty plea.

I am also suggesting that considering historically the fact that public defender offices themselves are underfunded, understaffed, especially compared to the prosecution side, that this type of language in the Constitution will result in a further decline in the quality of representation of defendants who are not wealthy, again reinforcing that perception that justice works better for the rich, especially when there are minorities involved.

I also suggest that there are occasionally those cases which are so outrageous and they so inflame the public passion that it is hard to get an impartial jury. I suggest that rather than a

change of venue or some other alternatives, that there are those cases where justice can be better served by a nonjury trial, and in those cases where you have a hard time getting an unbiased jury, a district attorney could use this in his or her favor, and that certainly would deny a just and fair trial.

I would also suggest that there are problems with forum shopping, there are legitimate concerns. I would like to have a bill I could vote for, but there are other things we can do. There are certain existing rules of court where, if properly implemented, DAs do have a voice in this process. And I would also suggest, as I did on the previous amendment, that maybe we do need to amend some of our existing criminal statutes, especially things such as the definition of serious bodily injury.

But I also suggest that rather than always, always amending the Constitution every time there is a dispute between the bench and the prosecution, that we take a look at doing some of the things that they do at the Federal level, where there is a random assignment of cases and there is a set period of time for withdrawal, et cetera. These work, they prevent forum shopping. It can be done administratively. It can certainly be done without amending the Constitution.

I think the District Attorneys Association is very well-intentioned. I think they see some problems. They want to try to solve them, and they are very effective and have been traditionally in this Chamber and the other Chamber in winning on their bills. And they are very single-minded in doing so, on every bill of which they are concerned, as is every district attorney on their case. I suggest when you take into context some of the bills that have been passed in the last 3 or 4 years, some of the constitutional amendments that have been passed in the last 3 or 4 years, not just this bill but a number of bills, I would suggest that some district attorneys in this Commonwealth have lost their sense of mission. And I think we all agree that their sense of mission has been, should be, must be to seek justice, not simply to win a game, whether it is in a courtroom or the halls of this Chamber.

I ask for a "no" vote.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Dauphin, Senator Piccola.

Senator PICCOLA. Mr. President, I rise in support of Senate Bill No. 555. The opponents of this legislation seem to think that the adoption of Senate Bill No. 555, along with its ratification by the people of Pennsylvania, will somehow turn the criminal justice system on its head. Well, nothing can be further from the truth. In fact, there is a great deal of history behind the provisions that are contained in Senate Bill No. 555.

Actually, the reason that we have to deal with this as a constitutional amendment, and I also believe that it is a shame that we have to do that, is because of the overreaching power of our Pennsylvania Supreme Court which has forced no other alternative to us other than to amend the Constitution to deal with this issue. The Commonwealth's right to a jury trial has been embedded in our law for quite a number of years. In 1935 this General Assembly adopted a statute that said, and I quote, "In all criminal cases, except murder and treason, the defendant shall have the privilege, with the consent of his at-

torney...the judge and the district attorney, to waive trial by jury." That was our statute in 1935.

And we got along quite well with that statute from 1935 until 1968, when we amended the Constitution, and in my opinion did ourselves a great disservice by allowing the Supreme Court of this Commonwealth to suspend statutes that they believe, they believe, in their opinion, are procedural. And while we gave them that power, the court, at least in 1968, had some good sense and adopted what was then known as Rule 1101. Rule 1101 provided for the same thing as the statute adopted by the General Assembly in 1935 and said that only with the consent of the Commonwealth could a trial by jury be waived by a criminal defendant, and that was fine.

However, in 1973, for some unknown reason, unknown and unexplained to this day, the Pennsylvania Supreme Court, by its own authority and without any prompting by anyone so far as we can tell, changed Rule 1101 and deleted the requirement for the prosecutor to consent to the trial by jury waiver of the criminal defendant. Why did the Supreme Court do this? It is unknown.

Well, we experienced 4 years under the new Rule 1101, and it was not a good experience by some measure by prosecutors around this Commonwealth, this was back in the 1970s, and so the General Assembly stepped in because we legitimately felt that the issue of whether the Commonwealth should have the right to a trial by jury is a substantive issue of law. It should be a determination made by the General Assembly, it should be in our statutes. And in 1977 we adopted Act 50, which simply said the Commonwealth shall have a right to a trial by jury in a criminal case, the same right that is afforded to a criminal defendant.

Of course, Act 50 was in conflict with Rule 1101 at that time, and the Supreme Court, as it has done more frequently in recent years, decided to resolve that conflict by suspending and declaring unconstitutional Act 50 of 1977. And so the court, by fiat in this particular issue, said by virtue of the Constitution, by virtue of their rulemaking authorities, this General Assembly has no right to determine whether the Commonwealth has a right to a jury trial. And the only way we can effect that is by a constitutional amendment.

And I think we should do that for one very basic, simple reason: It is a matter of fundamental fairness. Granted, every criminal defendant in this Commonwealth has the right to a jury trial, and no one, no one is suggesting that we change that. But the people, the people of this Commonwealth also should have that right. Those people are represented at our county level by our elected district attorneys, and the people and the victims of crime should have the right to have a jury trial in those cases in which they believe it is appropriate.

I urge the adoption of Senate Bill No. 555.

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

Senator BELL. Mr. President, this discussion tonight takes me back 30 years ago. I was chairman of the Committee on Judiciary. We were charged with implementing the new Constitution. We had a strong Committee on Judiciary. Almost all were lawyers, but we also had a strong legal advisory commit-

tee. We had a meeting of this committee and we asked our legal advisors for advice and they gave us advice. It did not go over well with the committee, and one of our Members, one of the Senators said, all right, you lawyers, you argued one side of the case, let us hear you argue the other side, and they did just as good a job on the other side, which brings us to where we are today.

We are Senators. This is not a legal convention. I sat here, I heard one side with good legal advice, I heard the other side with good legal advice. Therefore, I must vote the way my quarter of a million neighbors I represent want me to vote. And what is the biggest threat out there on the street? It is crime on the street. It is safe streets. And my neighbors tell me that they want to have our streets safer. They want to have drugs cracked. And I am going to vote on behalf of my neighbors to give the district attorneys more weapons with which to fight crime.

Thank you, Mr. President.

The PRESIDENT pro tempore. The Chair recognizes the gentlewoman from Venango, Senator White.

Senator WHITE. Mr. President, I rise to urge a "no" vote on this constitutional amendment. We have heard that we are going to slow things down by voting for an amendment. I happen to think the amendment of the gentleman from Westmoreland was an improvement. I think this is supposed to be a slow and deliberate process. We are amending Pennsylvania's Constitution. It has a history that goes certainly a lot further back than 1935.

Let us talk about what this is not. I have heard people say, well, we are going to put it out and let the voters decide whether the Constitution should be amended. I think there is a very good reason why a constitutional amendment is required to pass this body twice in two separate sittings, and it is because we are supposed to give it very careful deliberation. We are not simply supposed to cast it out upon the water and see what the voters think about these very complicated constitutional issues. This is our responsibility, and we should do it here, and if it takes us 1 year, 2 years, 3 years, that is how long it should take.

What this bill is not, it is not an anticrime bill, it is not a victim's rights bill, it is not a cure to plea bargaining or judge-shopping, but it does have some very serious ramifications for shifting the balance of power in the courtroom. If you go back and look at the original reasons for having trial by jury for a criminal defendant, it goes back to the balance of power. An individual person accused of a crime comes up against the mammoth, massive resources of the king in the early days but of the government today, and the only protection that stands between that person in some cases is a trial by his peers who will look at the facts as they are presented, peers of an individual. I suggest to you that the Commonwealth, with its enormous power, does not need that same protection.

If we are concerned about judge-shopping, if we are concerned about waivers and some of the procedures in the larger courts, there are court rules that can deal with those. What we are really talking about is a problem in the big cities, where a waiver rule that is in effect in Philadelphia, for example, says

that if you waive your right to a jury trial, you will be sentenced in a lower range of sentencing if you are ultimately convicted by that judge. Is that a good rule? I do not know. But I know why it exists. It exists because jury trials are expensive, jury trials take resources, jury trials need jurors, money, judges, and courtrooms.

You can say, well, it is a Philadelphia problem. They do 3,000 waivers in a year, and if a small percentage of those decide they want a jury trial, what is the cost of that? I have never seen a fiscal note, and I do not believe it exists, that has ever been attached to this bill to tell us what the cost is in real dollars and cents. You can say, well, that is Philadelphia's problem, but it is not. We are moving toward a unified court system, and what costs in Philadelphia costs all of us. I know that there are some problems there. It is a big system, it is going to take the cooperation of everybody there to make it run more efficiently and more smoothly, and I know they have the power to do it today without a constitutional amendment.

I urge my colleagues to vote "no" on this provision. I think it seriously upsets the correct balance of power in a criminal courtroom. Thank you.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Montgomery, Senator Greenleaf.

Senator GREENLEAF. Mr. President, I have to disagree with the previous speaker, because it is a law-and-order issue, it is a public safety issue, it is a victim's issue. That was brought out in our hearing and stated by Pennsylvania's Victim Advocate, Mary Achilles, who spoke on behalf of the Pennsylvania Coalition of Crime Victims organizations. Ms. Achilles asked and it was stated, why should the victim, through the prosecutor, not have a say in whether their case is heard by a judge or a jury? It is a victim issue. When the District Attorneys Association, representing the law enforcement of this Commonwealth and the people of this Commonwealth, state that it is a law-and-order issue, it is a public safety issue.

In addition, as I stated before, the American Bar Association, which is obviously the leading professional organization for attorneys in the United States, has stated that they believe that a jury trial should be available to both the defense and to the Commonwealth. It is clear that this is not a big change. As Senator Piccola indicated, historically we have provided for a jury trial for the Commonwealth. But for a decision by the Pennsylvania Supreme Court, we would still have that and we would not have to be going through an amendment to our Constitution, which obviously will be set forth before the voters and they will have their say in this, and if they feel that it is not appropriate, then they will vote "no."

But it is not necessary for us to wait another year or 2 years. If we thought it was necessary, we would wait. It is not necessary. The language in this legislation is exactly the way it should be and accomplishes what we wanted to accomplish. There were some references about indigent defendants. Indigent defendants are protected in our court system and will continue to be protected in our court system. They are entitled to court appointed attorneys. They are entitled to public defenders. If they feel there is a situation in which the public has been aroused and they would not get a fair trial, they can ask

for a change in venue. They have voir dire and they can ask extensive questions of the jury. They have the charge of the judge in which he would indicate that they may not be influenced by those issues.

Our Constitution and our Rules of Criminal Procedure provide ample protection in those particular areas, but because we are in this position, it is necessary for us to amend the Constitution. Our Constitution is a living and breathing document. It is subject to change with the approval of the electorate. This is a legitimate change that will put our law back in conformity with many of the States in the United States and also what our former rule on this was.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Cambria, Senator Wozniak.

Senator WOZNIAK. Mr. President, I am not a lawyer, so I am just going to give a little perspective that perhaps a layman has, and with all respect to the esquires and jurisprudence and all those nifty Latin words, I rise to oppose this legislation.

A number of years ago we voted to expand the wiretap law in Pennsylvania. Now people can tap into everybody in this room and all of your constituents a heck of a lot easier than they ever could, all in the name of law and order. Somebody calls you trying to sell you a credit card over the phone, those people can wire that phone, but you cannot wire them back without being in trouble. All in the name of law and order. The good Senator from southeast Pennsylvania brought up 30 years ago, but I think we go back about 50 years ago in the name of good society. Slowly but surely they eroded the rights of the individuals.

Now, I understand that we are trying to play a war on crime. We are trying to get the drug offenders off the street, the violent people who are addicting our children, and we are all supportive of that. But by the same token, we also have a responsibility to the individuals against our own government, if you want to look at it that way. We are trying to change the Constitution of Pennsylvania right now, and I think we should not be so hasty in attempting to change our rules and our baseline that was well established originally and in 1968.

I heard a little bit ago that we do not trust our Supreme Court Justices. Well, folks, there are a whole lot of people out there who do not trust our opinions either, but we get elected and we have our responsibilities. I think now is not the time to sit there and try to alter the way we have set up our system. There is not a person in this room who has not had numerous phone calls from people saying, but I do not want to be on jury right now, and we have to make the phone call. We have to tell them it has to be a legitimate argument. If you want trial by jury, it was brought up about the expense of it. It is going to be a logistical nightmare. We are going to slow down and cause all kinds of traffic control in our court systems, which are already backed up, and we will see very, very minimal positive effect by this constitutional amendment.

I think we should be very cautious about the direction we take, and I know I am probably not going to convince anybody to change their votes right now, and if I did, maybe I should become a lawyer.

Thank you very much, Mr. President.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Westmoreland, Senator Kukovich.

Senator KUKOVICH. Mr. President, I understand that, especially on issues like this, many times the vote tends to be cast on the basis of not necessarily merit but what is political. I understand that. That is what we do here. And I understand every time you turn on the television you hear about some criminal case. I know back in the media market where I come from, you might see the same criminal case 5 days in a row. And I know the way the media and the way sometimes some of us like to play to the law-and-order issue.

But it is interesting, because let us just think about our constituents. Let us forget the Constitution and the legal arguments we have made. There is a new dynamic at work right now with our constituents. I am talking about the sportsmen who come to me and complain about some of the legislation that the previous speaker addressed, who are concerned about this Orwellian philosophy where everything is monitored. I am talking to people who never used to worry about the criminal justice system before, who have not had somebody involved in the criminal justice system before, but they are reading cases about innocent people and what they have had to go through and how their lives have been ruined and how they have been bankrupt by that system, all in the name of law and order.

All I have said on this floor of this Chamber tonight is not to create an imbalance, to try to maintain fairness. I am suggesting that what we have been doing, all of us collectively on both sides of this Capitol, and what we would be doing tonight if we vote for this, is shifting that balance away from the freedom of the individual and toward the almost omnipotent power of the State, and that is creating a new fear in our constituents and one that we might not have to deal with this election, but if we keep passing bills like this, amendments to the Constitution like this, we will face that with our constituents soon enough.

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:

YEA-30

Afflerbach	Gerlach	Mowery	Stout
Armstrong	Greenleaf	Murphy	Thompson
Bell	Hart	Piccola	Tilghman
Brightbill	Helfrick	Punt	Tomlinson
Conti	Holl	Rhoades	Uliana
Corman	Lemmond	Robbins	Wenger
Delp	Loeper	Salvatore	
Earl	Madigan	Slocum	

NAY-20

Belan	Jubelirer	Mellow	Tartaglione
Bodack	Kasunic	Musto	Wagner
Costa	Kitchen	O'Pake	White
Fumo	Kukovich	Schwartz	Williams
Hughes	LaValle	Stapleton	Wozniak

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.

SPECIAL ORDER OF BUSINESS ANNOUNCEMENT BY THE SECRETARY

The SECRETARY. Consent has been given for the Committee on Rules and Executive Nominations to meet during today's Session to consider Senate Bill No. 682 and certain nominations.

RECESS

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

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

The PRESIDENT pro tempore. Senator Loeper has requested a brief recess of the Senate for the purpose of a meeting of the Committee on Rules and Executive Nominations to be held in the Rules room to the rear of the Senate Chamber. For that purpose, the Senate will stand in recess.

AFTER RECESS

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

REPORTS FROM COMMITTEE

Senator LOEPER, from the Committee on Rules and Executive Nominations, reported the following bills:

SB 682 (Pr. No. 1975) (Rereported) (Concurrence)

An Act amending the act of June 10, 1982 (P.L.454, No.133), entitled "An act protecting agricultural operations from nuisance suits and ordinances under certain circumstances," further providing for definitions and for limitation on public nuisances.

SB 1168 (Pr. No. 1990) (Amended) (Rereported) (Concurrence)

An Act authorizing and directing the Department of Conservation and Natural Resources, with the approval of the Governor, to convey to Turkeyfoot Fish and Game Association, Inc., a certain tract of land situate in Henry Clay Township, Fayette County, in exchange for certain tracts of land; and authorizing the Department of General Services, with the approval of the Governor and the Department of Conservation and Natural Resources, to grant and convey a sanitary sewer right-of-way over certain State land to Penn Township, York County, Pennsylvania.

SENATE RESOLUTION ADOPTED

Senator GREENLEAF, by unanimous consent, offered Senate Resolution No. 198, entitled:

A Resolution recognizing the day of May 30 as "Merchant Marine Veterans Day" in Pennsylvania and commemorating the World War II service of United States Merchant Marines.

On the question,

Will the Senate adopt the resolution?

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Montgomery, Senator Greenleaf.

Senator GREENLEAF. Mr. President, I rise to offer a resolution to recognize May 30 as Merchant Marine Day in which they are recognized for their World War II service in which over 700 ships were lost and 6,000 Merchant Marines gave their lives, and this resolution would recognize May 30 as Merchant Marine Day.

And the question recurring,

Will the Senate adopt the resolution?

A voice vote having been taken, the question was determined in the affirmative.

UNFINISHED BUSINESS CONGRATULATORY RESOLUTIONS

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

Congratulations of the Senate were extended to Marlene Fowler by Senator Afflerbach.

Congratulations of the Senate were extended to Mr. and Mrs. Ralph Hood by Senator Bell.

Congratulations of the Senate were extended to Nick and Dolores DiGiacomo, John and Norma Feigel, Mike and Ortenza Magliocco, John and Nancy Greegus, Phyllis Kutosky, Lucille Tortorea, Vinessa Gentile Turpin, Rose Larus, Lundo DiMarco, Mildred Johnson, Linda Bruno, Lawrence Camerota, Dan Brannigan, Barbara Zielmanski, Marlene Hennigan, Dominic Piccola, Nancy Goldberg and to the Kerr Elementary School Fifth Grade Boys' Basketball Team by Senator Bodack.

Congratulations of the Senate were extended to Marie Tutino by Senators Bodack and Costa.

Congratulations of the Senate were extended to Daniel R. Beller, Brian L. Buxton, John C. Mohl and to Gregory M. Cutrera by Senator Conti.

Congratulations of the Senate were extended to Matthew J. Dwyer by Senator Greenleaf.

Congratulations of the Senate were extended to the Retired and Senior Volunteer Program of Montgomery County by Senators Greenleaf, Tilghman, and Holl.

Congratulations of the Senate were extended to Mr. and Mrs. Bruce W. Bain, Mr. and Mrs. Michael Slomkowski, Mr. and Mrs. Charles H. Fleischer, Mr. and Mrs. Chester Pokusa, Brandon Whale, Paula A. Curtis and to Harry Brown by Senator Hart.

Congratulations of the Senate were extended to Mr. and Mrs. William E. Sutliff, Mr. and Mrs. Harvey Melvin White and to the Bloomsburg Area High School Girls' Swim Team by Senator Helfrick.

Congratulations of the Senate were extended to the Edith R. Rudolph Residence for the Blind by Senator Hughes.

Congratulations of the Senate were extended to Mr. and Mrs. Caesar Graziano, Mr. and Mrs. Frank Reinsprecht, Mr. and Mrs. Everett Mitchell, Mr. and Mrs. Seth Overfield, Hilda D. Stroyan, Daryl Miller, Barbara R. Carson, John E. Ord, Michael Raffay, Corey S. Davis and to Bartron Supply of Tunkhannock by Senator Lemmond.

Congratulations of the Senate were extended to Mr. and Mrs. Arthur Vanaman Blanford by Senator Loeper.

Congratulations of the Senate were extended to Daniel Zaleski, Nicholas Wowk, Jr., and to Robert Vavarchak by Senator Mellow.

Congratulations of the Senate were extended to West Shore Health and Rehabilitation Center, Cumberland County Office of Aging and to L.B. Smith, Inc., of Camp Hill by Senator Mowery.

Congratulations of the Senate were extended to Anna Marie Kraynak Strish by Senators Musto and Lemmond.

Congratulations of the Senate were extended to the Berks County Dental Society, citizens of Fleetwood Borough and to the citizens of Reading by Senator O'Pake.

Congratulations of the Senate were extended to Mr. and Mrs. Arthur Crist, Sr., Jeff Eure, Josh Snyder and to Wesley Union African Methodist Episcopal Zion Church of Harrisburg by Senator Piccola.

Congratulations of the Senate were extended to Irvin D. Schappell, Nathan Augustine, Zachariah N. Durand and to the Schuylkill County Community Chorus by Senator Rhoades.

Congratulations of the Senate were extended to Mr. and Mrs. Norbert A. Lengauer, Micah A. Swartz, Dr. C. Carlyle Haaland and to Corey Winton by Senator Robbins.

Congratulations of the Senate were extended to W. Ryan Morrison by Senator Salvatore.

Congratulations of the Senate were extended to Aaron Nagle by Senator Slocum.

Congratulations of the Senate were extended to the Benevolent and Protective Order of Elks, Blairsville Lodge No. 406, by Senator Stapleton.

Congratulations of the Senate were extended to Lillian Middleton by Senator Thompson.

Congratulations of the Senate were extended to Sean Griffin by Senator Tomlinson.

Congratulations of the Senate were extended to Joseph J. Ruggiero and to Joshua Mertz by Senator Uliana.

Congratulations of the Senate were extended to the Henry G. Burns Family and to Oleta B. Amsler by Senator White.

CONDOLENCE RESOLUTIONS

The PRESIDENT pro tempore 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 Dr. Gladys Inez Spann Renfrow by Senator Fumo.

Condolences of the Senate were extended to the family of the late Reverend David Weeks, Jr., by Senators Hughes and Kitchen.

BILLS ON FIRST CONSIDERATION

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

The motion was agreed to.

The bills were as follows:

SB 304, SB 1232, SB 1429, SB 1446 and HB 2038.

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

BILLS SIGNED

The PRESIDENT pro tempore (Robert C. Jubelirer) in the presence of the Senate signed the following bills:

SB 5 and SB 981.

ANNOUNCEMENTS BY THE SECRETARY

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

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

TUESDAY, MAY 5, 1998

9:00 A.M.	COMMUNICATIONS AND HIGH TECHNOLOGY (public hearing on Senate Bill No. 937, Telemedicine)	Room 8E-A East Wing
9:30 A.M.	CONSUMER PROTECTION AND PROFESSIONAL LICENSURE (to consider Senate Bill No. 1091; and House Bill No. 558)	Room 8E-B East Wing
9:30 A.M.	ENVIRONMENTAL RESOURCES AND ENERGY (to consider Senate Bill No. 1135; House Bills No. 10 and 2475; and any other business that may come before the Committee)	Room 461 Main Capitol
9:30 A.M.	TRANSPORTATION (to consider Senate Bill No. 1451; and House Bill No. 1660)	Majority Caucus Rm.
9:45 A.M.	LOCAL GOVERNMENT (to consider Senate Bill No. 818; and House Bills No. 1173 and 1176)	Rules Cmte. Conf. Rm.
10:00 A.M.	BANKING AND INSURANCE (to consider Senate Bill No. 1385; and any other business that may come before the Committee)	Room 461 Main Capitol

10:45 A.M.	APPROPRIATIONS (to consider House Bill No. 1597)	Rules Cmte. Conf. Rm.
1:00 P.M.	SENATE SPECIAL COMMITTEE ON INTERSCHOLASTIC ATHLETICS (public hearing)	Room 8E-A East Wing

WEDNESDAY, JULY 1, 1998

9:30 A.M.	CONSUMER PROTECTION AND PROFESSIONAL LICENSURE	Majority Caucus Rm.
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(public hearing on competition in the
telephone industry)

WEDNESDAY, JULY 15, 1998

9:30 A.M. CONSUMER PROTECTION AND Majority
 PROFESSIONAL LICENSURE Caucus Rm.
(public hearing to consider a progress
report on Natural Gas Deregulation)

ADJOURNMENT

Senator LOEPER. Mr. President, I move that the Senate do now adjourn until Tuesday, May 5, 1998, at 11 a.m., Eastern Daylight Saving Time.

The motion was agreed to.

The Senate adjourned at 6:30 p.m., Eastern Daylight Saving Time.