

LEGISLATIVE JOURNAL

TUESDAY, JUNE 13, 1989

SESSION OF 1989

173RD OF THE GENERAL ASSEMBLY

No. 38

SENATE

TUESDAY, June 13, 1989.

The Senate met at 1:00 p.m., Eastern Daylight Saving Time.

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

PRAYER

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

As we meet again, Father, to take up unfinished tasks, we ask Your divine guidance. Teach us to lead the people into bold ways of truth and progress, and grant us the wisdom to employ our full powers and abilities in our pursuit of excellence. Amen.

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of June 12, 1989.

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

HOUSE MESSAGE

HOUSE CONCURS IN SENATE CONCURRENT RESOLUTION

The Clerk of the House of Representatives informed the Senate that the House has concurred in resolution from the Senate, entitled:

Weekly Adjournment.

BILLS INTRODUCED AND REFERRED

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

June 13, 1989

Senators GREENLEAF and PETERSON presented to the Chair SB 1051, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for the establishment of an experimental program to allow audio-visual coverage of court proceedings.

Which was committed to the Committee on JUDICIARY, June 13, 1989.

Senator RHOADES presented to the Chair SB 1052, entitled:

An Act encouraging the use of alternative motor fuels; providing for acquisition of State-owned vehicles which operate on alternative motor fuels; providing for powers and duties of the Department of General Services and the Pennsylvania Energy Office; and establishing a State Government Task Force on Alternative Motor Fuels.

Which was committed to the Committee on ENVIRONMENTAL RESOURCES AND ENERGY, June 13, 1989.

Senators LYNCH, STOUT, FATTAH and JONES presented to the Chair SB 1053, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for removal of vehicle by the police.

Which was committed to the Committee on TRANSPORTATION, June 13, 1989.

Senators BELAN, BODACK, SALVATORE and FATTAH presented to the Chair SB 1054, entitled:

An Act amending the act of June 3, 1937 (P. L. 1333, No. 320), entitled "Pennsylvania Election Code," further providing for the number of signers for nomination petitions for all the public and party offices in third class cities.

Which was committed to the Committee on STATE GOVERNMENT, June 13, 1989.

RESOLUTION INTRODUCED AND REFERRED

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

June 13, 1989

**MEMORIALIZING CONGRESS TO PASS  
LEGISLATION WHICH REQUIRES THE  
SECRETARY OF DEFENSE TO IMPLEMENT  
ACTIONS TO APPOINT MILITARY CHAPLAINS  
IN REPRESENTATIVE PROPORTION TO THE  
DIFFERENT FAITHS REPRESENTED AMONG  
THE TOTAL MEMBERSHIP OF THE  
ARMED FORCES**

Senators SALVATORE, WILLIAMS, SHUMAKER, ROCKS, REGOLI, O'PAKE, FUMO, HELFRICK, MADIGAN, JONES, PETERSON, PECORA, JUBELIRER, MELLOW, LEWIS, BELL, REIBMAN, LYNCH, FISHER, HESS, BELAN, LOEPER and ANDREZESKI offered the following resolution (**Senate Resolution No. 79**), which was read and referred to the Committee on Intergovernmental Affairs:

In the Senate, June 13, 1989.

**A RESOLUTION**

Memorializing Congress to pass legislation which requires the Secretary of Defense to implement actions to appoint military chaplains in representative proportion to the different faiths represented among the total membership of the armed forces.

WHEREAS, The Secretary of Defense has been empowered traditionally to provide for the religious and spiritual needs of members of the armed forces by appointing military chaplains; and

WHEREAS, There exists an imbalance in the representation of various religious faiths among chaplains of the armed forces as compared to the representation of those faiths among members of the armed forces as a whole; and

WHEREAS, This body is concerned that the men and women from this Commonwealth who serve with commitment and gallantry in the armed forces of this Nation should have the religious and spiritual needs which arise during the course of their military service served by a chaplain of their faith; therefore be it

RESOLVED, That the Senate of Pennsylvania memorialize Congress to pass legislation which requires the Secretary of Defense to implement actions to appoint military chaplains in representative proportion to the different faiths represented among the total membership of the armed forces; and be it further

RESOLVED, That copies of this resolution be transmitted to the presiding officers of each house of Congress, to each member of Congress from Pennsylvania and to all members of the respective armed services committees of each house of Congress.

**GENERAL COMMUNICATIONS**

**JOB TRAINING PARTNERSHIP ACT PLANS**

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

DELAWARE COUNTY OFFICE OF  
EMPLOYMENT & TRAINING  
321 W. State Street  
Media, Pennsylvania 19063

May 12, 1989

Honorable Robert C. Jubelirer  
President Pro Tempore  
Senate of Pennsylvania

Main Capitol Building  
Harrisburg, Pa. 17120

Dear Senator Jubelirer:

The Delaware County Office of Employment and Training will submit the Annual Contract for Program Year 1989 Title III Employment and Training Assistance for Dislocated Workers and The Economic Dislocation and Worker Adjustment Assistance Act (EDWAA).

The Annual Contract or a summary thereof may be reviewed at your request or convenience.

Sincerely,

FRANCIS J. CAREY  
Executive Director

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

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

NORTHWEST PENNSYLVANIA TRAINING  
PARTNERSHIP CONSORTIUM, INC.

P.O. Box No. 1  
Highway 322 East  
Franklin, PA 16323

May 26, 1989

The Honorable Robert C. Jubelirer  
President Pro Tempore  
Senate of Pennsylvania  
Main Capital Building  
Harrisburg, PA 17120

Dear President Jubelirer:

This letter is to notify you that this Job Training Partnership Act Service Delivery Area (SDA 02) is submitting Modification 04 to their current two-year Master Plan to the Pennsylvania Department of Labor and Industry by June 14, 1989.

This Modification 04 to the two-year Master Plan will, for the period from July 1, 1989 through June 30, 1990, enable NPTPC to continue to assist local economically disadvantaged residents to achieve economic self-sufficiency. The Master Plan describes administrative and JTPA programmatic procedures and priorities. Specific changes in Modification 04 relate to the JTPA eligibility determination procedure and the guidelines for the maximum duration of on-the-job training reimbursement.

These plans are available for public review on weekdays from 8:00 a.m. to 4:30 p.m. at NPTPC's headquarters, Highway 322 East, Franklin, PA (814) 437-3000 at the above address.

If you so request, complete copies of the Master Plan will be provided.

Sincerely,

DAVID R. PEARSON  
Executive Director

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

**DEPARTMENT OF LABOR AND INDUSTRY  
STATE PLAN FOR EMPLOYMENT AND TRAINING  
ASSISTANCE FOR DISLOCATED WORKERS**

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

June 5, 1989

Honorable Mark R. Corrigan, Sec.  
Senate of PA  
Room 462  
Main Capitol  
Harrisburg, PA 17120

Dear Mr. Corrigan:

Attached for your information is the Commonwealth of Pennsylvania's State Plan for Employment and Training Assistance for Dislocated Workers for the period July 1, 1989 to June 30, 1990. This plan addresses the Commonwealth's overall responsibilities in the administration and operation of the Economic Dislocation and Worker Adjustment Assistance Act program and is in line with the network of Job Centers now being developed throughout Pennsylvania.

We would welcome your comments, questions and suggestions.

With best regards.

Sincerely,  
HARRIS WOFFORD  
Secretary

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

**RESOLUTION OF THE STATE OF TEXAS**

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

STATE OF TEXAS  
OFFICE OF THE SECRETARY OF STATE  
Austin, Texas 78711

June 8, 1989

The Honorable President  
of the Pennsylvania Senate  
State Capitol  
Harrisburg, Pennsylvania 17120

Dear Mr. President:

Please find enclosed an official copy of House Joint Resolution 6, as passed by the 71st Legislature, Regular Session, 1989, of the State of Texas.

The 71st Legislature of the State of Texas hereby notifies the presiding officers of the legislatures of those states that have not as yet ratified the proposed amendment to the United States Constitution of its ratification of said proposed amendment.

Very truly yours,  
JACK M. RAINS  
Secretary of State

H.J.R. No. 6

**A JOINT RESOLUTION**

ratifying a proposed amendment to the Constitution of the United States relative to the compensation of members of the United States Congress and when any variations therein shall take effect.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The Legislature of the State of Texas, pursuant to Article V of the United States Constitution, does hereby ratify an amendment to the Constitution of the United States proposed by resolution of the First Congress of the United States in New

York, New York, on September 25, 1789, which reads as follows, to wit:

"RESOLVED by the Senate and House of Representatives of the United States of America in Congress assembled, two thirds of both Houses concurring, that the following [Article] be proposed to the Legislatures of the several States,...which [Article], when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes, as part of the said Constitution, viz.:

"[An ARTICLE] in addition to, and Amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth Article of the original Constitution.

"Article the second...No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened."

SECTION 2. The Legislature of the State of Texas acknowledges that the above-quoted article of amendment to the United States Constitution has already been ratified by the legislatures of the following states on the dates indicated, to wit:

- Maryland on December 19, 1789;
- North Carolina on December 22, 1789;
- South Carolina on January 19, 1790;
- Delaware on January 28, 1790;
- Vermont on November 3, 1791;
- Virginia on December 15, 1791;
- Ohio on May 6, 1873 [70 Ohio Laws 409-10];
- Wyoming on March 3, 1978 [124 Cong. Rec. 7910; 133 Cong. Rec. S12949];
- Maine on April 27, 1983 [130 Cong. Rec. H9097, S11017];
- Colorado on April 18, 1984 [131 Cong. Rec. S17687; 132 Cong. Rec. H6446];
- South Dakota on February 21, 1985 [131 Cong. Rec. H971, S3306];
- New Hampshire on March 7, 1985 [Cong. Rec. H1378, S3597];
- Arizona on April 3, 1985 [131 Cong. Rec. H2060, S4750];
- Tennessee on May 23, 1985 [131 Cong. Rec. H6672, S10797, S13504];
- Oklahoma on July 10, 1985 [131 Cong. Rec. H7263, S13504];
- New Mexico on February 13, 1986 [132 Cong. Rec. H827, S2207-8, S2300];
- Indiana on February 19, 1986 [132 Cong. Rec. H1634, S4663];
- Utah on February 25, 1986 [132 Cong. Rec. S6750, S7578; 133 Cong. Rec. H9866];
- Arkansas on March 5, 1987 [134 Cong. Rec. H3721, S7518];
- Montana on March 11, 1987 [133 Cong. Rec. H1715, S6155];
- Connecticut on May 13, 1987 [133 Cong. Rec. H7406, S11891];
- Wisconsin on June 30, 1987 [133 Cong. Rec. H7406, S12948, S13359];
- Georgia on February 2, 1988 [134 Cong. Rec. H2638, S5239];
- West Virginia on March 10, 1988 [134 Cong. Rec. H2492, S4784];
- Louisiana on July 6, 1988 [134 Cong. Rec. H5783, S9939];
- Iowa on February 7, 1989 [135 Cong. Rec. H836, S3509-10];
- Idaho on March 23, 1989;
- Nevada on April 26, 1989;
- Alaska on May 5, 1989;
- Oregon on May 19, 1989; and
- Minnesota on May 22, 1989.

SECTION 3. The Legislature of the State of Texas further acknowledges that measures to ratify the proposed amendment to

the Constitution of the United States have recently been adopted by the House of Representatives of the State of North Dakota on January 26, 1987, and again on February 3, 1989; the House of Representatives of the State of Illinois on June 22, 1988; and the Senate of the State of Michigan on March 15, 1989.

SECTION 4. The Legislature of the State of Texas further acknowledges that the above-quoted article of amendment to the United States Constitution may still be ratified by the state legislatures as a result of the ruling by the United States Supreme Court in the landmark case of *Coleman v. Miller* [307 U.S. 433 (1939)] in which it was opined that Congress is the final arbiter on the question of whether too much time has elapsed between the original submission of a particular amendment proposed by the Congress and the most recent state legislature's ratification of same if the Congress, in proposing the amendment, did not specify a deadline on the amendment's consideration.

SECTION 5. The secretary of state of the State of Texas shall notify the archivist of the United States (pursuant to 1 U.S.C. 106b and 112; as amended by Public Law No. 98-497 [98 Stat. 2291]) of the action of the 71st Legislature of the State of Texas, Regular Session, 1989, by sending to him a copy of this resolution.

SECTION 6. The secretary of state of the State of Texas shall also send copies of this resolution to both United States senators from Texas, to all United States representatives from Texas, to the vice-president of the United States, and to the speaker of the United States House of Representatives with the request that it be printed in full in the Congressional Record.

SECTION 7. The secretary of state of the State of Texas shall also send copies of this resolution to the presiding officers of the legislatures of those states that have not as yet ratified the proposed amendment to the United States Constitution.

W. P. HOBBY                      GIB LEWIS  
President of the Senate      Speaker of the House

I certify that H.J.R. No. 6 was passed by the House on April 4, 1989, by the following vote: Yeas 131, Nays 2, 1 present, not voting; and that the House concurred in Senate amendments to H.J.R. No. 6 on May 25, 1989, by the following vote: Yeas 145, Nays 0, 2 present, not voting.

BETTY MURRAY  
Chief Clerk of the House

I certify that H.J.R. No 6 was passed by the Senate, with amendments, on May 24, 1989, by the following vote: Yeas 30, Nays 0.

BETTY KING  
Secretary of the Senate

I, JACK M. RAINS, Secretary of State of the State of Texas, DO HEREBY CERTIFY that the attached is a TRUE AND CORRECT copy of House Joint Resolution 6, passed by the 71st Legislature, Regular Session, 1989, and as filed in the office on May 29, 1989.

IN TESTIMONY WHEREOF, I  
have hereunto signed my name  
officially and caused to be  
impressed hereon the Seal of State  
at my office in the City of Austin,  
this 9th day of June, 1989.

(SEAL)                      JACK M. RAINS  
Secretary of State

## APPOINTMENT BY MINORITY LEADER

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

Mr. Michael J. Washo as a member of the State Ethics Commission.

## REPORTS FROM COMMITTEES

Senator SHUMAKER, from the Committee on Law and Justice, reported the following bill:

### SB 620 (Pr. No. 1232) (Amended)

An Act amending the act of August 6, 1941 (P. L. 861, No. 323), entitled, as amended, "Pennsylvania Board of Probation and Parole Law," further providing for the power to parole; and making a repeal.

Senator BELL, from the Committee on Consumer Protection and Professional Licensure, reported the following bills:

### SB 485 (Pr. No. 509)

An Act amending Title 32 (Forests, Waters and State Parks) of the Pennsylvania Consolidated Statutes, further providing for expedited approval of rate relief.

### SB 486 (Pr. No. 510)

An Act amending the act of March 1, 1988 (P. L. 82, No. 16), entitled "Pennsylvania Infrastructure Investment Authority Act," further providing for expedited approval of rate relief.

### SB 963 (Pr. No. 1107)

An Act amending the act of June 18, 1984 (P. L. 384, No. 81), entitled "Amusement Ride Inspection Act," further providing for the Amusement Ride Safety Advisory Board.

### SB 1025 (Pr. No. 1197)

An Act prohibiting unsolicited electronic or telephonic transmissions to facsimile devices for advertising purposes; and providing for penalties and damages.

Senator HESS, from the Committee on Education, reported the following bills:

### SB 254 (Pr. No. 261)

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), entitled "Public School Code of 1949," providing for the employment and duties of the business administrator.

### SB 703 (Pr. No. 1233) (Amended)

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), entitled "Public School Code of 1949," providing for alternative education programs to assist students who drop out or are potential dropouts.

### HB 691 (Pr. No. 759)

An Act amending the act of August 31, 1971 (P. L. 423, No. 101), known as the "Higher Education Equal Opportunity Act," further providing for eligibility of part-time students.

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

**SB 872 (Pr. No. 993)**

An Act amending the act of September 2, 1961 (P. L. 1177, No. 525), entitled "Board and Commission Compensation Law," removing from the act the salaries of the Chairman and members of the Unemployment Compensation Board of Review; and making a repeal.

Senator SHAFFER, from the Committee on Community and Economic Development, reported the following bills:

**SB 1009 (Pr. No. 1181)**

An Act amending the act of July 2, 1984 (P. L. 520, No. 105), entitled "Business Infrastructure Development Act," extending provisions relating to termination.

**SB 1010 (Pr. No. 1182)**

An Act amending the act of July 2, 1984 (P. L. 555, No. 111), entitled, as amended, "Small Business Incubators Act," extending the provisions relating to time limit on approvals.

**SB 1011 (Pr. No. 1183)**

An Act amending the act of July 2, 1984 (P. L. 568, No. 113), entitled "Employee-Ownership Assistance Program Act," extending provisions relating to final date for approvals.

**HB 506 (Pr. No. 839)**

An Act amending the act of April 28, 1961 (P. L. 111, No. 50), known as the "Tourist Promotion Law," further defining "eligible costs" and "regional tourist promotion agency"; and further providing for grants.

**REGULATION RETURNED**

Senator BELL, from the Committee on Consumer Protection and Professional Licensure, reported State Board of Dentistry Regulation 16A-221 was returned to the State Board of Dentistry for final determination of extension and resubmission to the committee.

**LEGISLATIVE LEAVES**

Senator BRIGHTBILL. Mr. President, I would ask for temporary legislative leave for Senator Wenger.

Senator MELLOW. Mr. President, I request temporary Capitol leaves for Senator Afflerbach and Senator Stout.

The PRESIDENT. Senator Brightbill requests temporary legislative leave for Senator Wenger. Senator Mellow requests temporary Capitol leaves for Senator Afflerbach and Senator Stout. The Chair hears no objection. The leaves will be granted.

**CALENDAR****HB 50 CALLED UP OUT OF ORDER**

**HB 50 (Pr. No. 52)** — Without objection, the bill was called up out of order, from page 1 of the Third Consideration Calendar, by Senator LOEPER, as a Special Order of Business.

**BILL ON THIRD CONSIDERATION  
AND FINAL PASSAGE**

**HB 50 (Pr. No. 52)** — The Senate proceeded to consideration of the bill, entitled:

An Act designating the dam on the Susquehanna River at Williamsport as the Anthony J. Cimini Dam.

Considered the third time and agreed to,

On the question,  
Shall the bill pass finally?

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

**YEAS—50**

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

**NAYS—0**

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

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

**LEGISLATIVE LEAVE CANCELLED**

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

**SPECIAL ORDER OF BUSINESS****FAMILY AND FRIEND OF  
SENATOR ROBERT J. MELLOW  
PRESENTED TO SENATE**

Senator MELLOW. Mr. President, over the years we have an opportunity of introducing to Members and visitors of the Senate many friends of ours who travel long distances to come here to watch our Body in deliberation. Today, I have the opportunity of making two introductions. The first introduction I would like to make, Mr. President, really falls in line with something Senator Hager said a few years ago when he was President pro tempore of the Senate, when he had the opportunity of introducing my two daughters. He introduced them as the princesses of the Senate. Today I would like to introduce my two princesses of the Senate, Melissa and Tressa Mellow, who are right here. Girls, would you kindly stand.

The PRESIDENT. Will the Senators join me in welcoming the princesses of the Senate.

(Applause.)

Senator MELLOW. Mr. President, I also have the opportunity, and I am sure not many of us have been able to have this opportunity, but throughout the years that I have been a public official, my two greatest supporters have been my mother and my father. My mom and dad are with us in the gallery today along with a very close friend of mine. My mother Alice, my father Jim, and my very good friend, or my second father, Tony Perry, are up in the gallery.

The PRESIDENT. Would Mr. and Mrs. Mellow and the friend of Senator Mellow please rise so we can welcome you to the Senate of Pennsylvania.

(Applause.)

### SON OF SENATOR M. JOSEPH ROCKS PRESENTED TO SENATE

Senator ROCKS. Mr. President, with us this week as a guest page, and I would be remiss following Senator Mellow if I did not take this moment to introduce my firstborn and my oldest son, and to a father he is my best friend, it is my son Michael Joseph.

The PRESIDENT. Would Michael please rise so we can welcome you and thank you for your good service as a page.

(Applause.)

### GUESTS OF SENATOR RALPH W. HESS PRESENTED TO SENATE

Senator HESS. Mr. President, we are just going to make it. My guests today are distinguished citizens from the twenty-eighth district, who are about to leave. They are my friends and neighbors, and they hail from the number one papermaking town in the world, Spring Grove, Pennsylvania. I ask the Senate to give them its warm welcome.

The PRESIDENT. Would the Senators please join me in welcoming the citizens of Spring Grove to the Senate of Pennsylvania.

(Applause.)

### GUESTS OF SENATOR D. MICHAEL FISHER PRESENTED TO SENATE

Senator FISHER. Mr. President, I, too, would like to introduce three guests from my Senatorial district from Mt. Lebanon who are here in the gallery today. They are Carol Berklich and her daughter Kara and Bridget McVerry. Kara and Bridget McVerry are serving this week as pages in the House of Representatives and Bridget McVerry is the daughter of State Representative Terry McVerry.

The PRESIDENT. Would all of the guests of Senator Fisher please rise so that we can welcome you to the Chamber.

(Applause.)

### SPECIAL ORDER OF BUSINESS ANNOUNCEMENT BY THE SECRETARY

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

### RECESS

Senator LOEPER. Mr. President, at this time I would ask for a recess of the Senate, initially for the purpose of a meeting of the Committee on Rules and Executive Nominations to begin immediately in the Rules room at the rear of the Senate Chamber to be followed by a Republican caucus in the first floor caucus room, with an expectation of returning to the floor at approximately 3:30 p.m.

Senator MELLOW. Mr. President, I would request an immediate caucus of the Democrats in our caucus room at the rear of the Senate following the meeting of the Committee on Rules and Executive Nominations.

The PRESIDENT. For the purposes of a meeting of the Committee on Rules and Executive Nominations to begin immediately and Republican and Democratic caucuses to follow, the Senate will stand in recess.

### AFTER RECESS

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

### REPORT FROM COMMITTEE ON RULES AND EXECUTIVE NOMINATIONS

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

JUDGE, COURT OF COMMON PLEAS,  
BLAIR COUNTY

April 26, 1989.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Norman D. Callan, Esquire, 900 Fifth Avenue, Altoona 16602, Blair County, Thirtieth Senatorial District, for appointment as Judge of the Court of Common Pleas of Blair County, to serve until the first Monday of January, 1990, vice The Honorable D. Brooks Smith, resigned.

ROBERT P. CASEY.

JUDGE, COURT OF COMMON PLEAS,  
ERIE COUNTY

June 2, 1989.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, John A. Bozza, Esquire, 3825 Sunset Boulevard, Erie 16504, Erie County, Forty-ninth Senatorial District, for appointment as Judge of the Court of Common Pleas of Erie County, to serve until the first Monday of January, 1990, vice The Honorable Richard Nygaard, resigned.

ROBERT P. CASEY.

JUDGE, COURT OF COMMON PLEAS,  
ERIE COUNTY

May 26, 1989.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, John R. Falcone, Esquire, 4614 Basin Circle, Erie 16509, Erie County, Forty-ninth Senatorial District, for appointment as Judge of the Court of Common Pleas of Erie County, to serve until the first Monday of January, 1990, vice The Honorable William E. Pfadt, mandatory retirement.

ROBERT P. CASEY.

NOMINATIONS LAID ON THE TABLE

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

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

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

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

MEMBER OF THE ALLEGHENY COUNTY  
BOARD OF ASSISTANCE

June 12, 1989.

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated March 13, 1989 for the appointment of Euzell Hairston (Democrat), 1930 Fairlawn Street, Pittsburgh 15221, Allegheny County, Thirty-eighth Senatorial District, as a member of the Allegheny County Board of Assistance, to serve until December 31, 1991, and until his successor is appointed and qualified, to add to complement.

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

ROBERT P. CASEY.

#### RECORDER OF DEEDS, REGISTER OF WILLS AND CLERK OF THE ORPHANS' COURT, ARMSTRONG COUNTY

June 12, 1989.

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated February 27, 1989 for the appointment of Donna L. Livengood, 1239 Fourth Avenue, Ford City 16226, Armstrong County, Forty-first Senatorial District, as Recorder of Deeds, Register of Wills and Clerk of the Orphans' Court, in and for the County of Armstrong, to serve until the first Monday of January, 1990, vice The Honorable Henry Livengood, deceased.

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

ROBERT P. CASEY.

#### NOMINATIONS RETURNED TO THE GOVERNOR

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

The motion was agreed to.

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

#### EXECUTIVE NOMINATIONS

##### EXECUTIVE SESSION

Motion was made by Senator WILT,

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

Which was agreed to.

##### NOMINATIONS TAKEN FROM THE TABLE

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

The Clerk read the nominations as follows:

MEMBER OF THE BOARD OF TRUSTEES OF  
SHAMOKIN STATE GENERAL HOSPITAL

March 23, 1989.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Louis J. Apichell, Sr., 1701 Chestnut Street, Kulpmont 17834, Northumberland County, Twenty-seventh Senatorial District, for reappointment as a member of the Board of Trustees of Shamokin State General Hospital, to serve until the third Tuesday of January, 1995, and until his successor is appointed and qualified.

ROBERT P. CASEY.

MEMBER OF THE BOARD OF TRUSTEES OF  
SHAMOKIN STATE GENERAL HOSPITAL

March 23, 1989.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Francine Minnig, 121 East Second Street, Mount Carmel 17851, Northumberland County, Twenty-seventh Senatorial District, for appointment as a member of the Board of Trustees of Shamokin State General Hospital, to serve until the third Tuesday of January, 1993, and until her successor is appointed and qualified, vice H. Robert Mattis, Jr., Shamokin, whose term expired.

ROBERT P. CASEY.

On the question,

Will the Senate advise and consent to the nominations?

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

YEAS—50

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

NAYS—0

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

Ordered, That the Governor be informed accordingly.

NOMINATIONS TAKEN FROM THE TABLE

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

The Clerk read the nominations as follows:

JUDGE, COURT OF COMMON PLEAS,  
MONTGOMERY COUNTY

May 19, 1989.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Bernard A. Moore, Esquire, 827 Fayette Street, Conshohocken 19428, Montgomery County, Seventeenth Senatorial District, for appointment as Judge of the Court of Common Pleas of Montgomery County, to serve until the first Monday of January, 1990, vice The Honorable Horace A. Davenport, mandatory retirement.

ROBERT P. CASEY.

JUDGE, COURT OF COMMON PLEAS,  
MONTGOMERY COUNTY

May 19, 1989.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Maurino J. Rossanese, Jr., Esquire, 2226 Hedgewood Road, Hatfield 19440, Montgomery County, Twenty-fourth Senatorial District, for appointment as Judge of the Court of Common Pleas of Montgomery County, to serve until the first Monday of January, 1990, vice The Honorable Joseph H. Stanziani, resigned.

ROBERT P. CASEY.

JUDGE, COURT OF COMMON PLEAS,  
YORK COUNTY

February 14, 1989.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Thompson J. McCullough, 1395 Sleepy Hollow Road, York 17043, York County, Twenty-eighth Senatorial District, for appointment as Judge of the Court of Common Pleas of York County, to serve until the first Monday of January, 1990, vice The Honorable John F. Rauhauser, mandatory retirement.

ROBERT P. CASEY.

JUDGE, COURT OF COMMON PLEAS,  
BLAIR COUNTY

April 26, 1989.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Norman D. Callan, Esquire, 900 Fifth Avenue, Altoona 16602, Blair County, Thirtieth Senatorial District, for appointment as Judge of the Court of Common Pleas of Blair County, to serve until the first Monday of January, 1990, vice The Honorable D. Brooks Smith, resigned.

ROBERT P. CASEY.

JUDGE, COURT OF COMMON PLEAS,  
ERIE COUNTY

June 2, 1989.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, John A. Bozza, Esquire, 3825 Sunset Boulevard, Erie 16504, Erie County, Forty-ninth Senatorial District, for appointment as Judge of the Court of Common Pleas of Erie County, to serve until the first Monday of January, 1990, vice The Honorable Richard Nygaard, resigned.

ROBERT P. CASEY.

JUDGE, COURT OF COMMON PLEAS,  
ERIE COUNTY

May 26, 1989.

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



In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, John R. Falcone, Esquire, 4614 Basin Circle, Erie 16509, Erie County, Forty-ninth Senatorial District, for appointment as Judge of the Court of Common Pleas of Erie County, to serve until the first Monday of January, 1990, vice The Honorable William E. Pfadt, mandatory retirement.

ROBERT P. CASEY.

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

#### QUESTION DIVIDED

Senator WILT. Mr. President, I would ask that Thompson J. McCullough, Judge, Court of Common Pleas, York County, be run separately.

The PRESIDENT. Senator Wilt has asked that the nomination of Thompson J. McCullough, Judge, Court of Common Pleas, York County, be considered separately.

On the question,  
Will the Senate advise and consent to the nomination of Thompson J. McCullough?

#### LEGISLATIVE LEAVES

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

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

Senator LOEPER. Mr. President, I would also ask for a temporary Capitol leave on behalf of Senator Greenwood who has been called to his office.

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

And the question recurring,  
Will the Senate advise and consent to the nomination?

Senator O'PAKE. Mr. President, I desire to interrogate the gentleman from Montgomery, Senator Greenleaf.

The PRESIDENT. Will the gentleman from Montgomery, Senator Greenleaf, permit himself to be interrogated?

Senator GREENLEAF. I will, Mr. President.

Senator O'PAKE. Mr. President, did this nominee have a hearing before the Senate Committee on Judiciary as to qualifications?

Senator GREENLEAF. No.

Senator O'PAKE. Is there any particular reason that he did not have a hearing as to qualifications?

Senator GREENLEAF. I do not believe it was referred to our committee.

Senator O'PAKE. I will reserve that question for somebody else. Was this nominee deemed qualified by the Senate Committee on Judiciary on a prior nomination several years ago?

Senator GREENLEAF. I do not remember. If you would let me check my records in my office, I could answer that. If

you are asking me off the top of my head, I do not remember several years ago whether we held a hearing on him or not.

Senator O'PAKE. In 1987, was this nominee confirmed by the Senate unanimously to serve as Judge of the Court of Common Pleas of York County?

Senator GREENLEAF. You may have the information yourself. I do not know why you are questioning me. If you have the information, then why do you not share it with the Senate? If the gentleman had let me know that he was going to interrogate me in regard to this, I would have gotten my records and looked up the history of the gentleman.

Senator O'PAKE. I am just trying to find out why there was no hearing, and your answer is, then, as I understand it, that it was never referred to the Committee on Judiciary by the Committee on Rules and Executive Nominations.

Senator GREENLEAF. I gave my answer. My answer is that it was not referred to my committee. That is what my answer was.

Senator O'PAKE. Mr. President, I desire to interrogate the gentleman from Delaware, Senator Loeper.

The PRESIDENT. Will the gentleman from Delaware, Senator Loeper, permit himself to be interrogated?

Senator LOEPER. I will, Mr. President.

Senator O'PAKE. Mr. President, in light of the long-standing Rule of the Senate, which I do not think has ever been violated, is there any reason why this nominee was not referred to the Senate Committee on Judiciary for a hearing as to qualifications?

Senator LOEPER. Mr. President, there have been various nominees who have been rereferred to certain committees for the purpose of a public hearing. My understanding is that this gentleman has not been.

Senator O'PAKE. Mr. President, my question is, why?

Senator LOEPER. Apparently, Mr. President, because in the time frame of the twenty-five legislative days, there had not been an opportunity, primarily because of the recent election, for that nominee to be rereferred for the purpose of a public hearing.

Senator O'PAKE. Mr. President, this nominee was before the Senate in 1987 and was unanimously approved by this Senate to sit as a Judge of the Court of Common Pleas of York County. It is now several months since the bench of York County has been short, as a result of the retirement of Judge Rauhauser. I think it is very clear that there is no reason, based on the qualifications, that this man should not be confirmed. The only reason, once again, is pure political partisan politics. I would suggest that we owe it to the voters of York County who are short one judge in their criminal justice system to confirm Mr. McCullough. There are seven months left in this year. If we do not confirm this nominee, it means that there will be seven months of undecided cases, backlogs unresolved and perhaps criminals going free. I think it is unfortunate that once again, the second day in a row, without any valid reason, the Majority is choosing to reject a nominee just because he happens to be a nominee who is a Democrat. Unfortunately, we cannot put together any accom-

modation here apparently, and that seems to be the reason why Mr. McCullough will go down to defeat, just as Mr. G. Davis Greene went down to defeat. I want to make that point for the record, and I hope in the very near future we will act responsibly and put the needs of the people first and have politics take a back seat.

Senator BELL. Mr. President, I desire to interrogate the gentleman from Berks, Senator O'Pake.

The PRESIDENT. Will the gentleman from Berks, Senator O'Pake, permit himself to be interrogated?

Senator O'PAKE. I will, Mr. President.

Senator BELL. Mr. President, did this nominee seek nomination in the spring primary of this year?

Senator O'PAKE. Mr. President, I believe he did.

Senator BELL. Mr. President, did he receive it or was he rejected by the people?

Senator O'PAKE. Mr. President, I think he was nominated.

Senator BELL. He was nominated, Mr. President?

Senator O'PAKE. Yes, Mr. President.

Senator HESS. First of all, I would like permission to offer the following statement for the record in order to save my colleagues time.

The PRESIDENT. The gentleman, without objection, will have his material inserted in the record at this point.

(The following prepared statement was made a part of the record at the request of the gentleman from York, Senator HESS:)

The York Daily Record has supported the Governor's nomination of Attorney Thompson McCullough to the York County Court of Common Pleas as a matter of editorial policy, and has inferred any opposition to Attorney McCullough is purely political. The newspaper has backed its own editorial conclusions by speculating about political deals involving judicial nominees from other counties, tying the vote to revenge for Senate Democrats defeat of Byron LeCates, and characterizing my stand as a move to deny Attorney McCullough the advantage of incumbency in the upcoming election campaign. I welcome an opportunity to set the record straight.

First, I challenge anyone to produce evidence that I have sought any "deal" on the McCullough nomination. Likewise, to his credit, neither Attorney McCullough, nor any of his supporters, have approached me with suggestions of a deal.

In the nineteen years I have had the privilege of serving in the Senate, I have never before voted against a nominee to fill a vacant elected office in York County. There have been nine previous nominations, both Democrats and Republicans, and I have supported them all. Senate Democrats, however, defeated four nominees because they were Republicans. I am not an extreme partisan, and I resent having my vote characterized as revenge. Let the record speak for itself.

As a Senator, I have a duty to vote on the Governor's nominations, and express the wishes of the people of York County. The Senate is not meant to rubber-stamp nominations, or the Constitution of Pennsylvania would not have provided for

Senate confirmation. My vote was arrived at after thoughtful consideration, and I will not cast it lightly or for partisan political reasons.

Attorney McCullough was appointed a judge in 1987, and no matter what excuses may be offered, was defeated by the voters of York County later the same year. This gives him the dubious distinction of being the only sitting judge in memory to be defeated by the voters of our county. I closely watched the recent primary election as a further indicator of the wishes of the people of York County. In the combined party primary vote in May, Attorney McCullough again came up short with fewer votes than his opponent.

Following the McCullough nomination, my office received the predictable contacts from partisans for and against confirmation. But what surprised me was the significant number of private citizens who telephoned, wrote letters, and personally spoke with me in opposition to the nomination—the first time this has occurred in all my years of service. It has greatly influenced my vote.

I am not convinced, in light of the record, that the people of York County want Attorney McCullough as their judge. This may be called politics by some, but when a majority of voters speak, it is also called democracy. I will not vote to install anyone as a judge in York County against the wishes of the people.

When the citizens of York County stand before a man or woman in black robes and ask for justice, it is a most humbling experience. Our Pennsylvania Constitution generally guarantees that the judge they face has first stood humbly before them as voters and won. Appointed judges should meet an equally high standard, and should not be confirmed when there is a legitimate doubt as to their standing with the people.

The voters of York County will have the final say on November 7 to determine who will sit on the bench. I await their decision on this matter, and politely suggest that the editorial writers likewise defer to the will of the majority.

Senator HESS. Mr. President, in answer to some of the questions to clarify the record for the gentleman from Berks, he said there is no reason based on qualifications. He also stated that the Senate in 1987 did unanimously confirm this nominee. Let the record show that the Committee on Judiciary in 1987 was told to confirm, and I repeat, told to confirm this individual or York County would have two vacancies until hell freezes over. I quote the gentleman from his statement on WSBA news, "There will be no vacancies filled in York County unless it is a one-for-one deal." The tape is available at WSBA. Now he says there is no reason based on qualifications. Never during these past twenty-five legislative days have I issued a statement regarding the individual because I do not like to get into individual personalities. I found myself caught between two value systems. I think the Governor has a right to his nominees. I am not like some newspapers in my district that say sometimes they do and sometimes they do not. You know, the President does not, but the Governor does. I try to be consistent. In the nine-

teen years that I have served here, there have been nine nominees, under Governor Shapp, Governor Thornburgh and Governor Casey, for appointments to elected offices where there was a vacancy. In all nine cases I voted "yes." It did not make some of the politicians happy in my own party, but I did. There were only four defeated of those nine. They were Republican judge candidates. I asked my Members not to block this nominee. I asked the Members of my caucus one question: If we as a Senate in 1987 agreed, in order to fill the vacancy, to put this gentleman on the bench, and the people of York County removed him from the bench—not the Senate, not any blocking move, not any Senator, the people did—do we have the right to force this person upon the people of York County when they said they do not want him? So you have one value system where you should agree to the Governor's appointees from your district. On the other hand, you have a value system, which some people like to call politics but I like to call democracy. Of course, maybe the two are intertwined, but only one sells newspapers. In my local paper the other day, they made a big deal out of this. They had a picture of the square in China, in Beijing, and it says, "Democracy on the Run." That is their headline. Let it be clear today, democracy on this side of the aisle, and I hope in the Senate, is not on the run. The people have spoken, and I have asked my colleagues if they agree that we should uphold the people's decision. If they believe we should, they will vote "no." If they believe we should not uphold the people's decision, they will vote "yes." It is that simple. Let us not make a big deal out of it. Either the people choose who is going to be judge, or we are going to choose. As I understand the Pennsylvania Constitution, in most cases we reserve that right for the people. When there is a vacancy, we do have a responsibility, but the highest standards must be met. Democracy is not on the run in the Senate today, but you will not see that headline tomorrow.

Senator GREENLEAF. Mr. President, I also would rise and as the gentleman from York, Senator Hess, has indicated in regard to the decisions that went through his mind in regard to this candidate, I would also like to remind the gentleman of the years past when people such as Lowell Reed were nominated for the Commonwealth Court, because we could not get him through this Chamber, and he was qualified. He is now a federal District Judge. I can remember Senator Zemprelli standing at that podium and saying we are voting against him, but he is qualified, but it is politics that we are voting him down. There were other judges from Montgomery County where there have been politics played with the Common Pleas Court Judges, we cannot get them confirmed because there were politics being played on the other side. I do not have the list with me, but if I knew this was coming up, I would have had an eight-page report on the numerous nominees that the Democratic side of this Chamber have voted down for politics. For them to accuse us that we are not supporting a nominee because of the politics of it is ironic if not hypocritical.

Senator MELLOW. Mr. President, I am very happy to hear the gentleman from Montgomery, Senator Greenleaf, state that we will not confirm a candidate today based on his merit or his qualification, a man who has served as a judge before, but we will not confirm him based on politics. It is clear, Mr. President, with the things that have taken place in this General Assembly and this Senate over the past two years, that a lot of good people have been defeated for confirmation in this Body based on politics. I think a clear indication was yesterday, Mr. President, when a gentleman who we had confirmed several years ago to serve as the State Treasurer of Pennsylvania was turned out of office and was not confirmed by this Senate, not based on merit or not based on consideration for the type of individual that Mr. Greene is, but based on politics. There is not any question, Mr. President, that we once again today are faced with the same consideration. I have no problem with that. To me that is not of that much concern. I think it is important, however, that we state the clear facts on the record, that the reason why Thompson McCullough is not going to be confirmed today as a judge in York County is purely and simply because he does not have the support of the Republican Members of the Senate in Pennsylvania. It has nothing to do at all, Mr. President, with the fact that the gentleman has been a candidate for public office before and has been defeated, because many fine Pennsylvanians have run for office, not only in this Chamber, Mr. President, but statewide, and they have found that the first several times they have run, they have been defeated. Mr. President, we really have to deal with the issue at hand. The issue at hand here has nothing whatsoever to do with the merit of the nominee. It has nothing whatsoever to do with the type of integrity the gentleman has or the way he has served the public in the past as a judge. It has to do with the fact, perhaps, that the gentleman has won the Democratic nomination and will be on the ballot this coming November as the Democratic candidate for judge. It has to do with the fact that he is not in favor with the Republican Members of this Pennsylvania State Senate. Based not on meritorious consideration, but purely and simply based on political consideration, as has been stated by Senator Greenleaf, we are defeating this individual and not giving him the opportunity of once again serving the people of York County as a judge. The gentleman from Berks, Senator O'Pake, has very capably stated that perhaps because of this particular nominee and this vacancy not being filled, there may be at least one criminal—and if it is only one criminal, what a shame it is on us—that will not be brought to justice because of an action taking place in this Senate this afternoon. Mr. President, that is absolutely intolerable.

#### LEGISLATIVE LEAVES

Senator BRIGHTBILL. Mr. President, I would like to ask for a legislative leave for Senator Madigan.

The PRESIDENT. Senator Brightbill asks for a legislative leave for Senator Madigan. The Chair hears no objection. That leave will be granted.

Senator MELLOW. Mr. President, I would like to request a temporary Capitol leave for Senator Williams.

The PRESIDENT. Senator Mellow requests a temporary Capitol leave for Senator Williams. There being no objection, that request will be granted as well.

And the question recurring,  
Will the Senate advise and consent to the nomination?

Senator HESS. Mr. President, in reply to the statement of the gentleman from Lackawanna, Senator Mellow, I just want to clarify one thing. When he was interpreting what the gentleman from Montgomery, Senator Greenleaf said and the anticipated action today, he said it had nothing to do with qualifications and it had nothing to do with the way the gentleman operated on the bench. If that is true about us here today, that is true about over 67,000 people in York County who went to the polls in 1987. They did not know anything. I guess Senator Mellow is saying they did not make a judgment based on his qualifications. I do not know, I could not talk to all of them, but I guess he is saying that. I guess he is saying they did not know anything about his qualifications or the way he operated or whatever. I certainly do not believe he means to say that the people of York County do not have the right and cannot make judgments when they enter the polling place based on a man's qualifications and how a man operated in office. Regarding the shortage, the president judge has stated that we have two senior judges serving fifteen days a month. Based on the average number of days that a judge normally serves, by gosh, we have more than a judge. That senior judge has been asked by this office to provide information regarding an additional judge. Let me say this. Based on my record, and there is not one person waiting to speak into the microphone over there or in this Chamber who would dare say—and back it up—that had any other person been nominated, I would have opposed them because they know it is not true.

Senator MELLOW. Mr. President, why do we not just categorize the issue and the discussion here for what it really is. I think that is a weak, feeble excuse for not confirming an individual that 67,000 people could not be wrong in a vote that took place in 1987. The truth of the matter is, for purely and simply political purposes, the gentleman from York County, in fact, does not want Mr. McCullough confirmed as judge today, perhaps because he may have the feeling that it may give him a foot up in the up-and-coming General Election in November. But to go ahead and to make the statements that have been made here by the gentleman in dealing with qualifications is nothing more than a weak, feeble excuse to try to justify his position and to be able to express the reason why to the news media later on today that the twenty-seven Members of the Republican caucus voted against the confirmation and the twenty-three Members of the Democratic caucus voted for it. Mr. President, I have had the opportunity of reading the columns that have appeared in the York Daily Record, the editorial comment that has appeared in favor of Thompson McCullough. After reading the comments that have appeared in this newspaper both on March 8, 1989 and on April 4,

1989, there is not any question in my mind that the man is eminently qualified, and the only reason why he will not be confirmed today is purely and simply because of political considerations. I think any other way that you try to express it, Mr. President, you are not fooling anyone except yourself.

Senator BELL. Mr. President, I have a bit of advice for the gentleman from Lackawanna County. If you believe the newspapers instead of the people, you are in trouble. I am very interested in this debate. I just learned today that a person who could go into the Governor's Office, get the door open and get nominated, he is not being political. That is news to me. I cannot even get the Governor to answer mail.

Senator O'PAKE. Mr. President, just to put this whole thing in its proper context, this nominee is the product of the merit screening system. This nominee was recommended not only by the Bar Association members of that commission but nonlawyers who reviewed the list of applicants and, much in the way that Governor Thornburgh did, submitted one of those to the Senate for confirmation. This nominee was confirmed by the Senate in 1987. Of course, at that time we were also confirming a Republican nominee to serve as judge. The fact remains that there has been a vacancy on this bench since December of 1988, and the only people we are punishing are the people of York County. They will decide in November who will occupy this seat on the bench come January of 1990. Mr. McCullough is the Democratic nominee and there is a Republican nominee. The people will speak as to who sits for the ten-year term which starts in 1990. The real question is, what are we going to do to protect the people's interest from now until January of 1990? This is the only nominee before us. Either we accept him or we reject him. I should point out that the Senator from Blair County has been very statesmanlike. Once the Democrat was nominated in the primary, we are going to confirm him now so the people of Blair County can be served by a judge in that period of time. I just do not want the stories to read that this man was rejected on any question of qualification by any means. This nominee is being rejected by the Republican Majority for one reason, and one reason alone, and that is politics.

And the question recurring,  
Will the Senate advise and consent to the nomination?

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

YEAS—23

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

NAYS—27

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

Less than a constitutional two-thirds majority having voted "aye," the question was determined in the negative.

Ordered, That the Governor be informed accordingly.

On the question,

Will the Senate advise and consent to the remainder of the nominations?

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

#### YEAS—50

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

#### NAYS—0

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

Ordered, That the Governor be informed accordingly.

#### EXECUTIVE SESSION RISES

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

The motion was agreed to.

#### CONSIDERATION OF CALENDAR RESUMED

##### THIRD CONSIDERATION CALENDAR

##### BILL REREPORTED FROM COMMITTEE AS AMENDED ON THIRD CONSIDERATION AND FINAL PASSAGE

**HB 75 (Pr. No. 2027)** — The Senate proceeded to consideration of the bill, entitled:

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

Considered the 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?

#### LEGISLATIVE LEAVE CANCELLED

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

And the question recurring,  
Shall the bill pass finally?

Senator LOEPER. Mr. President, very briefly, I would like to just take the opportunity, before we vote on House Bill No. 75, to extend my appreciation not only to the Members from the other side of the aisle who worked with us to try and fashion a bill that we believe to be a responsible bill, but also particularly to the gentleman from Butler, Senator Shaffer, and the gentleman from Lebanon, Senator Brightbill, on this side of the aisle, who worked very diligently to make sure that we had before us today an ethics bill that would not only reestablish the commission but really be a bill that is in the best interests of all Pennsylvanians.

Senator HESS. Mr. President, much has been said about ethics. As a matter of fact, there was even a sign under the dome down there that I thought very insulting to the Members of this Body and to the Body of the House and to those who serve in public office. Unfortunately, someone stole it before I had a chance. I also thought it was an insult to my mother and my father in their memory and to the parents of everyone in this Body. They taught me more values than any damn bill will ever do. I would just like to read a quote from an article that appeared in one of our local papers. It is by Dudley Fishburn who is a member of the British Parliament. I quote, "The sins of the world are many—many more than any code of ethics could seek to cover. The more 'ethics' are the outside voice of the public or the press rather than the inside one of the politician, the less ethical will be that politician's behavior."

And the question recurring,  
Shall the bill pass finally?

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

#### YEAS—50

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

#### NAYS—0

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

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

PREFERRED APPROPRIATION BILL ON  
THIRD CONSIDERATION AND FINAL PASSAGE

**SB 613 (Pr. No. 1226)** — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Department of Health for drug and alcohol programs.

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. If I might, Mr. President, I do have a few brief remarks to make concerning Senate Bill No. 613 which would provide \$6 million in unrestricted block grant funds to single county authorities for drug and alcohol treatment programs. These funds would be distributed on a per capita basis and would be used to provide treatment to individuals who normally would not be able to receive treatment due to lack of funds.

Single county authorities receive monies now, but not enough. What most counties receive is either restricted or requires a match. Senate Bill No. 613 would not burden the block grant funds it provides with any restrictions except that they be used for treatment in existing facilities for patients for whom funding would not otherwise be available. Both urban and rural county drug and alcohol administrators support this bill. Every single county authority has unmet needs.

Statewide over 5,000 people are on waiting lists to receive treatment. Many of these people have to wait anywhere from two to eight weeks to receive treatment, that is if they ever get treatment at all. Single county authorities need money now. By distributing the block grant funds provided by Senate Bill No. 613 on a per capita basis, we are using the quickest, the most efficient and fairest way to get these monies into desperately needed treatment programs.

Mr. President, my staff worked several months researching and preparing the anti-drug abuse legislative package of which this bill is a part. We talked to single county authority drug and alcohol administrators, and we listened to their concerns and their needs. Single county authorities do not need any new, creative or innovative programs for drug and alcohol treatment. Existing programs work. There just is not enough money to get people into them. They do not need any more categorical or encumbered funds that are available only for specific programs or populations of people. Single county authorities need unrestricted, unencumbered funds, funds that they can spend on programs and people where the need is the greatest and where funding is not available.

A situation that many single county authorities are forced into is applying for program grants they really do not need. For instance, money may be provided for a program for orphaned children with drug and alcohol problems. The counties may apply for this money, but it can only be spent to provide this specific service. County administrators feel compelled to apply for such a program even if they have no such

need in their particular county, since failure to apply may be interpreted by state administrators as a signal that more funding is not needed by the county.

As a result, Mr. President, counties may receive restricted funds they cannot use while undergoing shortages in other funding areas. Senate Bill No. 613 would give counties flexibility to spend the funds to meet their particular needs.

I know this is not a panacea for all of the drug and alcohol funding problems that county drug and alcohol administrators face. But it is a shot in the arm, and it is the type of unrestricted funds that provides counties with the flexibility they need to address their most desperate treatment needs.

Mr. President, this bill has wide bipartisan support. We are beginning to move a significant drug program through the Senate. Much came out of the Committee on Judiciary today. This is the first bill to reach the floor of the Senate, and I would hope that my colleagues would support this bill. Those 5,000 people waiting to receive treatment deserve to receive it, and they need our help. They need Senate Bill No. 613.

Senator JONES. Mr. President, I rise in support of this bill. I rise in support of it because, thanks to God, I was able to add an amendment to this bill that tends to take care of the situation of pregnant mothers, addicted mothers and their children. As you know, in the State of Pennsylvania we do not have adequate supervision for these people, and, therefore, for two years I have been trying to get the Senate to understand that problem. As of yesterday, I was able to get the amendment in, so I urge everybody in here to please vote for Senate Bill No. 613 because it contains my amendment, and it was an agreed upon amendment.

And the question recurring,

Shall the bill pass finally?

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

YEAS—50

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

NAYS—0

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

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

BILL OVER IN ORDER TEMPORARILY

**SB 252** — Without objection, the bill was passed over in its order temporarily at the request of Senator LOEPER.

**BILLS ON THIRD CONSIDERATION  
AND FINAL PASSAGE**

**SB 459 (Pr. No. 481)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of November 26, 1975 (P. L. 438, No. 124), entitled, as amended, "Child Protective Services Law," changing the definitions of "child abuse" and "sexual abuse"; adding a definition of "physical neglect"; and further providing for persons who are required to report child abuse and for taking children into protective custody.

Considered the third time and agreed to,

On the question,  
Shall the bill pass finally?

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

**YEAS—50**

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

**NAYS—0**

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

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

**SB 522 (Pr. No. 546)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, prohibiting unsolicited commercial telephone calls during certain hours.

Considered the third time and agreed to,

On the question,  
Shall the bill pass finally?

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

**YEAS—50**

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

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

**NAYS—0**

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

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

**SB 555 (Pr. No. 1095)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 13, 1967 (P. L. 31, No. 21), entitled "Public Welfare Code," further providing for payments for pharmaceutical services.

Considered the third time,

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

Senator FUMO, by unanimous consent, offered the following amendment No. A1499:

Amend Sec. 1 (Sec. 441.3), page 1, line 12, by inserting a period after "public  
Amend Sec. 1 (Sec. 441.3), page 1, line 13, by striking out "plus twenty-five cents (25¢)."

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

Senator FUMO. Mr. President, Senate Bill No. 555 is a costly bill to the Commonwealth, but one for which we recognize there is some need. There are many pharmacies in Pennsylvania, small operations, small business people attempting to serve the citizens of the Commonwealth as best they can with our various prescription drug programs. This bill would in some ways address their problems, and in some ways address their problems long into the future. It would also cost money, currently about \$4 million to the General Fund and \$9 million—and this is even more troubling—to the PACE program in the lottery system. Senior citizens are already concerned about the financial stability of the Lottery Fund, and rightfully so. We have seen various projections that show some very severe problems on the horizon, very soon on the horizon, for that fund unless we control costs. If we do not do that, we are in great jeopardy of hurting senior citizens. This bill, which costs senior citizens money, should be contained as much as possible. The amendment that I offer today deletes the extra 25 cents over and above the usual and customary costs. It would allow small pharmacies and those people who need the help most to be more than adequately taken care of. The people who would, I guess, be hurt the most by this amendment are the large chain pharmacies, such as Rite Aid and Thrift Drug and those various people who under this bill would reap a bonanza at the expense not only of the General Fund, but, more importantly, at the expense of senior citizen benefits. In essence, this bill would save the General Fund \$1.3 million and, more importantly, would save the PACE fund almost \$3 million. I remind you again, while doing this it

would not hurt the mom and pop small business operations and the pharmacies in Pennsylvania and would still give them a healthy increase. All it would do is it would take from the large chains the excessive windfall bonanza that they would reap under this bill and say enough is enough, you are making good money, let us not rape the system, and let us try to preserve as much money as we can in these two programs, particularly the senior citizen Lottery Fund. For those reasons, Mr. President, I ask for an affirmative vote on the amendment.

Senator RHOADES. Mr. President, I rise in opposition to the amendment. Part of this, as it was put together, was really to increase the fee from \$2.75 to \$3.50. I think what is addressed in the amendment is taking up the 25 cent fee above. That was issued, or became part of the issue, and was developed in 1984 and has been part of it, so there was no attempt to control that, really, just to increase the fee from \$2.75 to \$3.50. It is also my understanding that the 25 cents that we are addressing here has never really been paid by PACE on any of those contracts. It has been primarily paid by the Welfare Department, with about 10 million prescriptions at 25 cents would be \$2.5 million. It is also my understanding that not everyone participates in that program. What we are basically looking at here is more about the fee increase and maintaining the other parts that we have. I would ask for a negative vote.

Senator ANDREZESKI. Mr. President, I would like to speak out in favor of the amendment offered by the gentleman from Philadelphia, Senator Fumo. I would like to point out that the bill itself is well titled as an act amending the Public Welfare Code, and I think that is what we should keep it at. I think Senator Fumo's amendment would prevent this from being the corporate welfare code amendment. Specifically, I would like to reiterate the fact that without this amendment what we are providing is a tremendous amount of corporate welfare to Rite Aid Corporation and other very large drug companies that do have the lowest floors, the lowest possible costs in dealing in this area. In speaking out in support of this amendment, I think we have to, as Legislators, have some responsible reaction to responsible operators out there who have a legitimate claim on a price increase. To simply go and give a corporate welfare bill without this amendment would be against, in my opinion, what we were elected to come here and do, and that is to serve all of our constituents in a fair and equitable manner and not be bent over and systematically fleeced by some corporate lobbying attempt to enrich, or, perhaps, up the price of Rite Aid stock in the United States.

I would like to ask my colleagues to please think that we do have a reasonable compromise in looking at this bill, and that is the amendment offered by Senator Fumo. I think that reasonableness should be shown in an affirmative vote for this amendment rather than take the bill at face value, which, perhaps, should be retitled corporate welfare instead of public welfare.

Senator PETERSON. Mr. President, I desire to interrogate the gentleman from Philadelphia, Senator Fumo.

The PRESIDENT. Will the gentleman from Philadelphia, Senator Fumo, permit himself to be interrogated?

Senator FUMO. I will, Mr. President.

Senator PETERSON. Mr. President, one of the major concerns that you talked about was the \$9 million estimate on how it was going to cost the lottery. Would you explain how you calculated that figure?

Senator FUMO. Mr. President, that is a number agreed to by all four caucuses. It is not one which anyone debated. The Senate Republican staff also agreed to that fiscal note as did the House Republican and House Democratic staffs. Quite frankly, I, myself, at this point in time do not personally possess the expertise. But, if the gentleman wants me to, I have my staff here and we can talk through this whole process. I do want to assure him that it is an agreed-to process and the number is agreed to by all four caucuses.

Senator PETERSON. Mr. President, I did not receive that information from my caucus. But anyway, could you check with your staff? Are they figuring the number of items dispensed through the pharmacies times 75 cents? Is that how this came out to \$9 million? That is the figure I am told.

Senator FUMO. I am advised, Mr. President, that is the way in which you begin the process.

Senator PETERSON. Mr. President, if you will read on the front page of the bill, it says, "Payments for Pharmaceutical Services.—(a) Under no circumstances shall the provider be paid an amount that exceeds the usual and customary charge to the self-paying public plus twenty-five cents (\$.25)." I am not going to try to totally explain this formula because we would be here most of the afternoon on how this works. Most pharmacies do not receive a 75 cent increase. They receive what their average usual customary charge to the self-paying public is and that depends on what contracts they have, and the low usual average customary self-paying public charge is what they pay, plus 25 cents. So, only in a small portion of the cases does anyone generate a 75 cent fee increase. I am told that figuring that all through the PACE program at 75 cents would come out to about \$9 million, but probably about \$3.5 million to \$4 million would be a more realistic figure of actual cost to the lottery, if that much. I believe that the pharmacies in Pennsylvania are one of the lowest paid in the nation, and sooner or later in the Commonwealth we are going to have to realize that we cannot take care of all health care costs on the backs of the providers. We do it all the time. This bill which went through my committee, a lot of work has gone into it, a lot of negotiation, a lot of give and take. A fair compromise has been reached and I would urge to defeat the Fumo amendment.

Senator FUMO. Mr. President, it is not often that the four caucuses agree on the numbers, but in this particular instance they have. I will stand by those numbers and I will stand by the competence of the four executive directors. The numbers are clear as to what they cost. I think there were some other things that were said that have to be addressed with how this got into existence in the first place in 1984. Basically, it was a Thornburgh giveaway to Rite Aid in the beginning because



they did not like to have to charge their usual and customary cost. They wanted a little bump up and they got it. To perpetuate that kind of corporate welfare I think is unconscionable when it reaches into the pockets of needy senior citizens.

Mr. President, you should be advised as to how this works. You can take the \$3.50 or the usual and customary cost. What occurs is, with the large chains again, they make an awful lot of money on what is called the average wholesale price because of their large buying power. They put that in on the front end and now they are looking for the bonus on the back end. Most of the pharmacies, in our opinion, in Pennsylvania will probably be charging the \$3.50 number. The bigger ones will not be because their usual and customary costs are going to be below that. What we feel that this is in its current form is corporate giveaways, and not corporate giveaways to the small business people who are the majority of pharmacies in Pennsylvania, even though they may have set up a corporation, but a corporate giveaway to the big outfits like Rite Aid and the other ones like that that are milking the system. Their corporate stockholders are going to do very well whether they get this 25 cents or not. The people who are going to be hurting are senior citizens who are going to have to pay for this. It is unfair and unconscionable to ask those senior citizens—and these are not wealthy senior citizens, these are not just senior citizens that come under the cap that need this program—to tell them that there is a possibility that this fund could be bankrupt because we had to give some money to the corporate executives of Rite Aid. I think that is not fair. I regrettably have to charge that it is partisan. It is typical Republican politics. It was the Republican Senate Majority that originally wanted to raid the Lottery Fund in the first place, and it took a Democratic Governor, Bob Casey, to start to pay that money back. Now as it is being paid back, we find another corporate raid for big business. It is typical Republican big business politics. I understand it. We intend to battle it here today. We probably will not be successful because we do not have the numbers yet. But, fortunately, in the House of Representatives this bill will probably die, at least with these kinds of provisions in it. For the small pharmacy, with this amendment, it is a very good bill. It even has a CPI that protects them forever. The big guys, they do not like it. They are willing to spend their corporate money to come up here and try to foster their special interests. I do not often get too upset, especially when it is in the General Fund, but when you are going after the Lottery Fund that we have an obligation to protect for senior citizens, that the Republican Majority has already played so many games with, please stop it. On behalf of those senior citizens, give them a break. Rite Aid executives will make their corporate bonuses without this.

Senator BELL. Mr. President, I was not going to talk on this until the gentleman from Philadelphia talked about the lottery raids. You know, it is funny. I voted against those appropriation bills, and the gentleman from Philadelphia voted for them.

Senator FUMO. If I may, Mr. President, in response to the personal attack, I did it with a gun to my head to try and get the program started, too.

LEGISLATIVE LEAVES

Senator FUMO. Mr. President, I request temporary Capitol leave for Senator Mellow who has been called to his office.

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

Senator LOEPER. Mr. President, Senator Jubelirer and Senator Hess have been called from the floor and I would ask temporary Capitol leaves on their behalf.

The PRESIDENT. Senator Loeper requests temporary Capitol leaves for Senator Jubelirer and Senator Hess. The Chair hears no objection to those leaves. The leaves will be granted.

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

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

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

The PRESIDENT. The gentleman will be so recorded.

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

YEAS—23

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

NAYS—27

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

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

And the question recurring,  
Will the Senate agree to the bill on third consideration?  
It was agreed to.

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

On the question,  
Shall the bill pass finally?

Senator FUMO. Mr. President, I intend to vote "no" on the bill because I want to be consistent with my philosophy. I still feel the same way. It is a shame that I have to vote "no" because there are many mom and pop organizations that may be affected, although my vote is not going to be critical in this instance. I want to make it clear to those people who I believe need help that sometimes the cost of helping those people is too expensive when the process is polluted like this. I, therefore, must vote "no." I would like to ask my colleagues to

vote "no" for that reason and that reason only. I know this bill is not going anywhere in the House anyway, so perhaps the proper vote still should be "no."

Senator ANDREZESKI. Mr. President, this bill will raise the dispensing fee as much as 75 cents. I find it interesting that if you are on public assistance in Pennsylvania you could wait year in and year out and year in and year out, and you might get a small percentage increase. In one quick vote we are giving about a 20 percent plus increase to some corporations who happen to be in the drug business in this state. I think we have some responsibility to the PACE program, and we have some responsibility to the general budget. I would like to add that this is a dispensing fee. This is money above what they are getting for the wholesale cost of this drug. I simply cannot in good conscience tell my constituents that I am representing them when I vote for a corporate giveaway for corporations like Rite Aid to be able to come here and dictate what they think is their fair return, which, in my opinion, Mr. President, is nothing but taking the money from the taxpayers and the senior citizens of this state and blindly handing it over with no responsibility to a certain group of people who, in my opinion, at this time do not need it. So I will be voting in the negative on this, and I again urge my colleagues to join with me in standing up for those people whom we represent.

#### LEGISLATIVE LEAVES

Senator BRIGHTBILL. Mr. President, I would ask for Capitol leaves for Senator Hopper, Senator Greenleaf, Senator Shumaker, Senator Baker, Senator Armstrong and Senator Wilt.

The PRESIDENT. Senator Brightbill asks for temporary Capitol leaves for Senator Hopper, Senator Greenleaf, Senator Shumaker, Senator Baker, Senator Armstrong and Senator Wilt. The Chair hears no objection to the leave requests.

Senator FUMO. Mr. President, I would like to request temporary Capitol leaves for Senator Lewis, Senator Reibman, Senator Musto and Senator Ross. Senator Williams is already on leave, I believe.

The PRESIDENT. Senator Fumo requests temporary Capitol leave for Senator Lewis, Senator Reibman, Senator Musto and Senator Ross. The Chair hears no objection. The leaves will be granted.

And the question recurring,  
Shall the bill pass finally?

Senator PETERSON. Mr. President, this is going to be very brief. This is something that I thought of many times on the floor in dealing with issues such as we are dealing with today. I have been working on this bill in my committee for some time and one company's name has been mentioned here repeatedly. I guess we have immunity to do that, but I think it is very, very wrong. I have not dealt with the officials of that company and, in fact, I have never had one discussion with them on this bill, and I do not personally happen to know them. I think it is wrong for the Members of this Senate to degrade a company, to make those kinds of comments about

any company, about any business. I just think that has no place on the Senate floor to draw one company's name, or any company's name, into this kind of an issue and degrade them as if they are some sort of a recipient of our work. I think it is wrong and I do not think it should be tolerated. I think the Members of this Senate debate the issues, but I do not think there is any reason to bring a person's name in or a company's name in. I think it is very, very inappropriate.

Senator ANDREZESKI. Mr. President, in voting against this bill as it now stands, I would like to reiterate the point that one of the reasons I am voting against it is that I do not feel that a lot of the large corporations need this money. I would also like to state that I do not think it is wrong to name some of the corporations. I do not think it is wrong to name the Rite Aid Corporation as the company that is going to be a major recipient of up to millions of dollars in increased fees at the expense of the lottery program, at the expense of money that could have helped senior citizens and at the expense of taxpayers of this Commonwealth. I think a lot of times we just have to get the facts out on the table, and we should not be afraid to call the cards as they come up on the table. So, again, I would like to urge my colleagues to vote against this giveaway.

#### LEGISLATIVE LEAVE

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

The PRESIDENT. Senator Loeper asks for temporary Capitol leave for Senator Lemmond. The Chair hears no objection. That leave will be granted.

And the question recurring,  
Shall the bill pass finally?

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

#### YEAS—42

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

#### NAYS—8

Andrezeski	Fattah	Jones	Lynch
Belan	Fumo	Lincoln	Mellow

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

**HB 570** — Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILL ON THIRD CONSIDERATION  
AND FINAL PASSAGE

**SB 605 (Pr. No. 1149)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 25, 1919 (P. L. 581, No. 274), entitled "First Class City Government Law," further providing for duties of controller.

Considered the third time and agreed to,

On the question,  
Shall the bill pass finally?

## LEGISLATIVE LEAVES

Senator LINCOLN. Mr. President, I would request temporary Capitol leaves for Senator Jones and Senator O'Pake.

The PRESIDENT. Senator Lincoln requests temporary Capitol leaves for Senator Jones and Senator O'Pake. The Chair hears no objection. Those leaves will be granted.

And the question recurring,  
Shall the bill pass finally?

Senator FUMO. Mr. President, I rise to oppose Senate Bill No. 605. I have looked at it with great interest and noted the sponsorship. We then contacted the people in Philadelphia, Mr. John Smithyman, who is the current acting controller of the City of Philadelphia, who is as much a professional as there is anywhere in this Commonwealth in that role, non-political and never ran for office, never wants to run for office. We asked him for his comments on this bill and he was quite distressed that anyone would ever even try to request pre-audit functions over the school district of Philadelphia, as well as all of the other areas that are being requested. His position is, and I have to agree, that a pre-audit function of that area would only slow up the process of moving through expenditures. There would be an unbelievable cost involved and it would also be very wasteful. Mr. Smithyman also advised us that with regard to the post-audit function of the school district, he has found, and they have found consistently over the years, that the school district's own internal auditors are doing an exemplary job at pre-audit functions and sees no need for this. There is also a great degree of concern that I have when the bill talks about stretching the pre-audit function, basically to any board or authority where the mayor has any sort of appointment. It seems to me that he is talking about the fact that the city controller, under this bill, would have the authority to audit nonprofit entities that gave the mayor an appointment that do not even use city monies, do not even use public funds. The mere fact that the mayor would have an appointment all of a sudden under this power grab, the city controller would have the authority to reach out and audit. Mr. President, I recognize the political motivation, and I am not shy when it comes to politics, but this is a blatant political grab. This is an attempt by the candi-

date for the office, from what I can see, to expand powers before you would ever get into the office, if he ever got into the office. If it were law, it would only allow for harassment and silly partisan bickering if you did have that situation. Even if you did not have different parties, it would allow for political bickering between the city controller and the Executive Branch of government over every issue and every expenditure to stop checks for political gain, to go into the independent authorities for the first time and stop checks for political gain. This is a political game that we are trying to allow people to function here. This is probably one of the most crass acts I have ever seen in my career, to try and enhance the power of an office you are running for so you can get a little bit more power. I am particularly impressed when I look at the fact that "authority" on line 11 has been crossed out and the word "power" has been inserted. I guess that is for someone's ego. It does not say that he will have the authority to audit, he will have the power to audit the school district. I have heard many debates on this floor, partisan in nature, concerning the Philadelphia School system and its superintendent. I have watched, almost ashamed, as my Republican colleagues from the city have lambasted that district and attempted to cost it money. I have been very sad to have to go back and tell Philadelphia constituents that because of that attitude their taxes almost went up. But this takes the cake. Mr. President, I do not think we should be a party to this kind of power grab, although I recognize the Republican Majority has to do a lot of things to save face for some of the deals they may have made in the past, so this will probably pass. Again, I am sure it will die in the House, but it really should not have even gotten to the floor of this Senate. I think it cheapens the integrity of the Senate.

Senator ROCKS. Mr. President, I have no intention of prolonging a debate over this legislation but maybe to deal in some fact rather than the rhetoric that precedes it. I have long advocated a pre-audit function for the School District of Philadelphia. I would like for my colleagues to put it in some perspective since most of the money that you will make judgment upon, particularly in the school funding area of this year's budget between now and the 30th of the month, is going to be considered in the context of Philadelphia. I would like to give you its perspective. First of all, no one has pre-audit power of a school district whose budget today is \$1.2 billion. Secondly, in spite of my colleague's insistence on somehow casting this completely in the context of the politics of Philadelphia, I am hard pressed to understand his continued defense of what are the well known inefficiencies of a first-class county of this Commonwealth. The very school district that this bill would give, finally, someone pre-audit power over, has today a \$427 million deficit that they have admitted to. That is a serious problem for this Commonwealth. It is a very serious problem for any taxpayer in the City of Philadelphia.

Thirdly, in spite of the description that may have been given to the other part of this bill dealing with authorities for its commissions and agencies, yes, Mr. President, nonprofits, where they would spend city monies, you should know that in

a city whose budget is \$1.9 billion a year, those other agencies, authorities, boards and commissions spend \$1.7 billion a year themselves. They have incurred at the same time about \$1.7 billion also in short-term debt that is backed by the City of Philadelphia that many believe today is on the very brink of fiscal collapse. Those are serious issues, and this is a serious piece of legislation. I make no apology to my colleague from Philadelphia for what may be his concern over what my role may be as a candidate as I am here serving in this Senate, representing people from Philadelphia, and also for a position in this, regarding pre-audit power that is long overdue. It existed in Philadelphia until 1967 and was only eliminated during the last charter change. As far as the reference to Mr. Smithyman is concerned, I agree, he is a skilled professional who is the acting controller right now of Philadelphia. I have been very much in dialogue with Jack Smithyman. It is curious to me that my colleague would not be aware that Jack Smithyman has threatened to sue the sitting administration over their denial to him to audit the Parking Authority of the City of Philadelphia. This legislation would take that concern away for the acting controller of the first-class city of this Commonwealth. It is needed. I want to thank my colleagues for their consideration and ask them for their support.

#### LEGISLATIVE LEAVE

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

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

And the question recurring,  
Shall the bill pass finally?

Senator FUMO. Mr. President, I am very interested in the remarks of the gentleman from Philadelphia for a number of reasons, one of which he says he has long advocated this position. I remember when he was a Democrat, he never told me about it. I do not remember him ever introducing a bill like this until all of a sudden he became a candidate for the office. I do not know how long he has advocated this. I guess yesterday morning is long enough or maybe, let us see, it was introduced on February 21st, that is right about the time he decided to be a candidate. I do not know how long it has been, and you cannot deny political partisan reasons by saying you long advocated something when you never did anything about it. All of a sudden the City of Philadelphia has these huge problems for the gentleman from Philadelphia, ever since he switched from Democrat to Republican. He did not have those problems when he sat on this side of the aisle. I cannot believe that much occurred under that simple switch. When we talk about all the other agencies that he talks about that use city monies, Mr. President, he does not talk about that in the bill. The only thing he says in the bill is that the power to audit any authority or corporate entity of which one or more of its members are appointed by the mayor, and which performs government functions for a first-class city. Governmental functions are an extremely broad definition. Nowhere

in this bill does he talk about the expenditure of public monies. He just talks about corporate entities where the mayor may have one or more appointments. We know what that is about. The gentleman probably has fantasies of after he becomes controller, if, in fact, he ever would, and I do not think he will, maybe that is a step up to being mayor and he can harass the mayor.

#### POINT OF ORDER

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

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

Senator LOEPER. Mr. President, I believe that the gentleman from Philadelphia has gone far afield in making personal insinuations and attacks. I would ask that be ruled out of order.

The PRESIDENT. The Chair thanks the gentleman for his point of order and must, regretfully, agree with the gentleman and would instruct the gentleman from Philadelphia to be more discreet in his comments.

Senator FUMO. Mr. President, I will try to be. It is very difficult to contain myself when I see things like this occur in the Senate. Mr. President, the gentleman talks about a \$427 million deficit at the school district. That did not happen because somebody did not have pre-audit functions. That happened because that district tries to educate children. Part of the reason that happened is because the gentleman consistently battles against his own district here on the floor. He votes to hurt his district, votes not to give it money. That does not happen for that reason, Mr. President. Pre-audit function is not going to stop a \$427 million deficit. Working for his district will.

Finally, in closing, I listened to the gentleman say how he is serving here in the Senate of Pennsylvania and representing the people of Philadelphia. They are his words, not mine. I have to take issue with that. I have to take issue with that when he tries to use this process politically by trying to put something through like this, and, quite frankly, Mr. President, I doubt if the gentleman would be serving here today if he decided to run as a Republican in that district. He did, and he continues to do what he does, on a fraudulent basis.

#### POINT OF ORDER

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

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

Senator LOEPER. Mr. President, once again, the gentleman is just conducting a personal attack upon the motives of a Member, and I think it is totally out of order.

The PRESIDENT. The Chair finds that the gentleman is, in fact, questioning the motivation of the author of the bill, and finds that his remarks are, in fact, out of order. The Chair also assumes that the gentleman has completed his comments.

Senator FUMO. Mr. President, I am sorry.

The PRESIDENT. The Chair had assumed that you had finished your comments.

Senator FUMO. Mr. President, I had not. I just wanted to say I thought that it was always proper to look at the motivation for a sponsor of a bill. I mean, that is why you interrogate them, that is why you ask them why they wrote the bill that way. I do not know if there is anything wrong with that. All I did was comment on the gentleman's remarks that he made in defense of the bill. I may have gone a little far afield in my disgust over his political switching and the way in which he did it, and for that I would have to apologize.

The PRESIDENT. The Chair thanks the gentleman for his comments and he is wandering far afield again.

POINT OF ORDER

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

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

Senator BELL. Mr. President, I was just raising another point of order that the gentleman was getting in deeper with his insinuations in violation of the Rules, and suggest that if one continues to violate, he can be held in contempt of the Chamber.

The PRESIDENT. The Chair thanks the gentleman for all of his comments.

Senator FUMO. Mr. President, I will apologize for losing my cool a little bit, as it is in the vernacular, but it is just that I raised so much money for his campaign that I feel betrayed.

LEGISLATIVE LEAVE CANCELLED

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

And the question recurring,  
Shall the bill pass finally?

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

YEAS—27

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

NAYS—23

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

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

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

BILL ON THIRD CONSIDERATION AMENDED

SB 640 (Pr. No. 683) — The Senate proceeded to consideration of the bill, entitled:

An Act authorizing the Department of Environmental Resources to acquire and develop abandoned railroad rights-of-way for public recreational trail use; requiring the Department of Transportation to coordinate certain acquisitions of rights-of-way with the Department of Environmental Resources; providing a limitation on the liability of persons who provide property for public recreational trail use; and making an appropriation.

Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

Senator LOEPER, on behalf of Senator GREENLEAF, by unanimous consent, offered the following amendment No. A1748:

Amend Sec. 2, page 1, by inserting between lines 17 and 18:

"Abandoned railroad right-of-way." Any railroad right-of-way that is proposed or approved for abandonment before the Interstate Commerce Commission.

Amend Bill, page 2, lines 5 through 30; page 3, lines 1 through 13, by striking out all of said lines on said pages and inserting:

Section 4. Acquisition of land.

(a) Acquisition.—The department is authorized to acquire pursuant to sections 1902-A and 1906-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, fee simple absolute title or any lesser interest in land, including easements and leaseholds, for the development purposes of the Pennsylvania Rails-to-Trails Program as provided in this section.

(b) Abandoned railroads.—The department is authorized to participate in abandonment proceedings with the Interstate Commerce Commission for the purposes of acquiring abandoned railroads for use as interim trails or railbanking as set forth in section 8(d) of the National Trails System Act (Public Law 90-543, 16 U.S.C. § 1247(d)).

(c) Acceptance of title.—For purposes of the Pennsylvania Rails-to-Trails Program, the department or municipalities may by gift or purchase:

(1) Accept title, including nonmarketable title, to abandoned railroad rights-of-way and to any areas abutting the rights-of-way which are needed for the construction of trail-user support facilities.

(2) Accept title to abandoned railroad rights-of-way conveyed by quitclaim deed or warranty deed.

(d) Time limit.—Acquisition proceedings must be initiated within five years of the commencement of the abandonment proceeding.

(e) Easements over land acquired.—Easements and rights-of-way upon, over, under, across or along any land, the fee title of which has been acquired by the department, may be granted by the department so long as the use of the easement or right-of-way does not interfere with the purposes of this act.

(f) Transfer of trails to local governmental agencies.—The department may transfer its interest in any recreational trail or portion thereof to a local governmental agency or agencies having jurisdiction over the area in which the recreational trail is located for recreational purposes in a manner consistent with department rules and regulations.

Section 5. Powers and duties of Environmental Quality Board.

The Environmental Quality Board shall promulgate all rules and regulations necessary to effectively carry out the purposes of this act, including rules and regulations relating to acquisition, development and use of recreational trails.

Section 6. Powers and duties of department.

The department shall:

Amend Sec. 5, page 3, line 14, by striking out "(2)" and inserting: (1)

Amend Sec. 5, page 3, line 17, by striking out "(3)" and inserting: (2)

Amend Sec. 5, page 3, line 21, by striking out "(4)" and inserting: (3)

Amend Sec. 6, page 4, line 24, by striking out "6" and inserting: 7

Amend Sec. 6, page 5, line 16, by removing the period after "Transportation" and inserting: to the extent authorized by law.

Amend Sec. 6, page 5, by inserting between lines 26 and 27:

(d) Future disposal.—If the Department of Transportation determines that an abandoned railroad right-of-way it owns is no longer needed by the Department of Transportation for present or future transportation uses, nothing in this act shall prevent the department from disposing of that property in accordance with its own procedures or applicable Commonwealth laws. Prior to disposing of the property, the Department of Transportation shall first notify the department.

Amend Sec. 7, page 5, line 27, by striking out "7" and inserting: 8

Amend Sec. 7, page 5, lines 29 and 30; page 6, lines 1 through 19, by striking out all of said lines on said pages and inserting:

(a) General rule.—Except as specifically recognized or provided in subsection (d), an owner or lessee who provides the public with land for use as a trail under this act or who owns land adjoining any trail developed under this act owes no duty of care to keep the land safe for entry or use by others for recreational purposes, or to give any warning to persons entering or going on that trail land of a dangerous condition, use, structure or activity thereon.

(b) Owner.—Any person, public agency, or corporation owning an interest in land utilized for recreational trail purposes pursuant to this act shall be an "owner" for purposes of the act of February 2, 1966 (1965 P.L.1860, No.586), entitled "An act encouraging landowners to make land and water areas available to the public for recreational purposes by limiting liability in connection therewith, and repealing certain acts."

(c) Specific limitations on liability.—Except as specifically recognized by or provided in subsection (d), an owner or lessee who provides the public with land under this act shall not, by providing that trail or land:

(1) be presumed to extend any assurance that the land is safe for any purpose;

(2) incur any duty of care toward a person who goes on that land; or

(3) become liable for any injury to persons or property caused by an act or an act of omission of a person who goes on that land.

(d) Exception.—

(1) This section shall not apply if there is any charge made or usually made for entering or using the trail or land, or any part thereof, or if any commercial or other activity whereby profit is derived from the patronage of the general public is conducted on the land, or on any part thereof.

(2) Nothing in this act limits in any way any liability which otherwise exists for willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity.

Amend Sec. 8, page 6, line 20, by striking out "8" and inserting: 9

Amend Sec. 9, page 7, line 1, by striking out "9" and inserting: 10

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.

#### BILLS OVER IN ORDER

**SB 730 and 735** — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

#### BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

**SB 784 (Pr. No. 1156)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 15, 1986 (P. L. 1610, No. 181), entitled "Rabies Prevention and Control in Domestic Animals and Wildlife Act," providing for additional powers and duties of the Department of Agriculture, for the establishment of a rabies hotline and for the purchase of antirabies vaccines and supplies; and making an appropriation.

Considered the third time and agreed to,

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

On the question,

Shall the bill pass finally?

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

#### YEAS—50

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

#### NAYS—0

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

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

**SB 787 (Pr. No. 867)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, establishing an additional class of criminal homicide known as homicide by abuse.

Considered the third time and agreed to,

On the question,

Shall the bill pass finally?

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

## YEAS—50

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

## NAYS—0

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

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

## BILLS OVER IN ORDER

**SB 875 and 935** — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

## SECOND CONSIDERATION CALENDAR

## BILL OVER IN ORDER

**HB 22** — Without objection, the bill was passed over in its order at the request of Senator LOEPER.

## BILLS ON SECOND CONSIDERATION

**SB 123 (Pr. No. 123)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 14, 1972 (P. L. 233, No. 64), entitled "The Controlled Substance, Drug, Device and Cosmetic Act," further providing for schedules of controlled substances; adding an offense; and providing a penalty.

Considered the second time and agreed to,

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

**SB 287 (Pr. No. 294)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 71 (State Government) of the Pennsylvania Consolidated Statutes, authorizing creditable service for certain persons who were justices of the peace.

Considered the second time and agreed to,

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

**SB 340 (Pr. No. 729)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, providing for computer recorder message calls.

Considered the second time and agreed to,

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

## BILLS OVER IN ORDER

**SB 364 and 373** — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

## BILLS ON SECOND CONSIDERATION

**SB 405 (Pr. No. 418)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), entitled "Public School Code of 1949," further providing for background checks of prospective employees; and providing for termination of the employment of employees convicted of certain offenses.

Considered the second time and agreed to,

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

**SB 483 (Pr. No. 1172)** — The Senate proceeded to consideration of the bill, entitled:

An Act establishing a drunk driving victim's bill of rights; and providing civil penalties and remedies.

Considered the second time and agreed to,

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

## BILLS OVER IN ORDER

**SB 515, 516, 517, 518, 519, 520 and 614** — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

## BILL ON SECOND CONSIDERATION

**SB 699 (Pr. No. 762)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), entitled "Public School Code of 1949," permitting sign language to be taught in public schools as an elective course.

Considered the second time and agreed to,

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

## BILL OVER IN ORDER

**SB 732** — Without objection, the bill was passed over in its order at the request of Senator LOEPER.

## BILL ON SECOND CONSIDERATION

**SB 742 (Pr. No. 1014)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of August 9, 1955 (P. L. 323, No. 130), entitled, "The County Code," further regulating contracts and purchases as to bids and advertising.

Considered the second time and agreed to,

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

## BILLS OVER IN ORDER

**SB 764, 775 and 866** — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

## BILL REREFERRED

**SB 943 (Pr. No. 1072)** — The Senate proceeded to consideration of the bill, entitled:

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

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

## BILL ON SECOND CONSIDERATION

**SB 967 (Pr. No. 1171)** — The Senate proceeded to consideration of the bill, entitled:

An Act authorizing the Department of Environmental Resources to defend, indemnify and hold harmless the Consolidated Rail Corporation in actions arising under the acceptance of a certain railroad line.

Considered the second time and agreed to,

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

## SB 252 CALLED UP

**SB 252 (Pr. No. 259)** — 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 ON THIRD CONSIDERATION AMENDED

**SB 252 (Pr. No. 259)** — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), entitled "Public School Code of 1949," further providing for property tax assessment in certain school districts.

Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

Senator LINCOLN, on behalf of Senator PORTERFIELD, by unanimous consent, offered the following amendment No. A1847:

Amend Sec. 1 (Sec. 677.1), page 2, line 1, by inserting brackets before and after "reassess" and inserting immediately thereafter: assess

Amend Sec. 1 (Sec. 677.1), page 2, line 5, by inserting brackets before and after "reassessments" and inserting immediately thereafter: change in the assessed valuation

Amend Sec. 1 (Sec. 677.1), page 2, line 9, by inserting brackets before and after "reassessed" and inserting immediately thereafter: assessed

Amend Sec. 1 (Sec. 677.1), page 2, line 12, by inserting after "the" where it appears the second time: next succeeding

Amend Sec. 1 (Sec. 677.1), page 2, line 14, by inserting after "furnished": monthly

On the question,

Will the Senate agree to the amendment?

It was agreed to.

Without objection, the bill, as amended, was passed over in its order at the request of Senator LINCOLN.

## UNFINISHED BUSINESS

## REPORTS FROM COMMITTEES

Senator FISHER, from the Committee on Environmental Resources and Energy, reported the following bills:

**SB 811 (Pr. No. 891)**

An Act making an appropriation to the Department of Environmental Resources for allocation to the Bureau of Topographic and Geologic Survey to conduct coal-related research.

**SB 814 (Pr. No. 1234) (Amended)**

An Act amending the act of May 31, 1945 (P. L. 1198, No. 418), entitled, as amended, "Surface Mining Conservation and Reclamation Act," extending the Emergency Bond Fund to anthracite surface mines; and making an appropriation.

**SB 1052 (Pr. No. 1238) (Amended)**

An Act encouraging the use of alternative motor fuels; providing for acquisition of State-owned vehicles which operate on alternative motor fuels; providing for powers and duties of the Department of General Services and the Pennsylvania Energy Office; and establishing a State Government Task Force on Alternative Motor Fuels.

**HB 52 (Pr. No. 2053) (Amended)**

An Act amending the act of January 24, 1966 (1965 P. L. 1535, No. 537), known as the "Pennsylvania Sewage Facilities Act," further providing for the Advisory Committee; further providing for the approval of certain plans, for permits, for the powers and duties of local agencies, the certification board, the Environmental Quality Board and the department; and reestablishing the State Board for Certification of Sewage Enforcement Officers pursuant to the Sunset Act.

**HB 210 (Pr. No. 236)**

An Act designating the lake at Little Buffalo State Park, Perry County, as Holman Lake.

**HB 439 (Pr. No. 1855)**

An Act amending the act of June 22, 1937 (P. L. 1987, No. 394), known as "The Clean Streams Law," providing that permits shall not be required for certain sewer extensions.

Senator ROCKS, from the Committee on Intergovernmental Affairs, reported the following bills:

**SB 972 (Pr. No. 1118)**

An Act designating the Province of Taiwan, Republic of China, as a "sister state."

**HB 571 (Pr. No. 1566)**

An Act designating February 16 of each year as "Lithuanian Independence Day."

Senator GREENLEAF, from the Committee on Judiciary, reported the following bills:

**SB 369 (Pr. No. 382)**

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, changing the penalty for incest.

**SB 566 (Pr. No. 604)**



An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, prohibiting the procuring of children for the purpose of sexual exploitation; and imposing a penalty.

**SB 588 (Pr. No. 626)**

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing certain immunity to individuals and organizations dealing with juveniles.

**SB 615 (Pr. No. 1239) (Amended)**

An Act making an appropriation to the Juvenile Court Judges' Commission for special drug and alcohol units for juvenile drug offenders.

**SB 617 (Pr. No. 659)**

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for participation of parent, guardian or other custodian in treatment program.

**SB 618 (Pr. No. 660)**

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for a cause of action by parent, guardian or other custodian of a child to whom controlled substances have been sold or transferred.

**SB 621 (Pr. No. 1235) (Amended)**

An Act establishing a drug treatment and rehabilitation and academic and vocational program for youthful and juvenile offenders in the Department of Corrections; and making an appropriation.

**SB 622 (Pr. No. 1236) (Amended)**

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for drug treatment and rehabilitation for certain persons involved in drug-related offenses.

**SB 623 (Pr. No. 665)**

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, providing for improper fortification of real property.

**SB 624 (Pr. No. 1237) (Amended)**

An Act amending the act of April 14, 1972 (P. L. 233, No. 64), entitled "The Controlled Substance, Drug, Device and Cosmetic Act," further defining "drug paraphernalia"; and further providing for prohibited acts and penalties.

### RESOLUTIONS REPORTED FROM COMMITTEES

Senator FISHER, from the Committee on Environmental Resources and Energy, reported the following resolution:

**HR 29 (Pr. No. 2054) (Amended)**

Directing the Pennsylvania Energy Office to study and report upon existing and proposed technologies to prevent pollutional discharges through the design of effective hydraulic seals and the related development of underground coal mines.

Senator ROCKS, from the Committee on Intergovernmental Affairs, reported the following resolutions:

**SR 6 (Pr. No. 254)**

A Resolution memorializing Congress not to modify the Stagers Rail Act of 1980.

**SR 7 (Pr. No. 255)**

A Resolution supporting "glasnost" and the emigration of Soviet Jews and Christians.

**SR 39 (Pr. No. 786)**

A Resolution memorializing Congress to expand the criteria for Medicaid reimbursement of the cost of Community Living Arrangements for persons who have autism.

**SR 44 (Pr. No. 859)**

A Resolution memorializing Congress to demonstrate its support for allowing states to provide Medicaid-reimbursed community-based programs to people with developmental disabilities who live with their families, in their own homes or in small, family-scale environments by passage of S. 384, the Medicaid Home and Community Quality Services Act of 1989.

Senator GREENLEAF, from the Committee on Judiciary, reported the following resolution:

**SR 78 (Pr. No. 1225)**

A Resolution memorializing Governor Robert P. Casey to give the highest priority to the construction of State prisons.

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

### SENATE RESOLUTION

#### DESIGNATING THE MONTH OF JUNE 1989 AS "HEARTWORM DISEASE AWARENESS MONTH"

Senators SHAFFER, AFFLERBACH, HELFRICK, SHUMAKER, SALVATORE, BELAN, LYNCH and ANDREZESKI offered the following resolution (*Senate Resolution No. 80*), which was read, considered and adopted:

In the Senate, June 13, 1989.

#### A RESOLUTION

Designating the month of June 1989 as "Heartworm Disease Awareness Month."

WHEREAS, Canine Heartworm Disease has become a major pet health problem, killing or debilitating thousands of dogs each year; and

WHEREAS, This disease, transmitted by mosquitoes, was once restricted to those areas with heavy mosquito populations; however, in recent years, cases have been reported as far west as California, as far north as Canada, and in other places throughout the United States; and

WHEREAS, This serious problem continues to grow and spread; therefore be it

RESOLVED, That the Senate of Pennsylvania designate June 1989 as "Heartworm Disease Awareness Month."

**CONGRATULATORY RESOLUTIONS**

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

Congratulations of the Senate were extended to Mary Ethel Craig by Senator Dawida.

Congratulations of the Senate were extended to Alice Z. Creager by Senator Hopper.

Congratulations of the Senate were extended to the Kingsley Civic Club by Senator Lemmond.

Congratulations of the Senate were extended to Janelle D'Aurizio, Billy Reinhert and to the Knights of Columbus of St. Charles Borremo Council of Bensalem by Senator Lewis.

Congratulations of the Senate were extended to Edward Harold Zeigler by Senator Rhoades.

Congratulations of the Senate were extended to Mr. and Mrs. George W. Herman, Samuel Langford Lester, Jr., Janet McVey, Detective Michael John Smith, Corporal Robert Joseph Mahady and to Edward F. Miller by Senator Shumaker.

Congratulations of the Senate were extended to Leila Cannon, Harvey Artis, Louise Boyle, Levick Brechman, Albert Calmbah, Hazel Carter, Fannie Clark, Sarah Curtis, Mary Dowding, Louisa Eckstine, Julia Faulkner, Pantelimon Golowalienko, George Hazette, Ella Kleine, Lea Landare, Mary Lewandowski, Gert Meyers, Lucy Philips, Ella Rantz, Mayra Reed, Anna Robinson, Carmen Russo, Lillian Sheeler, Thomas Spear, Mary Troiani, Sarah Williams and to Hattie Wilson by Senator Williams.

**BILLS ON FIRST CONSIDERATION**

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

The motion was agreed to.

The bills were as follows:

**SB 254, 369, 485, 486, 566, 588, 615, 617, 618, 620, 621, 622, 623, 624, 703, 811, 814, 872, 963, 972, 1009, 1010, 1011, 1025, 1052, HB 52, 210, 439, 506, 571 and 691.**

And said bills having been considered for the first time,

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

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

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

**MEMBER OF THE CHILDREN'S  
TRUST FUND BOARD**

June 13, 1989.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Carmen R. Anderson, 5081 Rosecrest Drive, Pittsburgh 15201, Allegheny County, Thirty-eighth Senatorial District, for appointment as a member of the Children's Trust Fund Board, to serve for a term of three years, and until her successor is appointed and qualified, pursuant to Act 151, approved December 15, 1988.

ROBERT P. CASEY.

**MEMBER OF THE CHILDREN'S  
TRUST FUND BOARD**

June 13, 1989.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Donna R. Bennett, R. D. 4, Box 48, Franklin Road, Towanda 18848, Bradford County, Twenty-third Senatorial District, for appointment as a member of the Children's Trust Fund Board, to serve for a term of two years, and until her successor is appointed and qualified, pursuant to Act 151, approved December 15, 1988.

ROBERT P. CASEY.

**MEMBER OF THE CHILDREN'S  
TRUST FUND BOARD**

June 13, 1989.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Paul S. DeLorenzo, 3404 Vaux Street, Philadelphia 19129, Philadelphia County, Seventh Senatorial District, for appointment as a member of the Children's Trust Fund Board, to serve for a term of one year, and until his successor is appointed and qualified, pursuant to Act 151, approved December 15, 1988.

ROBERT P. CASEY.

**MEMBER OF THE CHILDREN'S  
TRUST FUND BOARD**

June 13, 1989.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Susan Kelly-Dreiss, 906 Front Street, Hershey 17033, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Children's Trust Fund Board, to serve for a term of one year, and until her successor is appointed and qualified, pursuant to Act 151, approved December 15, 1988.

ROBERT P. CASEY.

**MEMBER OF THE CHILDREN'S  
TRUST FUND BOARD**

June 13, 1989.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Reverend Debra L. Moody, 4228 D Heathrow Court, Harrisburg 17109, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Children's Trust Fund Board, to serve for a term of two years, and until her successor is appointed and qualified, pursuant to Act 151, approved December 15, 1988.

ROBERT P. CASEY.

MEMBER OF THE CHILDREN'S  
TRUST FUND BOARD

June 13, 1989.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Alice Tuohy O'Shea, Esquire, 602 Washington Square South, Philadelphia 19106, Philadelphia County, First Senatorial District, for appointment as a member of the Children's Trust Fund Board, to serve for a term of three years, and until her successor is appointed and qualified, pursuant to Act 151, approved December 15, 1988.

ROBERT P. CASEY.

MEMBER OF THE CHILDREN'S  
TRUST FUND BOARD

June 13, 1989.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Margaret McAndrew Petruska, 1853 Graham Boulevard, Pittsburgh 15235, Allegheny County, Thirty-eighth Senatorial District, for appointment as a member of the Children's Trust Fund Board, to serve for a term of one year, and until her successor is appointed and qualified, pursuant to Act 151, approved December 15, 1988.

ROBERT P. CASEY.

MEMBER OF THE CHILDREN'S  
TRUST FUND BOARD

June 13, 1989.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, John M. Pierce, Ph.D., R. D. 1, Box 210A, Annville 17003-9711, Lebanon County, Forty-eighth Senatorial District, for appointment as a member of the Children's Trust Fund Board, to serve for a term of three years, and until his successor is appointed and qualified, pursuant to Act 151, approved December 15, 1988.

ROBERT P. CASEY.

MEMBER OF THE CHILDREN'S  
TRUST FUND BOARD

June 13, 1989.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Kathleen L. Rodgers, 376 Ben Avon Street, Meadville 16335, Crawford County, Fiftieth Senatorial District, for appointment as a member of the Children's Trust Fund Board, to serve for a term of two years, and until her successor is appointed and qualified, pursuant to Act 151, approved December 15, 1988.

ROBERT P. CASEY.

### BILL SIGNED

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

**HB 50.**

### ANNOUNCEMENTS BY THE SECRETARY

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

#### SENATE OF PENNSYLVANIA

#### COMMITTEE MEETINGS

WEDNESDAY, JUNE 14, 1989

Off the Floor	RULES AND EXECUTIVE NOMINATIONS (to consider certain executive nominations)	Rules Committee Conference Room
10:00 A.M.	TRANSPORTATION (to consider Senate Bills No. 680, 682 and 961 and House Bills No. 121, 331 and 338)	Room 8E-B, Hearing Room, East Wing
10:30 A.M.	PUBLIC HEALTH AND WELFARE (to consider Senate Bill No. 451)	Room 461, 4th Floor Conference Room, North Wing
1:00 P.M.	LAW AND JUSTICE (Public hearing on Senate Bill No. 815)	Room 8E-B, Hearing Room, East Wing

### ADJOURNMENT

Senator LOEPER. Mr. President, I move the Senate do now adjourn until Wednesday June 14, 1989, at 12:00 o'clock noon, Eastern Daylight Saving Time.

The motion was agreed to.

The Senate adjourned at 6:20 p.m., Eastern Daylight Saving Time.