

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

MONDAY, NOVEMBER 23, 1987

SESSION OF 1987 171ST OF THE GENERAL ASSEMBLY

No. 75

HOUSE OF REPRESENTATIVES

The House convened at 1 p.m., e.s.t.

THE SPEAKER (K. LEROY IRVIS) IN THE CHAIR

PRAYER

REV. DR. DAVID R. HOOVER, chaplain of the House of Representatives, from McConnellsburg, Pennsylvania, offered the following prayer:

Our Father in heaven, we humbly pray that Thou wilt keep us as *the apple of Thine eye*, that Thou wilt regard us as a pearl of great price, and that Thou wilt recognize us as the gem of Thy creation so that we may never drift far from Thy sustaining and abundant love, so that we may always reach out to Thee for the counsel and guidance which Thou hast to give, and so that we may forever rest in the confidence and assurance of Thy blessed benediction and care. O God, challenge us to bring forth in word and deed that which is acceptable and pleasing unto Thee, forever and ever, world without end. Amen.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was delivered by members and visitors.)

JOURNALS APPROVED

The SPEAKER. The Journals for Friday, September 18, 1987, and Wednesday, October 14, 1987, are in print. Unless the Chair hears objection thereto, the Chair will order them approved as printed. The Chair hears no such objection.

JOURNAL APPROVAL POSTPONED

The SPEAKER. However, the Chair is informed that the Journal for Wednesday, November 18, 1987, is not yet in print. Approval of that Journal will be delayed until the Journal is in print, and the Chair hears no objection.

LEAVES OF ABSENCE

The SPEAKER. The Chair recognizes the gentleman from Lawrence, Mr. Fee. Do you have any requests for leaves for this week?

Mr. FEE. Yes, Mr. Speaker. The gentleman from Philadelphia, Mr. HOWLETT, for today, and the gentleman from Philadelphia, Mr. WIGGINS, for today.

The SPEAKER. The leaves are granted, absenting objection. The Chair hears no objection.

The Chair recognizes the minority whip. Do you have requests?

Mr. HAYES. Yes. Thank you, Mr. Speaker.

I request a leave for the gentleman from York County, Mr. FOSTER, for the day; the gentleman from Lancaster County, Mr. SCHEETZ, for the day; the gentleman from Delaware County, Mr. Bob WRIGHT, for the day; and the gentleman from Dauphin County, Mr. DININNI, for the week.

The SPEAKER. The leaves are granted, absenting objection. The Chair hears no objection.

ANNOUNCEMENT BY SPEAKER

The SPEAKER. The members will probably not know this but it came to the attention of the Chair that Mr. Foster's father died Friday, and that is the reason Mr. Foster has asked for leave of absence.

HOUSE BILLS INTRODUCED AND REFERRED

No. 1988 By Representatives MANDERINO, IRVIS, COY, DALEY, LETTERMAN, JADLOWIEC, CAWLEY, TIGUE, STABACK, BELARDI, PUNT, SERAFINI, DOMBROWSKI, FEE, GEORGE, BUSH, PRESTON, DUFFY, MRKONIC, SEVENTY, MORRIS, McCALL, SWEET and CLARK

An Act appropriating money from the Sunny Day Fund to the Department of Commerce for various projects through this Commonwealth for fiscal year 1987-1988.

Referred to Committee on APPROPRIATIONS, November 23, 1987.

No. 1989 By Representatives HARPER, YANDRISSEVITS, RUDY, TRELLO, COHEN, CAPPABIANCA, BLAUM, TIGUE, RICHARDSON, ACOSTA, HUGHES, WIGGINS, KITCHEN, CARN, EVANS and HAYDEN

An Act amending the act of May 29, 1956 (1955 P. L. 1840, No. 610), known as the "Water Well Drillers License Act," requiring the filling or sealing of abandoned wells.

Referred to Committee on CONSERVATION, November 23, 1987.

No. 1990 By Representatives VEON, KUKOVICH, KOSINSKI, BLAUM, MORRIS, PUNT, McHALE, JOHNSON, REBER, CORRIGAN, PRESSMANN, TRELLO, MELIO, BELARDI, STABACK and ITKIN

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), known as the "Public School Code of 1949," prohibiting the strip searching of pupils in public schools; and providing a penalty.

Referred to Committee on EDUCATION, November 23, 1987.

No. 1991 By Representatives MICHLOVIC, MRKONIC, VAN HORNE, DAWIDA, BOOK, MURPHY, LEVDANSKY, PRESTON, CESSAR, LANGTRY, McVERRY, FARMER, GAMBLE, COWELL, DeLUCA, MARKOSEK, SEVENTY, OLASZ and ITKIN

An Act amending the act of July 28, 1953 (P. L. 723, No. 230), known as the "Second Class County Code," authorizing the issuance of memorial certificates to the next-of-kin of deceased service persons in lieu of placing upright flag holders on the graves of deceased service persons; and further providing for the board of managers of the soldiers' memorial hall.

Referred to Committee on MILITARY AND VETERANS AFFAIRS, November 23, 1987.

No. 1992 By Representatives SWEET, DeVERTER, DAWIDA, WAMBACH, REINARD, PICCOLA, MURPHY, TRUMAN, VROON, G. SNYDER, GANNON and MOWERY

An Act amending the act of November 26, 1978 (P. L. 1188, No. 280), known as the "Life and Health Insurance Guaranty Association Act," further providing for certain assessments on insurance companies.

Referred to Committee on INSURANCE, November 23, 1987.

No. 1993 By Representatives STUBAN, SWEET, DUFFY, FOSTER and NAHILL

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for the filling of a vacancy in the office of jury commissioner.

Referred to Committee on JUDICIARY, November 23, 1987.

SENATE BILLS FOR CONCURRENCE

The clerk of the Senate, being introduced, presented the following bills for concurrence:

SB 347, PN 1039

Referred to Committee on APPROPRIATIONS, November 23, 1987.

SB 610, PN 1596

Referred to Committee on CONSERVATION, November 23, 1987.

SB 646, PN 1424

Referred to Committee on JUDICIARY, November 23, 1987.

SB 884, PN 1584

Referred to Committee on JUDICIARY, November 23, 1987.

SB 886, PN 1515

Referred to Committee on JUDICIARY, November 23, 1987.

SB 947, PN 1598

Referred to Committee on BUSINESS AND COMMERCE, November 23, 1987.

SB 1049, PN 1597

Referred to Committee on TRANSPORTATION, November 23, 1987.

SB 1057, PN 1608

Referred to Committee on STATE GOVERNMENT, November 23, 1987.

SB 1058, PN 1603

Referred to Committee on STATE GOVERNMENT, November 23, 1987.

SB 1060, PN 1604

Referred to Committee on STATE GOVERNMENT, November 23, 1987.

SB 1061, PN 1605

Referred to Committee on STATE GOVERNMENT, November 23, 1987.

SB 1062, PN 1606

Referred to Committee on STATE GOVERNMENT, November 23, 1987.

SB 1063, PN 1560

Referred to Committee on STATE GOVERNMENT, November 23, 1987.

SB 1064, PN 1607

Referred to Committee on STATE GOVERNMENT, November 23, 1987.

SB 1107, PN 1480

Referred to Committee on FINANCE, November 23, 1987.

LEAVE OF ABSENCE

The SPEAKER. The Chair recognizes the minority whip. Why do you rise?

Mr. HAYES. Mr. Speaker, if you would please return to requests for leaves of absence.

The SPEAKER. We have returned. You may request.

Mr. HAYES. Thank you, Mr. Speaker.

I would like to add to the list of leaves of absence the gentleman from Delaware County, Mr. MICOZZIE, for the week.

The SPEAKER. Mr. Micozzie is excused. The Chair thanks the gentleman.

ACTUARIAL NOTES

The SPEAKER. The Chair acknowledges receipt of the actuarial note for HB 1291 and the actuarial note for HB 1785, which the clerk will file.

(Copies of actuarial notes are on file with the Journal clerk.)

BILLS REMOVED FROM TABLE

The SPEAKER. The Chair recognizes the majority leader.

Mr. MANDERINO. Mr. Speaker, I move that the following bills be lifted from the tabled calendar and placed on the active calendar:

- HB 1088;
- HB 1728;
- HB 1729;
- HB 1734;
- HB 1907;
- HB 1908; and
- HB 1952.

On the question,
Will the House agree to the motion?
Motion was agreed to.

BILLS REPORTED FROM COMMITTEE, CONSIDERED FIRST TIME, AND TABLED

HB 30, PN 33 By Rep. MRKONIC

An Act providing for the waiver of tuition at certain colleges and universities for certain veterans and their dependent children.

MILITARY AND VETERANS AFFAIRS.

HB 134, PN 143 By Rep. MRKONIC

An Act amending Title 71 (State Government) of the Pennsylvania Consolidated Statutes, changing provisions relating to purchase of military service.

MILITARY AND VETERANS AFFAIRS.

HB 1323, PN 1527 By Rep. MRKONIC

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, further providing for eligibility for tuition credits.

MILITARY AND VETERANS AFFAIRS.

HB 1683, PN 2093 By Rep. MRKONIC

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), known as "The Administrative Code of 1929," further providing for the payment of gratuities to children of certain veterans.

MILITARY AND VETERANS AFFAIRS.

SB 613, PN 678 By Rep. MRKONIC

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), entitled "The Administrative Code of 1929," permitting former prisoners of war to use certain State park camping facilities free of charge.

MILITARY AND VETERANS AFFAIRS.

SB 873, PN 1261 By Rep. MRKONIC

An Act amending the act of October 11, 1972 (P. L. 899, No. 213), entitled "An act providing scholarships for certain dependents of members of the armed services who while on active duty are taken as prisoners of war or are reported missing in action and making an appropriation," further providing for eligible dependents; increasing the maximum academic year grant; making an appropriation; and providing for funding of grants.

MILITARY AND VETERANS AFFAIRS.

RESOLUTION REPORTED FROM COMMITTEE

SR 80, PN 1546 (Concurrent)

By Rep. MRKONIC

A Concurrent Resolution memorializing the United States Army and the United States Marine Corps to correct improper identification of Franklin J. Phillips on official records.

MILITARY AND VETERANS AFFAIRS.

MASTER ROLL CALL

The SPEAKER. The Speaker is about to take the master roll call for the day. Members will proceed to vote on the master roll.

The following roll call was recorded:

PRESENT—196

Acosta	Dombrowski	Langtry	Reinard
Angstadt	Donatucci	Lashingier	Richardson
Argall	Dorr	Laughlin	Rieger
Arty	Duffy	Leh	Ritter
Baldwin	Durham	Lescovitz	Robbins
Barley	Evans	Letterman	Roebuck
Battisto	Fargo	Levdansky	Rudy
Belardi	Farmer	Linton	Ryan
Belfanti	Fattah	Livengood	Rybak
Billow	Fee	Lloyd	Saloom
Birmelin	Fischer	Lucyk	Saurman
Black	Flick	McCall	Schuler
Blaum	Fox	McClatchy	Semmel
Book	Freeman	McHale	Serafini
Bortner	Freind	McVerry	Seventy
Bowley	Gallen	Maiale	Showers
Bowser	Gamble	Maine	Sirianni
Boyes	Gannon	Manderino	Smith, B.
Brandt	Geist	Manmiller	Smith, S. H.
Broujos	George	Markosek	Snyder, D. W.
Bunt	Gladeck	Mayernik	Snyder, G.
Burd	Godshall	Melio	Staback
Burns	Gruitza	Merry	Stairs
Bush	Gruppo	Michlovic	Steighner

Caltagirone	Hagarty	Miller	Stevens
Cappabianca	Haluska	Moehlmann	Stuban
Carlson	Harper	Morris	Sweet
Carn	Hasay	Mowery	Taylor, E. Z.
Cawley	Hayden	Mrkonc	Taylor, F.
Cessar	Hayes	Murphy	Taylor, J.
Chadwick	Heckler	Nahill	Telek
Civera	Herman	Noye	Tigue
Clark	Hershey	O'Brien	Trello
Clymer	Hess	O'Donnell	Truman
Cohen	Honaman	Olasz	Van Horne
Colafella	Hughes	Oliver	Veon
Cole	Hutchinson	Perzel	Vroon
Cornell	Itkin	Petrarca	Wambach
Corrigan	Jackson	Petrone	Wass
Cowell	Jadlowiec	Phillips	Weston
Coy	Jarolin	Piccola	Wilson
DeLuca	Johnson	Pievsky	Wogan
DeVerter	Josephs	Pistella	Wozniak
DeWeese	Kasunic	Pitts	Wright, D. R.
Daley	Kennedy	Pressmann	Wright, J. L.
Davies	Kenney	Preston	Yandrisevits
Dawida	Kitchen	Punt	
Dempsey	Kosinski	Raymond	Irvis,
Dietterick	Kukovich	Reber	Speaker
Distler	LaGrotta		

ADDITIONS—0

NOT VOTING—0

EXCUSED—7

Dininni	Howlett	Scheetz	Wright, R. C.
Foster	Micozzie	Wiggins	

LEAVES ADDED—3

Manderino	Sweet	Irvis,
		Speaker

CALENDAR

BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **SB 1082, PN 1550**, entitled:

An Act amending the act of July 22, 1974 (P. L. 598, No. 206), entitled "Pennsylvania Minority Business Development Authority Act," providing for designees for legislative members; providing for removal from membership on the board; and reestablishing the agency.

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

BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.
Mr. MANDERINO. Mr. Speaker, I move that SB 1082 be recommitted for a fiscal note to the Committee on Appropriations.

On the question,
Will the House agree to the motion?
Motion was agreed to.

* * *

The House proceeded to second consideration of **HB 802, PN 2485**, entitled:

An Act amending 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," clarifying the lands to which the act is applicable; and further providing for immunity relating to sports, playground, and certain pleasure-driving use of property, and for the immunity of the Commonwealth and its political subdivisions.

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

BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.
Mr. MANDERINO. Mr. Speaker, I move that HB 802 be recommitted for a fiscal note to the Committee on Appropriations.

On the question,
Will the House agree to the motion?
Motion was agreed to.

* * *

The House proceeded to second consideration of **HB 1209, PN 1381**, entitled:

An Act to promote and encourage the protection, preservation and conservation of locally designated scenic roads.

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

BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.
Mr. MANDERINO. Mr. Speaker, I move that HB 1209 be recommitted for a fiscal note to the Committee on Appropriations.

On the question,
Will the House agree to the motion?
Motion was agreed to.

* * *

The House proceeded to second consideration of **HB 1899, PN 2409**, entitled:

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

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

BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.
Mr. MANDERINO. Mr. Speaker, I move that HB 1899 be recommitted for a fiscal note to the Committee on Appropriations.

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

Motion was agreed to.

* * *

The House proceeded to second consideration of **SB 321, PN 921**, entitled:

An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, providing for inspection of highway crossing safety devices by railroads or carriers.

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

BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.
Mr. MANDERINO. Mr. Speaker, I move that SB 321 be recommitted for a fiscal note to the Committee on Appropriations.

On the question,
Will the House agree to the motion?
Motion was agreed to.

* * *

The following bills, having been called up, were considered for the second time and agreed to, and ordered transcribed for third consideration:

HB 721, PN 780; and HB 1057, PN 1167.

* * *

The House proceeded to second consideration of **HB 1571, PN 1874**, entitled:

An Act amending the act of February 1, 1974 (P. L. 34, No. 15), known as the "Pennsylvania Municipal Retirement Law," further providing for the payment of administrative expenses.

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

BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.
Mr. MANDERINO. Mr. Speaker, I move that HB 1571 be recommitted for a fiscal note to the Committee on Appropriations.

On the question,
Will the House agree to the motion?
Motion was agreed to.

* * *

The House proceeded to second consideration of **HB 1707, PN 2117**, entitled:

An Act protecting the health and welfare of the citizens of this Commonwealth by regulating the siting of commercial volume reduction facilities.

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

BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.
Mr. MANDERINO. Mr. Speaker, I move that HB 1707 be recommitted for a fiscal note to the Committee on Appropriations.

On the question,
Will the House agree to the motion?
Motion was agreed to.

WELCOMES

The SPEAKER. We are pleased to welcome to the hall of the House the wife of a newly elected district attorney. Corry Stevens is the newly elected district attorney, and his wife, Joyce, is to the left of the Speaker. Will you please rise, Joyce. Welcome to the hall of the House.

Bob Donatucci and the Philadelphia delegation have as their guest here a judge of the Philadelphia Traffic Court, Dominic Cermele. Welcome to the hall of the House, Your Honor.

BILL ON FINAL PASSAGE POSTPONED

The House proceeded to consideration on final passage postponed of **HB 146, PN 2258**, entitled:

An Act regulating motor vehicle rustproofing; and providing remedies.

On the question recurring,
Shall the bill pass finally?

DECISION OF CHAIR RESCINDED

The SPEAKER. Without objection, the Chair rescinds its statement that the bill has been agreed to on third consideration as amended. The Chair hears no objection.

On the question recurring,
Will the House agree to the bill on third consideration as amended?

Mr. LLOYD offered the following amendment No. A3609:

Amend Bill, page 1, lines 5 through 17; pages 2 through 4, lines 1 through 30; page 5, line 1, by striking out all of said lines on said pages and inserting

Section 1. Duty to inform.

(a) General rule.—Whenever a motor vehicle dealer offers to rustproof a motor vehicle which he is offering for sale at retail, the motor vehicle dealer shall:

(1) inform the person who is buying the vehicle that rustproofing by the dealer is optional; and

(2) inform that person if the vehicle has been rustproofed by the manufacturer and what, if any, manufacturer's warranty is applicable to that rustproofing.

(b) Exception.—Subsection (a) shall not be applicable and a motor vehicle dealer shall have no duty to inform a person pursuant to subsection (a) if the motor vehicle dealer rustproofed a motor vehicle before offering it for sale to that person.

Section 2. Violations.

A violation of section 1 shall be deemed a violation of the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law.

Section 3. Attorney General.

(a) Enforcement.—The Attorney General is authorized to enforce this act.

(b) Regulations.—The Attorney General may adopt such regulations as may be necessary for the enforcement and administration of this act.

Section 4. Private actions preserved.

Nothing in this act shall prohibit any private actions authorized by any other provisions of law.

Section 5. Nonapplicability.

This act shall not be applicable to any motor vehicle which has been rustproofed by a motor vehicle dealer prior to the effective date of this act.

Section 6. Effective date.

This act shall take effect in 180 days.

On the question,

Will the House agree to the amendment?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Somerset, Mr. Lloyd.

Mr. LLOYD. Thank you, Mr. Speaker.

Mr. Speaker, when this legislation was considered before, there were substantial objections. Mr. Ryan led the opposition to the legislation. The amendment which we are now considering is a compromise which he and Mr. Bunt have indicated to me will eliminate their objections. Basically, the amendment guts the bill and substitutes the language which is before you.

Under this language, it would work the following way: If I go to a dealer to buy a car and he has already rustproofed it, he does absolutely nothing, and this bill puts on him no burden whatsoever. That was the primary objection before. We have removed all of that. If he has not already rustproofed it and he wants to offer to sell that to me, he has to tell me two things: One, if you do not want it, I will not do it; secondly, if the manufacturer has already done it, here is what the manufacturer has done and how long it is supposed to last. Finally, we have postponed the effective date for 180 days, and we have also specifically said that with any car which is rustproofed, regardless of the circumstances, before that 180 days, this bill does not apply.

This is an attempt to respond to all of the objections, and I would ask for an affirmative vote on the amendment.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—192

Acosta	Distler	Langtry	Reinard
Angstadt	Dombrowski	Lashingier	Richardson
Argall	Donatucci	Laughlin	Rieger
Arty	Dorr	Leh	Ritter
Baldwin	Duffy	Lescovitz	Robbins
Barley	Durham	Letterman	Roebuck
Battisto	Evans	Levdansky	Rudy
Belardi	Fargo	Linton	Ryan
Belfanti	Farmer	Livengood	Rybak
Billow	Fee	Lloyd	Saloom
Birmelin	Fischer	Lucyk	Saurman
Black	Flick	McCall	Schuler
Blaum	Fox	McClatchy	Semmel
Book	Freeman	McHale	Serafini
Bortner	Freind	McVerry	Seventy
Bowley	Gamble	Maiale	Showers

Bowser	Gannon	Maine	Sirianni
Boyes	Geist	Manderino	Smith, B.
Brandt	George	Manmiller	Smith, S. H.
Broujos	Gladeck	Markosek	Snyder, D. W.
Bunt	Godshall	Mayernik	Snyder, G.
Burd	Gruitza	Melio	Staback
Burns	Gruppo	Merry	Stairs
Bush	Hagarty	Michlovic	Steighner
Caltagirone	Haluska	Miller	Stevens
Cappabianca	Harper	Moehlmann	Stuban
Carlson	Hasay	Morris	Sweet
Carn	Hayden	Mowery	Taylor, E. Z.
Cawley	Hayes	Mrkonik	Taylor, F.
Cessar	Heckler	Murphy	Taylor, J.
Chadwick	Herman	Nahill	Telek
Civera	Hershey	Noye	Tigue
Clark	Hess	O'Brien	Trello
Clymer	Honaman	O'Donnell	Van Horne
Cohen	Hughes	Olasz	Veon
Colafella	Hutchinson	Oliver	Vroon
Cole	Itkin	Perzel	Wambach
Cornell	Jackson	Petrarca	Wass
Corrigan	Jadlowiec	Petrone	Weston
Cowell	Jarolin	Phillips	Wilson
Coy	Johnson	Piccola	Wogan
DeLuca	Josephs	Pievsky	Wozniak
DeVerter	Kasunic	Pistella	Wright, D. R.
DeWeese	Kennedy	Pitts	Wright, J. L.
Daley	Kenney	Pressmann	Yandrisevits
Davies	Kitchen	Preston	
Dawida	Kosinski	Punt	Irvis,
Dempsey	Kukovich	Raymond	Speaker
Dieterick	LaGrotta		

NAYS—1

Gallen

NOT VOTING—3

Fattah

Reber

Truman

EXCUSED—7

Dininni
Foster

Howlett
Micozzie

Scheetz
Wiggins

Wright, R. C.

The question was determined in the affirmative, and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

YEAS—178

Acosta	Dombrowski	Laughlin	Reinard
Angstadt	Donatucci	Leh	Richardson
Argall	Duffy	Lescovitz	Rieger
Arty	Durham	Letterman	Ritter
Baldwin	Evans	Levdansky	Roebuck
Barley	Farmer	Linton	Rudy
Battisto	Fattah	Livengood	Ryan
Belardi	Fee	Lloyd	Rybak
Belfanti	Fischer	Lucyk	Saloom
Billow	Fox	McCall	Saurman
Black	Freeman	McClatchy	Schuler
Blaum	Freind	McHale	Semmel
Book	Gamble	McVerry	Serafini
Bortner	Gannon	Maiale	Seventy

Bowley	Geist	Maine	Showers
Boyes	George	Manderino	Sirianni
Brandt	Gladeck	Manmiller	Smith, B.
Broujos	Gruitza	Markosek	Snyder, D. W.
Bunt	Gruppo	Mayernik	Snyder, G.
Burd	Hagarty	Melio	Staback
Burns	Haluska	Merry	Stairs
Bush	Harper	Michlovic	Steighner
Caltagirone	Hasay	Miller	Stevens
Cappabianca	Hayden	Morris	Stuban
Carlson	Hayes	Mowery	Sweet
Carn	Heckler	Mrkonic	Taylor, E. Z.
Cawley	Herman	Murphy	Taylor, F.
Cessar	Hershey	Nahill	Taylor, J.
Chadwick	Hess	Noye	Telek
Civera	Honaman	O'Brien	Tigue
Clark	Hughes	O'Donnell	Trello
Clymer	Hutchinson	Olasz	Van Horne
Cohen	Itkin	Oliver	Veon
Colafella	Jackson	Perzel	Wambach
Cole	Jarolin	Petrarca	Wass
Cornell	Johnson	Petrone	Weston
Corrigan	Josephs	Phillips	Wilson
Cowell	Kasunic	Piccola	Wogan
Coy	Kennedy	Pievsy	Wozniak
DeLuca	Kenney	Pistella	Wright, D. R.
DeWeese	Kitchen	Pitts	Wright, J. L.
Daley	Kosinski	Pressmann	Yandrisevits
Davies	Kukovich	Preston	
Dawida	LaGrotta	Raymond	Irvis,
Dempsey	Lashingner	Reber	Speaker

NAYS—17

Birmelin	Dorr	Godshall	Punt
Bowser	Fargo	Jadlowiec	Robbins
DeVerter	Flick	Langtry	Smith, S. H.
Dietterick	Gallen	Moehlmann	Vroon
Distler			

NOT VOTING—1

Truman

EXCUSED—7

Dininni	Howlett	Scheetz	Wright, R. C.
Foster	Micozzie	Wiggins	

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

BILLS ON THIRD CONSIDERATION

The SPEAKER. You will have to bear with us this afternoon. We are going to have to hop around. We have run out of clear bills. We do have two amendments for SB 426, but we also will be waiting for four more. Let us see if we can take care of the two amendments we have.

The Chair recognizes the minority leader.

Mr. RYAN. Mr. Speaker, I listened to your remarks. Our Mr. Gannon also has an amendment being ordered. I do not know whether that was one on your list.

The SPEAKER. Yes; I have on the list Kosinski, Moehlmann, Hagarty, Gannon, Mayernik, and DeWeese. The only amendments we have now are Kosinski's and Mayernik's. We will take those up, and then we will go on from there, and hopefully we can get some of the other amendments down here.

Is the gentleman from Philadelphia, Mr. Kosinski, offering an amendment?

Mr. KOSINSKI. Not yet, Mr. Speaker. There seems to be some confusion. The amendment I am going to offer is A4309.

The SPEAKER. Is it to SB 426?

Mr. KOSINSKI. Yes. All the other amendments I am going to withdraw, but we are trying to work something out now, Mr. Speaker. I was just approached a few minutes ago about some possible compromise.

The SPEAKER. All right. Then we will go over it temporarily and give you a chance to work on it.

Mr. KOSINSKI. Thank you, Mr. Speaker.

BILLS REPORTED FROM COMMITTEE, CONSIDERED FIRST TIME, AND TABLED

HB 389, PN 422 By Rep. TRELLO

An Act amending the act of December 1, 1977 (P. L. 237, No. 76), known as the "Local Economic Revitalization Tax Assistance Act," adding provisions relating to new construction in deteriorated areas.

FINANCE.

HB 1658, PN 2068 By Rep. TRELLO

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), known as the "Tax Reform Code of 1971," providing for an increase in the discount rate for collecting tax.

FINANCE.

HB 1782, PN 2534 (Amended)

By Rep. TRELLO

An Act amending the act of July 3, 1986 (P. L. 351, No. 81), entitled "An act amending the act of July 7, 1947 (P. L. 1368, No. 542), entitled, as amended, 'An act amending, revising and consolidating the laws relating to delinquent county, city, except of the first and second class and second class A, borough, town, township, school district, except of the first class and school districts within cities of the second class A, and institution districts taxes, providing when, how and upon what property, and to what extent liens shall be allowed for such taxes, the return and entering of claims therefor; * * *; and repealing existing laws,' * * *; and making editorial changes," extending the time limit on provisions relating to extension of the redemption period.

FINANCE.

HB 1825, PN 2278 By Rep. TRELLO

An Act amending the act of April 9, 1929 (P. L. 343, No. 176), known as "The Fiscal Code," further providing for requisitions out of any fund in the State Treasury.

FINANCE.

RECESS

The SPEAKER. The regular session of the House will stand in recess subject to the call of the Chair.

AFTER RECESS

The time of recess having expired, the House was called to order.

ANNOUNCEMENT BY SPEAKER

The SPEAKER. When we leave here today, we will be in session tomorrow morning at 10 o'clock. That would start an hour earlier, and hopefully we will be able to get you on the road home an hour before our regular routine departure. Tomorrow when we start—we are not through here today; do not get up and leave—but tomorrow when we start, we will start at 10 o'clock instead of 11 o'clock.

**FEDERAL-STATE RELATIONS
COMMITTEE MEETING**

The SPEAKER. The Chair recognizes the gentleman from Adams, Mr. Cole.

Mr. COLE. Thank you, Mr. Speaker.

At the call of the recess, there will be a Federal-State Relations Committee meeting in the back of the House. Thank you.

PARLIAMENTARY INQUIRY

The SPEAKER. The Chair recognizes the gentleman from Somerset, Mr. Lloyd. Why do you rise?

Mr. LLOYD. Mr. Speaker, a parliamentary inquiry.

Did you indicate that regular session will start at 10 o'clock tomorrow?

The SPEAKER. Actually, I did not say, deliberately. The Chair will open session at 10 o'clock. We expect it will be only a 5-minute session of the special session, and then 5 minutes after that we will go into the regular session. So the members ought to be here at 10 o'clock because we are beginning business at that time.

Mr. LLOYD. In view of that, Mr. Speaker, I would like to make an announcement of changing the time for a committee meeting.

The SPEAKER. Surely.

**PROFESSIONAL LICENSURE
COMMITTEE MEETING**

Mr. LLOYD. The House Professional Licensure Committee had been scheduled to meet at 10 o'clock tomorrow morning to consider regulations. The committee will meet instead at the first call of recess tomorrow off the floor of the House.

The SPEAKER. The Chair thanks the gentleman.

CALENDAR CONTINUED**BILLS ON THIRD CONSIDERATION**

The House proceeded to third consideration of **HB 834, PN 1491**, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for antique and classic motor vehicles; and providing for collector motor vehicles.

On the question,

Will the House agree to the bill on third consideration?

Mr. BURD offered the following amendments No. A4317:

Amend Title, page 1, line 3, by inserting after "vehicles;" providing for limited drivers' licenses;

Amend Sec. 3, page 3, line 13, by striking out "a section" and inserting

sections

Amend Sec. 3, page 3, by inserting between lines 20 and 21 § 1553. Limited driver's license.

(a) Application.—Any person who receives notice from the department that his driver's license is suspended may make an application to the department for a limited driver's license. The application shall be accompanied by a fee of \$50 for a suspension of 30 days or less or \$100 for a suspension of more than 30 days.

(b) Issuance.—No limited driver's license shall be granted unless it is shown that a driver's license is needed for the purpose of carrying on an occupation, trade or profession which makes it essential that the applicant drives a motor vehicle while carrying on the occupation or going to or from work.

(c) Burden of proof.—The applicant for a limited driver's license shall have the burden of proving that his license is essential to his occupation, trade or profession.

(d) Ineligibility.—No person shall be eligible for a limited driver's license if:

(1) his driver's license had been revoked before;

(2) his driver's license had been suspended within the previous five years;

(3) his driver's license was suspended pursuant to section 3731 (relating to driving under influence of alcohol or controlled substance);

(4) the holder of the driver's license has been convicted within the preceding five years of a violation of section 3345(a) (relating to meeting of or overtaking school bus);

(5) his driver's license has been suspended pursuant to section 1547 (relating to chemical testing to determine amount of alcohol or controlled substance); or

(6) his driver's license was suspended pursuant to section 1532(b) or (c) (relating to revocation or suspension of operating privilege).

(e) Distinct color of limited driver's license.—The department shall provide a distinct color for all limited drivers' licenses and shall indicate conditions under which a vehicle may be operated. The license shall also indicate in prominent letters a warning that violation of the license restrictions will result in the penalties described in subsection (g).

(f) Notice of availability.—The department shall notify all persons who are eligible to apply for a limited driver's license of its availability and the restrictions imposed by subsection (b).

(g) Violations of restrictions.—If any person drives a motor vehicle or tractor in violation of the restrictions of subsection (b) or any other departmental restrictions of a limited license as provided by this section, the department shall suspend the operating privileges of that person for a period of one year during which period the person shall not be eligible to apply for a limited driver's license. In addition to the new suspension, he shall be fined \$100 and imprisonment for a period of not less than two

nor more than 30 days. If any person is convicted of any violation to which the point system of section 1535 (relating to schedule of convictions and points) applies, while operating a motor vehicle or tractor under this section, the department shall immediately revoke the driver's limited license.

Amend Sec. 6, page 5, line 2, by striking out all of said line and inserting

Section 6. This act shall take effect as follows:

(1) Section 3 (relating to section 1553) shall take effect in 60 days.

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

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Butler, Mr. Burd.

Mr. BURD. Thank you, Mr. Speaker.

Mr. Speaker, this amendment is the same language that I introduced earlier this session in HB 907, and it deals with the limited driver's license. It allows anyone who has lost their license due to a moving violation, after they have paid their fines, to make application to the Department of Transportation at their discretion to buy back their driving privileges for that time when they had lost them due to a moving violation.

I would ask the colleagues on both sides of the House to support this amendment. Thank you, Mr. Speaker.

This amendment also, I might add, Mr. Speaker, passed this General Assembly last year in amendment form.

The SPEAKER. On the Burd amendment, the Chair recognizes the gentleman from Monroe, Mr. Battisto.

Mr. BATTISTO. Thank you, Mr. Speaker.

Mr. Speaker, I just received this amendment and I am just trying to read it, but may I please interrogate Mr. Burd first?

The SPEAKER. Mr. Burd indicates he will stand for interrogation. You may proceed.

Mr. BATTISTO. Mr. Speaker, is this amendment essentially developed to allow people who have lost their license and need a license going back and forth to work to be able to use it for that purpose? Is that the purpose of this amendment?

Mr. BURD. I was not sure of the question, but if you are asking me if this is a bread-and-butter license, that is true; that is right.

Mr. BATTISTO. Is that what it is?

Mr. BURD. That is all it is, Mr. Speaker.

Mr. BATTISTO. Is this the same amendment, sir, that passed this House, I cannot remember when but some time ago?

Mr. BURD. This passed in amendment form last session and was introduced in bill form this session. However, it got through committee, but I believe it is in Rules. I am not sure.

Mr. BATTISTO. Thank you, Mr. Speaker.

May I please speak on the amendment, Mr. Speaker?

The SPEAKER. On the amendment, the gentleman is recognized.

Mr. BATTISTO. Thank you, Mr. Speaker.

Mr. Speaker, I have a certain degree of ambivalence toward this amendment only because I am afraid it might affect the passage of the bill. This is a bill that we worked on a great deal last year. Representatives Itkin, Veon, and Dorr worked on this bill. But I am not going to talk about the bill; I am talking about the amendment.

However, in view of the fact that the amendment did pass the House and it seems as if the membership has already endorsed the amendment, I have no real problem, personally, with it, although I do express ambivalence, but I will not oppose it. Therefore, allow the membership to vote.

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Allegheny, Mr. DeLuca.

Mr. DeLUCA. Thank you, Mr. Speaker.

Mr. Speaker, would the maker of the amendment stand for interrogation?

The SPEAKER. The gentleman, Mr. Burd, indicates he will stand for further interrogation. You may proceed, Mr. DeLuca.

Mr. DeLUCA. Mr. Speaker, in looking over this amendment in the short time I had this morning, would you give me an example of when a bread-and-butter license would be issued under this amendment?

Mr. BURD. First-time offenders or someone who had not been suspended in 5 years who lost his license due to a moving violation; that is, because he had accumulated points.

Mr. DeLUCA. What if a person was suspended for having the 11 points, would he qualify for a bread-and-butter license?

Mr. BURD. If those 11 points were accumulated because of moving violations, yes.

Mr. DeLUCA. He would qualify.

Mr. BURD. Yes. One time only.

Mr. DeLUCA. Thank you, Mr. Speaker. That is all.

The SPEAKER. The Chair recognizes the gentleman from York, Mr. Bortner, on the amendment.

Mr. BORTNER. Mr. Speaker, would the maker of the amendment stand for some brief interrogation?

The SPEAKER. The gentleman, Mr. Burd, indicates he will so stand. You may proceed, Mr. Bortner.

Mr. BORTNER. Mr. Speaker, would you give me some indication or explain under what circumstances or what occupations would qualify for a limited driver's license?

Mr. BURD. What occupation? Anybody who drives an automobile and is gainfully employed, I suppose, and requires an automobile, that is.

Mr. BORTNER. I beg your pardon?

Mr. BURD. And requires an automobile.

Mr. BORTNER. Would it include driving to and from work, as well as using your automobile for purposes of work?

Mr. BURD. Well, basically, that is what we want to do - allow the person to drive to and from work, of course.

Mr. BORTNER. Does your amendment limit the use of the automobile to work only?

Mr. BURD. Would you repeat your question, please?

Mr. BORTNER. My question is very simple. Is there anything in the amendment that limits the use of the limited driver's license only for employment purposes, and if so, where is that contained in the amendment?

Mr. BURD. Well, if you look under paragraph (b) on the first page, "No limited driver's license shall be granted unless it is shown that a driver's license is needed for the purpose of carrying on an occupation, trade or profession which makes it essential that the applicant drives a motor vehicle while carrying on the occupation or going to or from work."

Mr. BORTNER. What you have recited is a requirement that you have to satisfy to get the license. Is that correct?

Mr. BURD. Oh, yes, by all means. We are leaving this up to the discretion of the department. This is to assure in the minds of the members here who have had concerns about this over the years that we are not going to allow this privilege to go to a person who might, in other words, be considered by the department to be a habitual offender. Those are not the people we are trying to help.

Mr. BORTNER. But my question is, once you have met the qualification for eligibility, what limits you to only using that driver's license for purposes of employment or work?

Mr. BURD. Well, of course, the license is marked by a special color. If you would read on into the amendment, you will notice that there are specifications on page 2. It says the license has to be issued in a special color, and then there are very heavy fines offered if you are in fact caught in violation.

Mr. BORTNER. Let me ask the question this way: If I were a lawyer and I would make the argument that I needed my automobile to carry—

POINT OF ORDER

Mr. JAROLIN. Mr. Speaker?

The SPEAKER. Why does the gentleman from Luzerne, Mr. Jarolin, rise?

Mr. JAROLIN. Mr. Speaker, point of order.

Should not this amendment have a fiscal note attached to it previous to voting on it? Mr. Speaker, on this—

The SPEAKER. Just a moment, Mr. Jarolin. Let us look at it and see before we give you an opinion.

We do not see the need for that here, Mr. Jarolin. If you will point out to us where it would cost the State money or where the State would lose money on it, we do not see it in a casual looking at the amendment.

Mr. JAROLIN. Mr. Speaker, in section (e) of this amendment, it indicates in there "Distinct color of limited driver's license." Is that not a different type that costs the Transportation Department money?

The SPEAKER. It does not seem to the Speaker. The Speaker does not want to use the lawyer's argument of de minimis, but it seems to the Speaker that if this became law, if a person had to pay a fee of \$50 or up to \$100, the fee would more than cover the cost of the coloring of the license. The Speaker does not really see that that is a serious problem with this amendment, Mr. Jarolin.

Mr. JAROLIN. Mr. Speaker, once again, in section (f) where the department must notify each and every individual that has a suspended license, is that an added cost to the Department of Transportation?

The SPEAKER. I will turn to the experts on the matter.

Will the gentleman, Mr. Pievsky— Have you seen the amendment? Take a look at the amendment, Mr. Pievsky. Check with your staff. The gentleman, Mr. Jarolin, has urged upon the floor of the House that this amendment may require a fiscal note. The Speaker does not see that requirement.

The House will stand at ease.

The Chair recognizes the gentleman, Mr. Pievsky.

Mr. PIEVSKY. Mr. Speaker, we have a bill in our committee now with the exact same language, and it does require a fiscal note.

The SPEAKER. The gentleman, Mr. Pievsky, has sustained the request of the gentleman, Mr. Jarolin. Therefore, the amendment cannot be offered, Mr. Burd. You will have to withdraw the amendment, asking for a fiscal note.

Mr. JAROLIN. Thank you, Mr. Speaker.

The SPEAKER. Do you withdraw the amendment?

Mr. BURD. At this time I will withdraw the amendment, Mr. Speaker.

Mr. Speaker, what would happen if I request to hold the bill until we could get a fiscal note?

The SPEAKER. The Chair would advise you there are two things you can do. One, the requirement of a fiscal note is a matter of the rules of the House. You could ask for a temporary suspension of the rules. If the House agreed with you, then you could go forward with your amendment. Two, if you decided not to do that, you could request of the majority leader that the bill be held until your fiscal note could be obtained. It is only 5 minutes of 2. It may be possible to get a fiscal note quickly from the Appropriations Committee. They say they have the identical language there.

We will put the House at ease. You go talk to the majority leader and see what you can arrange. The House will stand at ease.

AMENDMENTS WITHDRAWN

The SPEAKER. The Chair recognizes the gentleman from Butler, Mr. Burd.

Mr. BURD. Mr. Speaker, as a result of a conference, at this time I am going to withdraw my amendment on HB 834.

The SPEAKER. The Chair thanks the gentleman.

The gentleman, Mr. Burd, has withdrawn his amendment on HB 834.

On the question recurring,

Will the House agree to the bill on third consideration?

Bill was agreed to.

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

YEAS—194

Acosta	Distler	Kukovich	Reinard
Angstadt	Dombrowski	LaGrotta	Richardson
Argall	Donatucci	Lashingner	Rieger
Arty	Dorr	Laughlin	Ritter
Baldwin	Duffy	Leh	Robbins
Barley	Durham	Lescovitz	Roebuck
Battisto	Evans	Letterman	Rudy
Belardi	Fargo	Levdansky	Ryan
Belfanti	Farmer	Linton	Rybak
Billow	Fattah	Livengood	Saloom
Birmelin	Fee	Lloyd	Saurman
Black	Fischer	Lucyk	Schuler
Blaum	Flick	McCall	Semmel
Book	Fox	McClatchy	Serafini
Bortner	Freeman	McHale	Seventy
Bowley	Freind	McVerry	Showers
Bowser	Gallen	Maiiale	Sirianni
Boyes	Gamble	Maine	Smith, B.
Brandt	Gannon	Manderino	Smith, S. H.
Broujos	Geist	Manmiller	Snyder, D. W.
Bunt	George	Markosek	Snyder, G.
Burd	Gladeck	Mayernik	Staback
Burns	Godshall	Melio	Stairs
Bush	Gruitza	Merry	Steighner
Caltagirone	Gruppo	Michlovic	Stevens
Cappabianca	Hagarty	Miller	Stuban
Carlson	Haluska	Moehlmann	Sweet
Carn	Harper	Morris	Taylor, E. Z.
Cawley	Hasay	Mowery	Taylor, F.
Cessar	Hayden	Mrkonic	Taylor, J.
Chadwick	Hayes	Murphy	Telek
Civera	Heckler	Nahill	Tigue
Clark	Herman	O'Brien	Trello
Clymer	Hershey	O'Donnell	Truman
Cohen	Hess	Olasz	Van Horne
Colafella	Honaman	Oliver	Veon
Cole	Hughes	Perzel	Vroon
Cornell	Hutchinson	Petrarca	Wambach
Corrigan	Itkin	Petrone	Wass
Cowell	Jackson	Phillips	Weston
Coy	Jadlowiec	Piccola	Wilson
DeLuca	Jarolin	Pievsky	Wogan
DeVerter	Johnson	Pistella	Wozniak
DeWeese	Josephs	Pitts	Wright, D. R.
Daley	Kasunic	Pressmann	Wright, J. L.
Davies	Kennedy	Preston	Yandrisevits
Dawida	Kenney	Punt	
Dempsey	Kitchen	Raymond	Irvis,
Dietterick	Kosinski	Reber	Speaker

NAYS—2

Langtry Noye

NOT VOTING—0

EXCUSED—7

Diminni Howlett Scheetz Wright, R. C.
Foster Micozzie Wiggins

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

REMARKS ON VOTE

The SPEAKER. Why does the gentleman from Crawford, Mr. Merry, rise?

Mr. MERRY. I would like to correct a vote, Mr. Speaker.

The SPEAKER. The gentleman is in order. You may proceed.

Mr. MERRY. On final passage of HB 146, I find that my vote was incorrectly registered. The voting record now says that I voted "yes." I would like to have the minutes reflect that I voted in the negative on that bill.

The SPEAKER. The gentleman's remarks will be spread upon the record.

Mr. Kosinski, have you arrived at an agreement on SB 426?

Mr. KOSINSKI. I am ready to run the amendment, Mr. Speaker.

The SPEAKER. Are we going to hear all the other amendments then?

Mr. KOSINSKI. The only one that I intend to run is amendment 4309.

The SPEAKER. All right.

BILLS ON THIRD CONSIDERATION CONTINUED

The House proceeded to third consideration of SB 426, PN 1423, entitled:

An Act providing that attorney trust funds may be placed in interest-bearing accounts and that the interest generated on such accounts be used to provide legal services for the indigent; and establishing a mechanism for the funding.

On the question,

Will the House agree to the bill on third consideration?

Mr. KOSINSKI offered the following amendments No. A4309:

Amend Sec. 2, page 2, line 19, by inserting after "practicable."

Nothing in this act shall be construed as affecting or impairing the disciplinary powers, responsibilities or prerogatives of the Supreme Court of Pennsylvania with respect to the conduct of attorneys admitted to practice in this Commonwealth.

Amend Sec. 3, page 3, line 20, by inserting after "the" where it appears the first time
good faith

Amend Sec. 3, page 3, lines 28 through 30; page 4, lines 1 through 24, by striking out all of said lines on said pages and inserting

"Qualified recipients." Not-for-profit entities incorporated in Pennsylvania, tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)), or any successor provision, which operate within this Commonwealth for the primary purpose of providing civil legal services without charge, and which:

(1) operate to provide such civil legal services to eligible clients and victims of abuse under contract with the Department of Public Welfare for the expenditure of funds appropriated by the General Assembly for the provision of legal services; or

(2) provide direct civil legal services exclusively to eligible clients who are elderly, disabled or homeless, or are seasonal farmworkers.

Amend Sec. 5, page 5, line 18, by striking out "answer for a charge of professional misconduct" and inserting
have breached any fiduciary duty or responsibility

Amend Sec. 7, page 7, lines 23 through 26, by striking out "indigent." in line 23, all of lines 24 and 25 and "(3)" in line 26 and inserting

eligible clients.

(2)

Amend Sec. 7, page 9, by inserting between lines 5 and 6

(d) Abortion.—In addition to the restrictions listed in subsections (b) and (c), no IOLTA funds may be used, directly or indirectly, to:

(1) Advocate the freedom to choose abortion or the prohibition of abortion.

(2) Provide legal assistance with respect to any proceeding or litigation which seeks to procure or prevent, or procure or prevent public funding for, any abortion.

(3) Provide legal assistance with respect to any proceeding or litigation which seeks to compel or prevent the performance or assistance in the performance of any abortion, or the provision of facilities for the performance of any abortion.

Amend Sec. 9, page 10, line 12, by striking out "providers" and inserting

recipients

Amend Sec. 9, page 11, by inserting between lines 17 and 18

(g) Investigations, audits and hearings.—The board shall conduct, or cause to be conducted, such investigations, audits and hearings as are necessary to assure that the funds allocated from the IOLTA fund are expended in accordance with section 7.

Amend Sec. 10, page 11, lines 19 and 20, by striking out "No less than 75% of the total" and inserting

After deducting allowable administrative costs, the

Amend Sec. 10, page 11, line 21, by striking out "legal services providers" and inserting

recipients

Amend Sec. 10, page 11, line 22, by removing the period after "clients" and inserting

, the elderly, the disabled, the homeless, victims of abuse, and seasonal farmworkers.

Amend Sec. 10, page 11, line 24, by inserting after "for"

such

Amend Sec. 10, page 11, lines 26 through 30; page 12, lines 1 through 3, by striking out all of lines 26 through 30, page 11, all of lines 1 and 2 and "(c)" in line 3, page 12, and inserting

(b)

Amend Sec. 11, page 13, line 5, by inserting after "served," the number and status of all audits, investigations and hearings conducted pursuant to section 9(g),

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Philadelphia, Mr. Kosinski.

Mr. KOSINSKI. Thank you, Mr. Speaker.

Usually when I get up, I try to be very brief when we deal with an amendment. Unfortunately, it cannot be true with this case here today.

The first thing I want to point out is that this amendment is amendment 4309. There may be some other amendments on your desk, but 4309 is the one we are discussing.

The amendment basically does a number of things, and I want to point out what it does. The first part of the amendment seeks to insulate the IOLTA (Interest on Lawyer Trust Account) bill from constitutional attack on the ground that it invades the exclusive power of the Supreme Court of Pennsylvania with respect to regulation of the conduct of attorneys.

In the past when the legislature has undertaken to intrude upon that power, the Supreme Court has invalidated the legislative action. This particular amendment and the amendments which supplement it remove any implication from the bill that disciplinary authority is being exercised by the legislature.

As we go further in the amendment, you may notice the use of qualified funds that would be utilized for IOLTA purposes as to require the attorney to make a good-faith judgment about their nominal amount or the brevity of time for which they will be held. Currently the bill contains no such requirement, and the attorney is not even required to act in good faith. This amendment therefore would curb possible abuses.

We also expand upon the definition of "qualified recipients" or those recipients eligible to receive IOLTA funds. What we provide for here are not only direct legal services but what are also termed "administration of justice providers." These recipients then could include a very broad range of advocacy organizations and organizations which do not provide legal services. This is one of the major reasons for this particular amendment. What this amendment does is it deletes the financial impact of the IOLTA program to make sure that those organizations which in fact provide direct legal services to those most in need thereof will get such legal services.

The question asked—and you are going to hear the debate here today a number of times—is about the constitutionality of this question, and it is going to be brought up, and it is going to be brought up, I believe, by Representative McHale, and on the record, I said some intemperate remarks to his local paper about him. I want to apologize for those on the record right now, and it is, as Paul so aptly pointed out, just a disagreement here among two attorneys who differ on constitutionality.

Now, this is going to be somewhat of a different and distinct legal argument, so those of you whom I may bore to death, please be bored, and those other of you who want to listen, please listen.

Under Federal law right now, the Legal Services Corporation Act forbids the use of federally appropriated funds to provide legal assistance with respect to any proceeding or litigation which seeks to, one, procure a nontherapeutic abortion or, two, compel any individual or institution to perform or cooperate in an abortion contrary to religious principles. Senator Humphrey from New Hampshire has introduced legislation, SB 267, in Washington which would broaden this prohibition as to preclude the use of Federal funds to engage in any abortion-related activities. Senator Humphrey's statement in the Congressional Record pointed to several instances, including one in Pennsylvania, where Legal Services Corporation affiliates undertook litigation challenging legislated abortion restrictions. Now, here is a point which I want you to understand. This particular language that I am proposing in my amendment would sweep more broadly than the present Federal restrictions but would not sweep quite as broadly as Senator Humphrey's proposed language.

Now, one case that Representative McHale will bring up and what is a point of contention, as far as constitutionality,

would be Planned Parenthood of Central and Northern Arizona v. the State of Arizona, a Supreme Court case from 1986. A little history about that case: Arizona had enacted two separate appropriation restrictions relating to family planning services. Here is the distinction: one had prohibited the use of State money for abortion and abortion counseling or referrals; the other had prohibited the distribution of State funds to any agency which offered abortion or abortion counseling or referrals. The United States Court of Appeals, in two separate decisions, struck the second, or the "agency," restriction but upheld the former, or "use," restriction. Relying on the United States Supreme Court decision in *Maher v. Roe*, 1977, the court held that the "use" restriction did not violate the free speech rights of Planned Parenthood since the State had no obligation to support, monetarily or otherwise, Planned Parenthood's activity. Both the State and Planned Parenthood appealed the holdings of the ninth circuit, and the holdings as to "use" and "agency" were approved by the Supreme Court.

So the narrow legal distinction here is the United States Supreme Court has held on the merits that neither the free speech rights nor the due process or privacy rights of the agencies or individuals are violated where a State refuses to permit the use of its funds for certain activities. It is this holding that supports my abortion-neutral amendment today. This will be the crux of the argument.

There are a number of other changes in the amendment, two of which I would like to point out here: that the amendment adds a provision requiring the IOLTA board to conduct investigations, audits, and hearings into whether the IOLTA funds are being used properly. Also, the bill currently permits up to 25 percent of IOLTA funds to be given to advocacy groups and other groups which do not provide direct legal services. My amendment would require that all the IOLTA funds be used to provide for direct legal services, except for those needed to actually administer the program.

Again, it is an abortion-neutral amendment. It is going to be a controversial amendment. You will hear a few arguments today, and one of those is we are denying money to such groups. We are not. We are not denying these people to come into court either. You can still go into court, but not with the State money. You may also hear some arguments that funds would not be given to needy groups. What happens in many of these cases is the IOLTA funds under my amendment would not be given to these needy groups, but there would be more funds freed up to be given to these groups on a private level. I know the Philadelphia Bar Association has a foundation which funds legal services. They can still fund whomever they want. It is just that the IOLTA funds could not be used except for the qualified providers that we have enunciated in the Kosinski amendment.

It is a good amendment, it is a constitutional amendment, and again I ask your support.

CONSTITUTIONAL POINT OF ORDER

The SPEAKER. On the amendment, the Chair recognizes the gentleman from Lehigh, Mr. McHale.

Mr. McHALE. Thank you, Mr. Speaker.

Mr. Speaker, I rise to challenge the constitutionality of the Kosinski amendment.

The SPEAKER. The question of constitutionality is a question to be settled on the floor. The debate on the question of constitutionality must be strictly limited to the question.

On the question,

Will the House sustain the constitutionality of the amendments?

The SPEAKER. On that question, Mr. McHale is recognized.

Mr. McHALE. Thank you, Mr. Speaker.

Mr. Speaker, I would call the attention of the members of the House to the second page of the Kosinski amendment. That amendment reads in relevant part, at the top of that page—

The SPEAKER. Just a minute. Mr. McHale, will you state whether or not you challenge this under State, Federal, or both.

Mr. McHALE. Mr. Speaker, with your indulgence, in about 30 seconds I will indicate that.

The SPEAKER. All right. The Speaker forgot it, but as long as you did not, we are all right. Go ahead.

Mr. McHALE. Mr. Speaker, at the top of the Kosinski amendment on page 2, the amendment reads in relevant part:

Amend Sec. 7, page 9, by inserting between lines 5 and 6

(d) Abortion.—In addition to the restrictions listed in subsections (b) and (c), no IOLTA funds may be used, directly or indirectly, to:

(1) Advocate the freedom to choose abortion or the prohibition of abortion.

(2) Provide legal assistance with respect to any proceeding or litigation which seeks to procure or prevent, or procure or prevent public funding for, any abortion.

(3) Provide legal assistance with respect to any proceeding or litigation which seeks to compel or prevent the performance or assistance in the performance of any abortion, or the provision of facilities for the performance of any abortion.

Mr. Speaker, I challenge the constitutionality of that portion of the amendment pursuant to the First Amendment to the United States Constitution, pursuant to the due process and equal protection clauses of the 14th Amendment to the United States Constitution, and pursuant to Article I, sections 1 and 3 and 7, of the Pennsylvania Constitution.

Mr. Speaker, I am going to take a few minutes to discuss this issue because I truly believe that this amendment is a serious if not radical assault on the Bill of Rights.

A sobering chill should pass through this chamber whenever a member of the House of Representatives seeks, either directly or indirectly, to limit any citizen's right of advocacy. The issue before the House at this moment, Mr. Speaker, is

not abortion. The issue before this House is freedom of speech, the freedom to advocate ideas, be they popular or unpopular. Throughout the long history of our country, Mr. Speaker, there has been from time to time a recurring theme of suppression, pursuant to which certain individuals, often acting in good faith, attempt not only to disagree with their fellow citizens, a right which they retain, but attempt improperly to suppress freedom of thought and freedom of speech. And I submit, Mr. Speaker, that the amendment now before the House follows in that regrettable path.

The political writer and philosopher, Walter Lippmann, once wrote:

It is all very well to say with Voltaire, "I wholly disapprove of what you say, but will defend to the death your right to say it," but as a matter of fact most men will not defend to the death the rights of other men: if they disapprove sufficiently what other men say, they will somehow suppress those men if they can.

That, Mr. Speaker, is what is happening before the House today. If the members of the House will review the amendment, they will see that on its face the amendment is abortion neutral: it deprives freedom of speech to citizens on both sides of the issue.

Mr. Speaker, I would go back 200 years in history and I would ask the members to come with me on that journey to another General Assembly in another time. At that time a General Assemblyman named Thomas Jefferson drafted the Statute of Religious Freedom for Virginia. Thomas Jefferson wrote:

Be it enacted by the General Assembly, that no man shall be compelled to frequent or support any religious worship, place or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinion in matters of religion, and that the same shall in no wise diminish, enlarge or affect their civil capacities.

Thomas Jefferson had the wisdom, Mr. Speaker, to write those words 200 years ago. He considered those words, which I believe are relevant today, to be one of the three major accomplishments of his lifetime.

Mr. Speaker, one of my heroes, Justice Oliver Wendell Holmes, once wrote:

...if there is any principle of the Constitution that more imperatively calls for attachment than any other it is the principle of free thought—not free thought for those who agree with us but freedom for the thought that we hate.

Justice Holmes expanded that, Mr. Speaker, when he later wrote:

Persecution for the expression of opinions seems to me perfectly logical. If you have no doubt of your premises or your power and want a certain result with all your heart you naturally express your wishes in law and sweep away all opposition....But when men have realized that time has upset many fighting faiths, they

may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas—that the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes safely can be carried out. That at any rate is the theory of our Constitution.

And he closed the section which I am quoting by saying: "I think that we should be eternally vigilant against attempts to check the expression of opinions that we loathe...."

Mr. Speaker, during Mr. Kosinski's presentation, he cited the case of *Planned Parenthood v. the State of Arizona*. I would ask the members to turn back the clock to last June or July—

The SPEAKER. Just a moment, Mr. McHale.

You may now continue, sir.

Mr. McHALE. At the time of that debate last summer, Mr. Speaker, the members may recall that the gentleman, Mr. Freind, offered an amendment to provide a substantial amount of money in order to assist young indigent women, facing the difficult economic consequences of childbirth, to meet the costs incurred, through a State appropriation. In short, Mr. Freind sought to provide money to help poor women who courageously chose to go forward with their pregnancies, despite overwhelming economic hardships. I think that his intent in that amendment was laudable; I share it. And for some time I have felt that we have inadequately provided such funding. But during the course of that debate, I became concerned when the funding was tied to a prohibition of advocacy pertaining to abortion. I wanted very much to vote for the Freind amendment, but I said that tying it to the prohibition of advocacy - the prohibition of free speech - violated the First Amendment to the Constitution. We debated that matter at some length, and during the course of that debate, Representative Kosinski arose and assured us that in his professional judgment such a contingency was constitutional. Five months later the Supreme Court said that I was right and he was wrong. The Supreme Court said in the case of *Planned Parenthood v. Arizona* that government funding may not be tied to the prohibition of free speech. That matter has been settled by the Supreme Court. The only difference today is that those who support this kind of restriction on free speech have now said that they are willing to curtail that liberty on both sides of the question, so that those who advocate for abortion and those who advocate against abortion will be equally hindered in their exercise of civil liberty.

Mr. Speaker, the argument before the House is quite simple. The Supreme Court of the United States has said that counseling patients with regard to abortion procedures or abortion referrals is protected by the First Amendment. I may not like the content of those referrals. I may morally abhor such counseling, and in fact, under most circumstances I do. That is not the issue. Whether or not you agree with the content of such speech, the Supreme Court has said it is protected. The Supreme Court has also held that governmental regulations limiting free speech, which seek to stifle communi-

cation because of its content, are fundamentally at odds with the First Amendment.

Mr. Speaker, last January we took an oath of office. That oath of office was to support and defend the Constitution of the United States and the Constitution of Pennsylvania. This is not a close call. Clearly what we are doing here is denying a government benefit—and that is legal services—to those citizens who choose on either side of the abortion issue to exercise their free speech.

The district court in the Arizona case wrote as follows, and I would ask the members to pay particular attention to the brief paragraph which I am about to read, because I think it captures the heart of the dispute between Mr. Kosinski and myself.

The district court's opinion in the Arizona case cited an earlier Supreme Court decision and quoted:

For at least a quarter-century, this Court has made clear that even though a person has no "right" to a valuable governmental benefit and even though the government may deny him the benefit for any number of reasons, there are some reasons upon which the government may not rely. It may not deny a benefit to a person on the basis that infringes his constitutionally protected interests—especially, his interest in freedom of speech. For if the government could deny a benefit to a person because of his constitutionally protected speech or associations, his exercise of those freedoms would in effect be penalized and inhibited. This would allow the government to "produce a result which it could not command directly." Such interference with constitutional rights is impermissible.

Mr. Speaker, in the amendment now before us, Representative Kosinski has said the following: If you qualify economically for legal services, you may obtain legal services, provided you do not exercise your freedom of speech on the issue of abortion, advocating either for or against that procedure. Last week we had some discussion on the floor of this House concerning "equal protection of the law," and I said at that time that we may indeed draw lines treating different classes of citizens differently under the same piece of legislation. The question is how we draw that line. In my view, when we draw that line based on the exercise of freedom of speech saying that those who choose not to exercise freedom of speech on a controversial issue may obtain legal services but those who dare to speak on either side of the issue of abortion may not obtain legal services, I submit we draw that line impermissibly and in violation of the Constitution.

In closing, Mr. Speaker, we cannot allow the citizens of the Commonwealth to barter away their freedom of speech on any topic, no matter how controversial, in order to qualify for a government benefit. Such surrender of a person's civil liberty strikes at the very heart of the First Amendment. If we allow freedom of speech to be surrendered today, what other First Amendment freedom might be sacrificed tomorrow by a citizen desperate for some government benefit?

Mr. Speaker, I am well aware of the political implications surrounding this particular amendment. I would urge the members of the House to disregard those political pressures

on either side of the issue. For the moment, disregard the content of the arguments on either side of the abortion question. The issue today is freedom of thought, freedom of expression, freedom of speech. If we deny a government benefit based on the exercise of constitutional freedom, I fear the path we have begun to walk.

Mr. Speaker, I ask the members of the House to join with me in sustaining our oath of office from last January by condemning an amendment which is abortion neutral but anti-speech. I ask the ladies and gentlemen of the House to protect the Constitution. A later day will come in which we can address the question of abortion. Today the issue is freedom of thought, freedom of expression, freedom of speech. I ask for a negative vote on the amendment.

The SPEAKER. On the question of constitutionality, the Chair recognizes the gentleman from Westmoreland, Mr. Kukovich.

Mr. KUKOVICH. Thank you, Mr. Speaker.

I also ask for a negative vote on constitutionality. Often, Mr. Speaker, this motion is made without a great deal of thought and maybe some members just vaguely refer to the U.S. or Pennsylvania Constitutions. Representative McHale did a great deal of work and research and I think very capably stated and very clearly stated why this is unconstitutional. I think the debate on the floor was exemplary. I think Mr. Kosinski's remarks on the Arizona case of 1983, trying to draw the distinction why it was not constitutional, was well done. It was a good argument. I do not think it is entirely accurate.

I also think there is another distinction that has not been drawn. Representative Kosinski made a big deal in trying to distinguish from what I think he knew Representative McHale would argue, that in this case he referred to State funds, Federal funds, what the Federal law is, and how we do have the ability to block funding of projects. I would like to point out that there is a huge distinction here. We are not talking about Federal funds or State funds; we are talking about a new creative source of financing from private funds. If anything, that argument makes Representative McHale's arguments on unconstitutionality even stronger.

The case law is very clear. There are cases right on point that this is unconstitutional. Now, if this amendment goes in, what we will be doing is setting up a bill, once again, to fall, that unless President Reagan gets Jim Bakker or Charleton Heston on the Supreme Court, this will be declared unconstitutional. The taxpayers will lose money again challenging unconstitutional language, and a program that will help thousands of people will go down the drain.

I would ask the members to vote their conscience and vote "no" on constitutionality of this issue.

The SPEAKER. On the question of constitutionality, Mr. McHale, you cannot be recognized again. No one may speak more than once.

The Chair recognizes the gentleman from Wayne, Mr. Birmelin.

Mr. BIRMELIN. Thank you, Mr. Speaker.

From a nonlawyer's perspective, I am going to speak in English and common sense. You have a right to free speech in America, just as you can drive a car, but nobody has to buy you a car in America so that you can drive and nobody has to provide you with free funds from an IOLTA or anywhere else so that you can advocate your free speech. I think the arguments that Representative McHale makes about this being a damper on free speech does not hold water. We are not obligated in America to pay people to say what they want to say, and that is what you are looking at here. We are saying that we are not going to pay you to be an advocate for a certain position or cause. We are not saying you do not have the right to free speech, just as you do not have the right to use other people's money to do it with, and I would urge a "yes" vote on constitutionality.

The SPEAKER. On constitutionality, the Chair recognizes the gentleman from Cumberland, Mr. Broujos.

Mr. BROUJOS. Mr. Speaker, we know that the entire question of abortion is a compromise among many conflicting political, social, economic, and religious interests, and in that compromise we find that the line is really not drawn too clearly between the legality and illegality of the acts involved in abortion. We know that with the Supreme Court, that may at any time be in a position to leave the determination of the legality to the States, that therefore, we may have in fact an illegality at some time in the future.

Now, I think, then, that the pure black-and-white picture drawn by my good friend, Representative McHale, with respect to the legality and illegality with respect to the constitutional obligation should not be one which is wrapped inside the flag in the manner in which he did it. I think that we have to look at a number of factors here. One of the factors is that there will certainly be in the use of funding for the poor a commingling of public and private funds, IOLTA funds and other funds. So any time someone says you cannot use funds directly or indirectly for a specific purpose, then how in the world do we go into an office of a legal services advocate and say you can use these books but you cannot use those books because these books were paid for by IOLTA funds; you cannot use your time for this but you can use your time for that. So I think that practically we are really not able to prohibit the use of those funds simply because of the commingling of funds for the multiple purpose. They come from multiple sources.

Now, on the question of the use with respect to abortion, it is so important to understand that there is a strong, strong feeling among prochoice people that abortion is abominable, abortion is wrong, and they do not want and I do not want one single cent spent by Federal or State funding for abortion itself.

Then we come to the question of advocacy. Now, I do not want the lines to be drawn so clearly that you can say that you shall not use funds for one purpose or shall not use funds for another purpose. But in reality, there is no way that we can have a provision which says you cannot advocate the freedom

to choose abortion. When you really think of the practical application that you cannot use funds directly or indirectly to advocate the freedom to choose abortion, does that mean that a person cannot make a recommendation simply to consider it as an alternative? How in the world do you put a gag on people when they cannot even use the word "abortion," when they cannot even use the question that there is a law which says you have a right to choose during the first trimester? Because once you start trying to quiet the use of words or to prevent the use of words or to prevent the discussion of words, then you do have a dictatorship, you do have a totalitarian approach to this entire idea.

So I think that in reality we are compelled to find not that it is unconstitutional but that it is unworkable, unpractical, and I, too, must ask that it be defeated. But we must look at it in the entire context of the sentiment of the public on the issue of abortion.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Kosinski, on the issue.

Mr. KOSINSKI. Thank you, Mr. Speaker.

I believe that some of the previous speakers have lost the point entirely. Remember, we are dealing with very narrow legal grounds here.

First of all, the previous speakers are correct in that we cannot restrict free speech. My amendment does not do that. The people can still obtain legal services through other sources, only the Commonwealth will not pay for it. That has consistently been held constitutional. Let me quote from the Arizona case that I mentioned before, the Supreme Court holding. The court concluded that the State of Arizona may not unreasonably interfere with the right of Planned Parenthood to engage in abortion or abortion-related speech activities, but the State need not support monetarily or otherwise those activities. That is what my amendment does. It restricts the monetary aspects of IOLTA funds going to either advocate abortion or against abortion.

Again, constitutionally we are being very narrow here. Representative Kukovich raised a very good argument about these funds being private funds, but the difference here is that these private funds are now going to be, under this bill, State ordered, State distributed, and State controlled.

My friends in the General Assembly, this is a constitutional amendment. Do not be confused by the arguments that are being used on the floor today. It is a very narrowly drawn amendment, and I believe it will pass constitutional muster. I ask you to vote against the amendment for constitutionality. Push a "yes" vote, because this amendment is certainly constitutional. A "yes" vote on constitutionality. Thank you.

The SPEAKER. On the question, the Chair recognizes the gentleman from Montgomery, Mr. Reber.

Mr. REBER. Thank you, Mr. Speaker.

Mr. Speaker, very, very briefly. Let me first say that Representative McHale very ably stated the First Amendment argument in relationship to the unconstitutional nature in which this particular amendment is drawn and would in fact be applied.

I would like to direct my remarks, Mr. Speaker, to the second and third aspects of the amendment that point out a very, very serious practical concern, as I view it, to anyone that would like to be characterized as a prolife advocate. Mr. Speaker, on page 2 of the amendment in sections (d)(2) and (d)(3) you will see that legal services would be precluded from providing legal assistance with respect to any proceeding or litigation which seeks to prevent any abortion.

Mr. Speaker, about a week ago the Judiciary Committee held hearings on the so-called Abortion Control Act that is pending before this legislative body. It was during the course of those hearings that I related to the members in attendance and the public that was there a concern that I have as to the manner in which the second and third paragraphs in the (d) section that I earlier referred to in fact violate the substantive due process and equal protection clauses of the 14th Amendment to the United States Constitution. The reason for that is relatively simple in my mind, because I had been personally involved in a situation that if in fact I would have been an attorney for a legal aid society that was facing this same type of client-attorney relationship, I would have had my hands tied, I would have been estopped, I would have been violative of the oath of office as an attorney and would, frankly, have been required to carry out what I felt to be an unconstitutional act in refusing to appropriately counsel and assist, whether it be through a proceeding or litigation or otherwise, an individual who was faced with a real serious concern under the penumbra of prolife arguments. If I can just characterize very briefly the reason for that and the scenario in question.

I personally had a situation where I had an individual come in to my law office and advise me, this gentleman, that he was the reputed father, the alleged father, of a child—an “unborn child” was the language that he used—that was being carried by a young lady who was his girl friend. He was desirous of procuring an appropriate court order to prevent the young lady from having a contemplated abortion.

Now, Mr. Speaker, if I would have been an attorney with a local legal aid society and that gentleman came before this particular organization and this particular amendment was the law, I would have said that I am prohibited from aiding and assisting you in doing whatever may be done to advocate your attempt to prevent this abortion from taking place, and the reason for that would be subparagraph (2) in subsection (d) of this amendment on page 2.

The point I am trying to make, Mr. Speaker, is by this language being in place, you are not only, as Representative McHale stated, placing a very, very serious unconstitutional aspect into law - in essence, the chilling of freedom, advocacy of whatever the position may be that you espouse - but more importantly, for the attorneys that are working for a legal aid society, they, too, are going to have their hands tied. They are going to be tied in such a way that they cannot advocate, they cannot litigate, they cannot proceed appropriately to advise and in fact represent an individual that may come before them in a situation that I have just attempted to describe to you.

For this reason, Mr. Speaker, I think that the 14th Amendment of the United States Constitution is being abridged by this language, and the language is very simple: “No State shall...deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” In essence what this is saying, as it is set forth within the framework of this amendment, any individual that would come before a legal aid attorney would not be able to have his fullest rights protected; he would not be able to have his position advocated regardless of how legitimate that might be as promulgated by the United States Supreme Court as being a legally, constitutionally protected right.

I think this amendment does a very, very serious injustice to the legal profession. It serves to put an attorney in a position where his attorney-client relationship may be appropriately abridged. And most importantly, Mr. Speaker, I think it neutralizes the very basis upon which the United States has been founded, and that is the equal-justice-under-law provisions. Mr. Speaker, I think this is blatantly unconstitutional. Thank you.

The SPEAKER. On the question, the Chair recognizes the gentleman from Delaware, Mr. Freind.

Mr. FREIND. Thank you, Mr. Speaker.

I rise to strongly support the constitutionality of this amendment. I think the arguments we have heard today, while well intentioned, are extremely spurious. For example, one only need read the two decisions in Arizona.

If Gerry Kosinski's amendment said that any organization that gets these funds cannot in any way be involved in abortion, then you would have a good argument that it may be unconstitutional because of the Supreme Court decision in Arizona last year. It does not do that. It says these funds cannot be used for that purpose. There were two Arizona cases; they were twins. In one, the State prohibited the use of the funds for a specific purpose relating to abortion. That was approved by that circuit and affirmed by the United States Supreme Court.

Nobody is restricting what legal aid can do. In the situation with respect to Mr. Reber, legal aid would still be able to represent an individual in this case. They would not be able to utilize the funds which we are directing through this bill to do so.

There is one other thing that is important to remember. Even if a woman could not utilize legal aid one way or the other on the issue, the present Abortion Control Act provides for court-appointed counsel for any minor, incompetent, indigent - those who qualify in that type of a situation.

You really get down to the proposition whether or not this legislature has the power to limit and restrict the use of funds which it either appropriates or which it designates. We are designating the use of funds. No court has ever ruled that we do not have that power to put restrictions there. It in no way takes away any freedom to exercise your constitutional rights or to exercise your freedom of speech. To be very honest, Mr. Speaker, we could have gone a lot farther with this amend-

ment. Time and again this body has said that it prefers child-birth to abortion. Time and again this body has said that it opposes abortion. We could have run an amendment, a one-sided amendment, saying you cannot use the funds to assist with respect to an abortion. We did not do that. We made it evenhanded. This is abortion-neutral language. It is a good amendment. It is constitutional, and I hope you will vote "yes" on the question of constitutionality. Thank you.

The SPEAKER. On the question, those who believe the Kosinski amendment to be constitutional will vote "aye"; those who believe it to be unconstitutional will vote "no."

On the question recurring,

Will the House sustain the constitutionality of the amendments?

The following roll call was recorded:

YEAS—128

Angstadt	DeLuca	Kennedy	Pitts
Argall	Daley	Kenney	Raymond
Arty	Dempsey	Kosinski	Rieger
Barley	Dietterick	LaGrotta	Robbins
Battisto	Distler	Langtry	Ryan
Belardi	Dombrowski	Lashingner	Rybak
Billow	Donatucci	Laughlin	Saloom
Birmelin	Durham	Leh	Schuler
Black	Fargo	Lescovitz	Serafini
Blaum	Farmer	Letterman	Seventy
Book	Fee	Lloyd	Sirianni
Boyes	Fischer	Lucyk	Smith, S. H.
Brandt	Flick	McCall	Snyder, G.
Broujos	Freind	McClatchy	Staback
Bunt	Gallen	McVerry	Stairs
Burns	Gamble	Manderino	Steighner
Bush	Gannon	Manmiller	Stevens
Caltagirone	Geist	Markosek	Stuban
Cappabianca	George	Mayernik	Taylor, E. Z.
Carlson	Gruitza	Melio	Taylor, F.
Cawley	Gruppo	Miller	Taylor, J.
Cessar	Haluska	Morris	Telek
Chadwick	Hasay	Mowery	Tigue
Civera	Hayes	Mrkonic	Trello
Clark	Herman	Murphy	Vroon
Clymer	Hershey	Noye	Wass
Cohen	Hess	O'Brien	Weston
Colafiglia	Hutchinson	Olasz	Wilson
Cole	Jadlowiec	Perzel	Wogan
Corrigan	Jarolin	Petrarca	Wozniak
Cowell	Johnson	Petrone	Wright, J. L.
Coy	Kasunic	Phillips	Yandrisevits

NAYS—64

Acosta	Freeman	McHale	Roebuck
Baldwin	Gladeck	Maine	Rudy
Belfanti	Godshall	Merry	Saurman
Bortner	Hagarty	Michlovic	Semmel
Bowley	Haffer	Moehlmann	Showers
Bowser	Hayden	Nahill	Smith, B.
Burd	Heckler	Oliver	Snyder, D. W.
Carn	Honaman	Piccola	Sweet
Cornell	Hughes	Pievsy	Truman
DeVerter	Itkin	Pressmann	Van Horne
DeWeese	Jackson	Preston	Veon
Davies	Josephs	Punt	Wambach
Dawida	Kitchen	Reber	Wright, D. R.
Dorr	Kukovich	Reinard	
Evans	Levdansky	Richardson	Irvis,
Fattah	Linton	Ritter	Speaker
Fox	Livengood		

NOT VOTING—4

Duffy	Maiale	O'Donnell	Pistella
EXCUSED—7			
Dininni	Howlett	Scheetz	Wright, R. C.
Foster	Micozzie	Wiggins	

The majority having voted in the affirmative, the question was determined in the affirmative and the constitutionality of the amendments was sustained.

On the question recurring,
Will the House agree to the amendments?

PARLIAMENTARY INQUIRY

AMENDMENTS DIVIDED

The SPEAKER. For what purpose does the gentleman from Somerset, Mr. Lloyd, rise?

Mr. LLOYD. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state the point.

Mr. LLOYD. Is this amendment divisible? Specifically, Mr. Speaker, I would like to divide the amendment to have a separate vote on the abortion issue as opposed to the other changes which the gentleman, Mr. Kosinski, wants to make.

The SPEAKER. Where would the gentleman suggest we draw the line?

Mr. LLOYD. I believe, subject to correction from Mr. Kosinski, that on page 2 of the amendment, if you draw a line after the fourth line and start the amendment, "Amend Sec. 7, page 9, by inserting between lines 5 and 6" and then draw another line after clause (3), the word "abortion," I believe that that is the only part of the amendment which relates to the abortion question. And if that is so, I would like to have that voted separately.

Mr. KOSINSKI. Mr. Speaker?

The SPEAKER. Just a moment, Mr. Kosinski.

We are checking the bill. There is a problem here. If the words "(b) and (c)" are related to the bill, then it is divisible. If they are related to the amendment, then it is not. We have to check and see.

Mr. Lloyd and Mr. Kosinski and others who may be interested, there is an obstruction. If we were to draw the lines as you suggest, Mr. Lloyd, particularly the line which goes under the word "abortion," then when you get down to the words "...allocated from the IOLTA fund are expended in accordance with section 7," then the question is whether section 7, which we have now voted on separately—let us say that was defeated; it would not be present for those words to be attached. We think therefore that it is not divisible, unless section 7 refers to section 7 of the established law.

For those members who are interested in the question of divisibility and for the majority leader, the section 7 we were looking at refers to section 7 in existence already in the bill. It is not necessarily "Amend Sec. 7, page 9,..." of the upper language. Therefore, the Chair rules that the amendment is divisible, as suggested by the gentleman, Mr. Lloyd. Therefore, what is before the House now is as follows—

Mr. GALLEN. Mr. Speaker?

The SPEAKER. Let the Chair—

Mr. GALLEN. Before you put the question, Mr. Speaker—

The SPEAKER. No.

Before the House now are these words: "Amend Sec. 2, page 2, line 19, by inserting after 'practicable'" and all the words on page 1, ending with on page 2 the words "eligible clients," paragraph "(2)".

PARLIAMENTARY INQUIRY

The SPEAKER. Now the Chair recognizes the gentleman from Berks, Mr. Gallen. What is your question?

Mr. GALLEN. I have a point of parliamentary inquiry, Mr. Speaker, and it would have been more appropriate just a second ago.

The SPEAKER. Not in the opinion of this Chair. You may now speak.

Mr. GALLEN. Mr. Speaker, I have a point of parliamentary inquiry.

The SPEAKER. What is it?

Mr. GALLEN. The question is, the fact that a member asks if a question is divisible, does that mean that the Speaker then puts the question separately or can the House object to dividing the question? That is the question, Mr. Speaker.

The SPEAKER. The House may always vote to overrule any ruling of the Speaker.

Mr. GALLEN. Mr. Speaker, I was not—

The SPEAKER. The question is placed by the Chair. Once the Chair rules that it is divisible, the Chair places the question. If the House disagrees with the Chair, the House overrules what the Chair has ruled. It is that simple.

Mr. GALLEN. Mr. Speaker, I think you are misunderstanding my question. My question is, despite the fact that an amendment is divisible—it is divisible. All right. That has been decided—can the House decide that they do not want to divide the question as requested by a member?

The SPEAKER. The precedent—and remember, we discussed this last time, and maybe we can get this settled today—the precedent on this floor is that the Chair places the division. The Chair would suggest you stay with that precedent. If you get to the matter of putting it to the floor on every question of division, you are going to be in eternal arguments. It is probably wise that we follow the precedent.

Mr. GALLEN. Thank you, Mr. Speaker.

The SPEAKER. Now, before the House is the language as the Chair read to you. Right now we are voting on no other language except the language on page 1 going down on page 2 to the words "eligible clients," then "(2)"; nothing else.

On that argument, does the gentleman from Dauphin, Mr. Wambach, wish to be recognized?

Mr. WAMBACH. I was just going to clarify then, Mr. Speaker. You are not picking the language up, "Amend Sec. 9, page 10..."?

The SPEAKER. Not yet.

Mr. WAMBACH. Okay. Thank you, Mr. Speaker.

The SPEAKER. Just for the information of the floor, the Chair is going to be leaving in 5 minutes. I am going to ask Mr. Ivan Itkin to take over.

The Chair has ruled that the first amendment ends with the words "eligible clients. (2)." The Chair further rules that the second part of the amendment begins with the words "Amend Sec. 7, page 9, by inserting between lines 5 and 6" and ends with the words "for the performance of any abortion." The Chair further rules that the remainder of the amendment, beginning "Amend Sec. 9, page 10, line 12," continues through page 3 and is available, therefore, for a vote. Is that clear?

Before us now is just the first language ending with the words on page 2, "eligible clients. (2)."

On the question,

Will the House agree to part 1 of the amendments?

The SPEAKER. Now the Chair recognizes the gentleman from Somerset, Mr. Lloyd.

Mr. LLOYD. Thank you, Mr. Speaker.

Mr. Speaker, this is the part of the amendment that has nothing to do with abortion. I oppose this part of the amendment. I would suggest that members look very carefully at the definition of "qualified recipients," because what they will find is that this IOLTA money in most instances could not be used for the kinds of cases that constituents come to their office to talk about. For example, if you have a constituent who is not elderly, not disabled, not homeless, or not a seasonal farmworker, who comes to your office on a child support case and the alternative is they get welfare, you cannot send that person to legal aid and have them use IOLTA funds to help pay to provide that kind of legal counseling under this amendment.

In addition, if the question has to do with some issue of landlord-tenant law, which a lot of legal aid cases do, you can get that service under IOLTA funds if you are elderly, disabled, or homeless but you cannot get that kind of service if you are not elderly. Someone under the age of 65 presumably would be the cutoff. That is going to exclude a tremendous number of people. I do not know why this is being proposed to be done, but what it is going to do is to make sure that IOLTA does not become a means to provide adequate funding for legal services for the vast majority of people, at least in my district, who need those services. I would suggest that since this does not involve the abortion question, that we reject this part of the amendment.

LEAVE OF ABSENCE

The SPEAKER. The Chair is requesting that his name be placed on leave for the remainder of today's session.

MR. ITKIN REQUESTED TO PRESIDE

The SPEAKER. The Chair invites the Speaker pro tempore, Mr. Ivan Itkin, to preside.

**THE SPEAKER PRO TEMPORE
(IVAN ITKIN) IN THE CHAIR**

CONSIDERATION OF SB 426 CONTINUED

The SPEAKER pro tempore. The House will come to order.

The Chair recognizes the gentleman from Philadelphia, Mr. Kosinski.

Mr. KOSINSKI. Thank you, Mr. Speaker.

In response to Representative Lloyd's arguments, very simply, again, he was right in saying that IOLTA funds can only be used for these qualified recipients exclusively. That means that other moneys that are currently being used to fund such recipients, there will be more money available to take care of Mr. Lloyd's problems to fund other people who are outside of the IOLTA restrictions - your tenant problems, your people who do not fall under the IOLTA category. That is number one.

Number two, the reason this exclusivity language was put into the Kosinski amendment was very simple. Any other language would allow a loophole to exist big enough for me to walk through, so we had to make an exclusivity provision and we limited it to these narrow categories of people. Again, it does not preclude other people from getting other funds with your community legal services and your other people, but the IOLTA funds can only be used for the disabled, the elderly, the indigent, and seasonal farmworkers. That allows for more of the other funding to come in for the nonexclusive groups.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Westmoreland, Mr. Kukovich.

Mr. KUKOVICH. Mr. Speaker, I would ask for a "no" vote on this part of the amendment. Again, it in no way directly or indirectly affects the abortion issue. What it does do is strike the administration-of-justice recipients, strikes the recipients of which Representative Lloyd alluded, probably sets up a much more complicated accounting system for the various legal services corporations, and begins to reduce the comprehensive, multipurpose nature of legal services. I really do not think it is necessary. I do not think there is any loophole in the original language that is a problem, and again it has no effect on the abortion issue. You can vote whatever way you want on the next part, but if you are concerned about abortion, that should have no influence over this part of the Kosinski amendment, and I would ask for a "no" vote.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair now recognizes the gentleman from Somerset, Mr. Lloyd.

Mr. LLOYD. Just one point, Mr. Speaker. Suggestion was made that other funds could be used. If other funds were adequate, we would not be considering this bill in the first place. The only reason we are considering this legislation is because in many parts of the State there are not currently enough State and Federal tax dollars to provide the level of services which

people need. As a result, you have cutbacks. People who used to be able to get those services are no longer able to do that. I suspect that the people who are pushing this amendment know that and that is why they are doing it, and I think we should not accept that; that if we are going to make services available, that is what the issue is, and if you do not like that, then you vote against the bill. But we ought not to be saying that people who are on welfare and could get off welfare if they could get the child support paid are not entitled to legal aid.

Vote "no."

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from York, Mr. Bortner.

Mr. BORTNER. Thank you, Mr. Speaker.

I intend to be brief. I would like to support the remarks of the gentleman, Mr. Lloyd. There is a crying need for additional funding for legal services. During all the budgets I have been involved with, we have not met our obligation here, the Federal Government has reduced their obligation. At a very minimum, this amendment creates a great deal of confusion, as you may have gathered from the debate that is occurring here on the floor of the House, as to who is going to qualify and who is going to be recognized as a qualified recipient for legal services funding. This is an amendment that, dealing only with this half of the amendment, is certainly unnecessary. I believe it creates a great deal of confusion, and I would hope that the members would vote against this portion of the amendment so that we can move on and adopt this very important bill. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

LEAVES OF ABSENCE

The SPEAKER pro tempore. The Chair wishes to announce that the gentleman from Westmoreland, Mr. MANDERINO, and the gentleman from Washington, Mr. SWEET, will be added to the leaves of absence. The leaves will be granted for those gentlemen.

CONSIDERATION OF SB 426 CONTINUED

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Delaware, Mr. Freind.

Mr. FREIND. Thank you, Mr. Speaker.

I rise to support this amendment. Number one, if you look at this section, it is disjunctive. Number (1), its qualified recipients are legal services; number (2), those which "provide direct civil legal services exclusively to eligible clients who are elderly, disabled or homeless, or are seasonal farmworkers." The umbrella is here for all the people referenced in the debate.

Let me tell you one of the reasons for this section. I may not be a genius, but I was not born yesterday. What we do not want to do is provide money to organizations, such as the Women's Law Project, which turn around and then make a career of challenging our laws in court - the Abortion Control

Act - and to make this immortal, then go in under the Federal Civil Rights Act to get additional legal fees.

The issue is very simple. Time and again this legislature says it opposes abortion; it supports childbirth. And yet unless we have this amendment, we are going to be funding some of those groups that are going to have us in court with our money to knock out the laws which we passed and then come back for a double dip under the Federal Civil Rights Act.

No needy person, if this amendment is passed, will be deprived of representation. It is a good amendment. It is an important amendment. I hope we will vote "yes."

On the question recurring,
Will the House agree to part 1 of the amendments?

The following roll call was recorded:

YEAS—117

Angstadt	Dempsey	Kosinski	Raymond
Argall	Dietterick	LaGrotta	Rieger
Arty	Distler	Langtry	Robbins
Baldwin	Dombrowski	Laughlin	Ryan
Barley	Donatucci	Leh	Saloom
Battisto	Durham	Lescovitz	Schuler
Belardi	Evans	Letterman	Serafini
Birmelin	Farmer	Livengood	Seventy
Black	Fee	Lucyk	Sirianni
Blaum	Fischer	McCall	Smith, S. H.
Book	Flick	McClatchy	Snyder, G.
Boyes	Freind	McVerry	Staback
Bunt	Gallen	Manmiller	Stairs
Burd	Gannon	Markosek	Steighner
Burns	Geist	Mayernik	Stevens
Bush	George	Melio	Suban
Caltagirone	Gruppo	Miller	Taylor, E. Z.
Cappabianca	Haluska	Morris	Taylor, F.
Carlson	Hasay	Mowery	Taylor, J.
Cawley	Hayes	Noye	Telek
Cessar	Herman	O'Brien	Tigue
Chadwick	Hershey	Olasz	Trello
Civera	Hess	Perzel	Vroon
Clark	Jadlowiec	Petrarca	Wass
Clymer	Jarolin	Petrone	Weston
Colafella	Johnson	Phillips	Wilson
Cole	Kasunic	Pievsky	Wogan
Corrigan	Kennedy	Pitts	Wright, J. L.
DeLuca	Kenney	Punt	Yandrisevits
Daley			

NAYS—74

Acosta	Fargo	Kukovich	Reber
Belfanti	Fattah	Levdansky	Reinard
Billow	Fox	Linton	Richardson
Bortner	Freeman	Lloyd	Ritter
Bowley	Gamble	McHale	Roebuck
Bowser	Gladeck	Maine	Rudy
Brandt	Godshall	Merry	Rybak
Broujos	Gruitza	Michlovic	Saurman
Carn	Hagarty	Moehlmann	Semmel
Cohen	Harper	Mrkonic	Showers
Cornell	Hayden	Murphy	Smith, B.
Cowell	Heckler	Nahill	Snyder, D. W.
Coy	Honaman	O'Donnell	Truman
DeVerter	Hughes	Oliver	Van Horne
DeWeese	Hutchinson	Piccola	Veon
Davies	Itkin	Pistella	Wambach
Dawida	Jackson	Pressmann	Wozniak
Dorr	Josephs	Preston	Wright, D. R.
Duffy	Kitchen		

NOT VOTING—2

Lashinger Maiale

EXCUSED—10

Dininni Manderino Sweet Irvis,
Foster Micozzie Wiggins Speaker
Howlett Scheetz Wright, R. C.

The question was determined in the affirmative, and part 1 of the amendments was agreed to.

On the question,
Will the House agree to part 2 of the amendments?

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Philadelphia, Mr. Kosinski, for the second part of his amendment.

Mr. KOSINSKI. Very simply, I ask for a "yes" vote. I think it is self-explanatory, this part of the amendment, and your "yes" vote again is appreciated.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Westmoreland, Mr. Kukovich.

Mr. KUKOVICH. Mr. Speaker, in light of the past two votes, I know this is not going to change anything, because this is the abortion language. The constitutional motion has failed. I do, however, want on the record what the pragmatic effect of this will be. And I have no problem with what Mr. Kosinski and Mr. Freind have tried to do from their perspective. They tend to be zealots for their cause and that is not necessarily bad. But the problem is that the purpose of this bill is such that it would help thousands of people who are not receiving legal services. They are not going to receive that if this language stays in.

In Westmoreland County just last week, we found out the Volkswagen plant would close. It is automatically 2,500 people, not to mention their families, who will need legal services help who will not get it. They will not get it. The pragmatic effect is to deny them support.

All this language says is, what the zealots, the Ayatollahs of abortion who believe fervently—and I do not question their belief—but what they are saying is what they want to do is make sure that maybe if one bar association in one county may want to give a little money to one group, which Mr. Freind mentioned, who may use part of that for abortion-related services, well, then nobody should really get anything. That is the pragmatic effect. So they will set up a group like the Women's Law Project or Planned Parenthood. This language will not prevent one abortion, not one. What it will do is serve to hurt legal services, possibly destroy this legislation, and attack one specific group in one county. That is wrong. I expect that of zealots. I do not expect that of the majority of this House.

I would ask for a "no" vote.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair wishes to advise the members of the House that we are dealing now with the second part of the Kosinski amendment, which will be found on page 2, beginning with "Amend Sec. 7, page 9, by inserting between lines 5 and 6"

and which will end at the bottom one-third of that page with subsection (3), ending with the lines "or the provision of facilities for the performance of any abortion." Then we will deal with the remainder of the Kosinski amendment in a further consideration.

The Chair now recognizes the gentleman from Greene, Mr. DeWeese.

Mr. DeWEESE. Mr. Speaker, every once in a while, maybe once in a generation, another deliberative body, another deliberative body called the College of Cardinals, comes forth and we hear those famous words, *Habemus Popum*, *Habemus Popum*, and around the world it is translated, we have a Pope. This afternoon another deliberative body is meeting. We are not an ecclesiastical body as the College of Cardinals. We are a parliamentary body, and our quintessential obligation is to uphold our Constitution and our oath. And as the gentleman, Mr. McHale, from the Lehigh Valley so cogently argued in his constitutional case, we obliterated our Constitution only moments ago. And then with the efficacy and adroitness of our Harvard-trained lawyer, Mr. Lloyd, we tried once again to preserve our constitutional obligation and what was proper.

Now, there are and there have been and there always shall be ecclesiastical divergences on this point of view. We shall not agree. And as the constitution of this body is such that it is, Mr. Freind's proclamations will prevail. However, they will prevail only within this chamber, because when they leave this chamber, our State taxpayers will pay to the tune of \$400,000 in legal fees to defend Mr. Freind, to defend the perspective that he has shared with us, to defend the perspective that we all vote for unconstitutionally. That is what is going to happen. It is going to go to Washington, DC, and it is going to be declared unconstitutional.

Now, what is our obligation? Is it ecclesiastical or is it parliamentary? I say that if all of us, if all of us, look at our oath, look at our Constitution, and look at the specific language of Mr. Kosinski's effort, we will realize that they are not, they are not consentaneous.

It is absolutely imperative, Mr. Speaker, that we reject the Kosinski proposal, because it is abjectly and ignobly unconstitutional. This is a parliamentary body, not an ecclesiastical body. We must separate the two. We must stand behind our oath of office. We must stand with Paul McHale. We must stand with our Harvard lawyer, Mr. Lloyd. Thank you.

The SPEAKER pro tempore. Does the gentleman from Lehigh, Mr. McHale, seek recognition?

Mr. McHALE. With some hesitation, yes, Mr. Speaker.

The SPEAKER pro tempore. The gentleman is in order and may proceed.

Mr. McHALE. Mr. Speaker, a few minutes ago the House made the determination in its wisdom or lack thereof that the Kosinski amendment is constitutional, and though the decision may have been made that this is not an unconstitutional amendment, it does in fact remain unwise. I will not address the question of constitutionality. I think that is now a moot point. I will, however, address the question of whether or not

this makes sense, even if it does by some, I think, mysterious stretch of the imagination meet a litmus test of constitutionality under the First Amendment.

Mr. Speaker, over the last 20 years and particularly since 1973, I cannot think of a more difficult, divisive, hard-thought issue than the question of abortion, and I regularly manage to irritate people on both sides of the issue by pointing out that people of good faith can have very differing views on the question of the morality and legality of terminating a pregnancy. I can tell you, Mr. Speaker, for me it has been by far the most difficult public policy question I have had to answer in my own mind.

I agree with the gentleman, Mr. Kosinski, on the morality or lack of morality of abortion. I think that under most circumstances abortion is morally indefensible, and like Mr. Kosinski, I do not support public funding for abortion. I do not believe that is the way our tax dollars should be spent or must be spent, either as public policy or the constitutional mandate.

But what we are talking about here is not abortion. We are talking about advocacy. We are talking about equal access to the courthouse. I fail to see the logic which says that somehow abortions will be inhibited, that we will have fewer abortions, by preventing citizens on both sides of the question from having access to the courtroom in order to settle their disputes. If we lock the courthouse door for indigent citizens who wish to litigate their rights on the question of abortion, whatever side of the issue they happen to be on, surely that will not cause the dispute to go away. Some citizen is going to feel that he had a legitimate claim under the law and simply because he was poor and could not obtain a legal services lawyer pursuant to this amendment, that he was barred from litigating his rights within the courtroom. The very difficult disputes and very complex moral issues, legal issues, surrounding the question of abortion, I believe, must be settled in the courtroom.

Right now in the city of Allentown, at least within the past few weeks, just outside my legislative district, citizens of good faith, who happen to be prolife, have been picketing a hospital because of its abortion policy. I have, with some regret, seen that peaceful activity described as terrorism. I happen to believe that if in that group of citizens protesting that hospital there is an indigent citizen who at some point in time further down the line is denied his freedom to speak, to assemble, to picket peacefully, that that prolife advocate should have equal access to the courtroom with the aid of a legal services attorney in order to protect his First Amendment freedom.

Similarly, if there is a prochoice advocate who is poor and who believes that he or she has certain rights under the Roe decision, that citizen too should have equal access to the courtroom for the peaceful resolution of the dispute. If we tell people they cannot settle their arguments under the law in a courtroom, we invite them to settle those arguments violently on the street. I believe that the whole purpose of our legal system is to bring people with widely divergent viewpoints into the courtroom to give them an equal opportunity to be

heard and thereafter to have that dispute settled pursuant to the rule of law.

It has been said that this amendment is abortion neutral, and it is. It keeps everybody who is poor out of the courtroom with the assistance of a legal aid attorney. It locks the courthouse door. I truly do not understand that logic. I truly do not believe that the Kosinski amendment, the portion now under debate, will in any way decrease the number of abortions. If I believed that it would, perhaps I would vote for it. But all this says is, we do not want to hear about this dispute, and so by some twisted logic we are now attempting to keep it out of the courtroom where that dispute might be peacefully resolved.

In conclusion, Mr. Speaker, I believe that every citizen who otherwise qualifies for legal services should be encouraged, not barred as this amendment would, should be encouraged to enter the courthouse for the peaceful resolution of that dispute, whether that litigant is prolife or prochoice. That is what our judicial system is all about, because if we lock that courthouse door, we invite the violent confrontation that will inevitably take place on the street, and I believe that is wrong.

I seek a negative vote on the Kosinski amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair now recognizes the gentleman from Somerset, Mr. Lloyd.

Mr. LLOYD. Thank you, Mr. Speaker.

Mr. Speaker, the gentleman, Mr. DeWeese, in his zeal to defeat this amendment, engaged in the very tactics which he so frequently blasts from the other side. Specifically, in an attempt to show some broad-base support for his position, he misquoted my position, a position which I stated on the floor earlier this afternoon and I want to state again for the record, and that is that I intend to support this portion of the Kosinski amendment. I do not think the government ought to be encouraging abortion in any way. And I wish that in the future when the gentleman, Mr. DeWeese, or any other member of the House is going to get up on the floor and try to bolster his argument by citing the positions of other members, that he might cite those positions accurately. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Cumberland, Mr. Broujos.

Mr. BROUJOS. Mr. Speaker, I would like to know if Mr. Kosinski would consent to questioning.

The SPEAKER pro tempore. The gentleman agrees to be interrogated. Mr. Broujos, you may proceed.

Mr. BROUJOS. Mr. Speaker, if there is a legal services organization that receives funding from a number of sources including IOLTA funds—and let us assume that the IOLTA funds are 10 percent of the total funds received—and the legal services organization wants to perform some advocacy that is here prohibited, would that prohibit the legal services from performing that function?

Mr. KOSINSKI. As I understand, it would prohibit it from doing any abortion litigation whatsoever. What they would have to use the IOLTA funds for and show the IOLTA funds

were used for would be for advocacy within the qualified recipients as enunciated in Kosinski 1.

Mr. BROUJOS. Is there any way that you are aware of that you could uncommingle or assign sources received so that they could be used only by persons using only equipment and only paper and only typewriters that are paid for by funding other than IOLTA?

Mr. KOSINSKI. You could break it down a number of ways, Mr. Speaker. It is not inconceivable. One of the aspects of it now is when you get money from the State Government to run a legal services fund, you must show how much of that State money was used on what, and you also get money from, let us say, private foundations. You could show that money was used for a certain thing. But in this particular instance, you would be prohibited from using the money for any abortion advocacy or any other abortion issue.

Mr. BROUJOS. Mr. Speaker, if 90 percent of the funding received from other sources had a condition that it could be used for all purposes and specifically could and should be used for purposes of abortion advocacy or considering the choices of that abortion, would you say that that would be sufficient to supersede the 10-percent restriction that you would impose?

Mr. KOSINSKI. I would have to see how the audit was drawn up in that particular case. That is why we have put the auditing provision within the amendment.

Mr. BROUJOS. I have no further questions.

I would like to make a statement, Mr. Speaker.

The SPEAKER pro tempore. The gentleman is in order and may proceed.

Mr. BROUJOS. I think that there are some real serious problems with this that are not being addressed, and they go well beyond the question of the political or the religious issue. It is the practical effect, and that is that it means that no matter how small the proportion of funding that would be provided by IOLTA funds with these restrictions, they would effectively prevent the performance of any services in these three areas. So if you took it all the way down to 5 percent, it means that the 95-percent funding sources from other contributors would in effect be nullified with respect to their conditions or objectives. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair now recognizes the gentleman from Chester, Mr. Pitts.

Mr. PITTS. Thank you, Mr. Speaker.

I for one am tired of the prochoice or proabortion advocates telling us, when we are about to consider prolife legislation, that it is unconstitutional. If it is wrong to try to restrict the use of public funds for promoting or promulgating or advocating abortion, if that is wrong, we need to come up with a new definition of what is right and wrong. We are talking about saving the lives of unborn babies.

Number two, I think it is entirely inappropriate for members to stand on the floor and ridicule the religious groups such as the Roman Catholic Church. I am not a

Catholic, but I think it is inappropriate to have this kind of ridicule indicated or implied in your speech. And, Mr. Speaker, if the proliferers are the Ayatollahs of abortion, I would say to the—

The SPEAKER pro tempore. Would the gentleman desist for a second.

POINT OF ORDER

The SPEAKER pro tempore. For what purpose does the gentleman from Greene, Mr. DeWeese, rise?

Mr. DeWEESE. I would like to know exactly what he is referring to.

Mr. PITTS. I am referring, Mr. Speaker, to your speech where you speak—

Mr. DeWEESE. You are supposed to be on the amendment, sir.

Mr. PITTS. I am talking about your comments on the amendment.

Mr. DeWEESE. Point of order, Mr. Speaker.

I would like him to keep his comments to the amendment.

The SPEAKER pro tempore. Would the gentleman from Chester narrow his comments to the amendment.

Mr. PITTS. I will conclude. Yes, Mr. Speaker.

I would also like to say, in a point of jest to the speaker, if the proliferers or someone over here is the Ayatollah of abortion, I would say to the resident marine that he might be the Ollie North seeking to divert funds for his cause. Thank you, Mr. Speaker.

REMARKS ON VOTE

The SPEAKER pro tempore. The Chair recognizes the gentleman from Northampton, Mr. Rybak.

Mr. RYBAK. Mr. Speaker, if it is appropriate, I would like to correct the vote on the record in regards to SB 421, amendment A4309, Kosinski 1. I was recorded in the negative. I would like to be indicated in the affirmative.

The SPEAKER pro tempore. The gentleman's remarks will be spread upon the record.

CONSIDERATION OF SB 426 CONTINUED

The SPEAKER pro tempore. Does the gentleman from Philadelphia, Mr. Richardson, seek recognition?

Mr. RICHARDSON. Yes.

The SPEAKER pro tempore. All right. The gentleman is in order and may proceed.

Mr. RICHARDSON. Thank you very much, Mr. Speaker.

I had not planned to rise to speak on this issue, but I felt compelled to speak for poor people in the Commonwealth of Pennsylvania, on behalf of those individual persons who are not here to defend themselves, such as the other eloquent speakers who have already come before me have raised this whole question about selection and where we should deny funds to be allowed to those individual persons under the subsection of abortion.

It always amazes me that the floor of this House tends to take the attitude that those individual persons and particularly women who are out there, that none of us have either come in contact with women or know women who in fact fall in categories which a lot of times may not fall under the auspices of those individual categories that speak directly to the issue of abortion in the manner that they seek it. And it seems to me that when there are legal problems, the only source and informational attitude for persons to go to is through the legal services arm, Community Legal Services in some instances, Pennsylvania Legal Services, and others, and to be able to have the right to be able to be represented because there may be some misrepresentation of those individuals who are now seeking some reprieve by going through the court process.

I am not a lawyer, nor am I Catholic, but I can certainly indicate to you that justice in this city, in this State, in this Nation, is something that was spoken on a long time ago by many before me. They indicated that there is no justice, just us; meaning, just us poor people must continue to keep fighting against those individuals who try to rule over other people's lives.

This is not an issue that deals in religion; it is not an issue that deals in individuals making up what they feel in their mind is the best answer to a particular problem. If we know in fact that to go to court and to have this particular amendment challenged in court is going to lose and become unconstitutional, why would we continue to keep fighting a losing battle? But to those who are on the other side, they do not care as long as back home they can have something written in their favor to indicate that they in fact took care of the problem by standing on the floor of the House, boom. They have done what is important for them personally.

It seems to me that we have to look at a broader picture, and I always try to offer what I feel is direction in this issue. We should be a "no" on this amendment. When you talk about advocating the freedom to choose abortion or the prohibition of abortion, or you talk about providing legal assistance with respect to any proceeding or litigation which seeks to procure or prevent, or procure or prevent public funding for any abortion, and then you talk about providing legal assistance with respect to any proceeding or litigation which seeks to compel or prevent the performance or assistance in the performance of any abortion or the provision of facilities for the performance of any abortion, that is a whole lot of words that do not really mean anything other than saying you do not want anyone to do anything when it comes to discussion or when it comes to the life of an individual or having it or not having the baby.

And I say this to you, that you can do all the passing of any legislation that you want on this floor, but I will say this: Those persons who cannot get any legal redress and those persons who cannot find any other way to work on their particular problem, particularly if they are poor— We are not talking about those who are rich and can afford a lawyer and be able to go into court and win their cases; I am talking now about poor women, women who do not have anybody to

stand up and fight for them in this Commonwealth. Well, I am a freedom fighter, and I am here to fight for them, because it seems to me that somebody has got to say to each and every one of us on the floor of this House that until all women know that we solidly are behind them, we will stand up and fight for them, and we do not care what the odds are. Regardless of whether or not we only muster a few votes or not on this issue, with respect to the fact that every individual has a right to legal counsel anywhere else, but now we are going to restrict what they can go to legal counsel for, I think is a basic contradiction at best, and I think it is the kind of mentality that often transcends into other parts of this whole question about where racism really lies, and for some reason we never ever want to address that.

This is much broader than just one question on abortion, because if in fact we are concerned about poor people wherever they are, then we will address our issues as it relates to our children, because the same components that are advocating "no" on abortion for legal redress for poor people are the same ones who are for the death penalty. Why they talk about life on one hand and say that we need to preserve life, we need to make sure that we protect life, they are willing to pull the switch. So it means that all of that poppycock and talk about trying to deal with the particular problem as we see it does not really relate to the seriousness of what we are dealing with. And until we can face up to reality and deal with the problems as they relate to poor women in this Commonwealth who do not have anybody to fight for them, I will continue to stand on this floor and express my feelings regardless of what the odds are.

Hannibal said there are no Alps, and he climbed over them with little or no support from any other majestic or magical force. But what he saw was something that he believed in inside of his heart, and that is more important than anything else. I think that our women today need the support of men and women who are willing to stand up against the odds and challenge those forces out there and stop being hypocritical about what you know is reality. These people have a right to be heard, these people have a right to be heard in court. They have a right to be defended regardless of what the issue is, and at no time do we have the right to tell people that they cannot go to court on any issue in this Commonwealth.

On the question recurring,
Will the House agree to part 2 of the amendments?

The following roll call was recorded:

YEAS—132

Angstadt	Coy	Johnson	Pitts
Argall	DeLuca	Kasunic	Punt
Arty	Daley	Kennedy	Raymond
Baldwin	Dawida	Kenney	Rieger
Barley	Dempsey	Kosinski	Robbins
Battisto	Dietterick	LaGrotta	Ryan
Belardi	Distler	Langtry	Rybak
Belfanti	Dombrowski	Laughlin	Saloom
Billow	Donatucci	Leh	Schuler
Birmelin	Duffy	Lescovitz	Serafini
Black	Durham	Letterman	Seventy
Blaum	Fargo	Levdansky	Sirianni
Book	Farmer	Livengood	Smith, S. H.

Boyes	Fee	Lloyd	Snyder, G.
Broujos	Fischer	Lucyk	Staback
Bunt	Flick	McCall	Stairs
Burd	Freind	McClatchy	Steighner
Burns	Gallen	McVerry	Stevens
Bush	Gamble	Manmiller	Stuban
Caltagirone	Gannon	Markosek	Taylor, E. Z.
Cappabianca	Geist	Mayernik	Taylor, F.
Carlson	George	Melio	Taylor, J.
Cawley	Gruitza	Miller	Telek
Cessar	Gruppo	Morris	Tigue
Chadwick	Haluska	Mowery	Trello
Civera	Hasay	Murphy	Vroon
Clark	Hayes	Noye	Wass
Clymer	Herman	O'Brien	Weston
Cohen	Hershey	Olasz	Wilson
Colafella	Hess	Perzel	Wogan
Cole	Hutchinson	Petrarca	Wozniak
Corrigan	Jadlowiec	Petrone	Wright, J. L.
Cowell	Jarolin	Phillips	Yandrisevits

NAYS—60

Acosta	Gladeck	McHale	Reinard
Bortner	Godshall	Maine	Richardson
Bowley	Hagarty	Merry	Ritter
Bowser	Harper	Michlovic	Roebuck
Brandt	Hayden	Moehlmann	Rudy
Carn	Heckler	Mrkonc	Saurman
Cornell	Honaman	Nahill	Semmel
DeVerter	Hughes	O'Donnell	Showers
DeWeese	Itkin	Oliver	Smith, B.
Davies	Jackson	Piccola	Snyder, D. W.
Dorr	Josephs	Pievsy	Truman
Evans	Kitchen	Pistella	Van Horne
Fattah	Kukovich	Pressmann	Veon
Fox	Lashinger	Preston	Wambach
Freeman	Linton	Reber	Wright, D. R.

NOT VOTING—1

Maiale

EXCUSED—10

Dininni	Manderino	Sweet	Irvis,
Foster	Micozzie	Wiggins	Speaker
Howlett	Scheetz	Wright, R. C.	

The question was determined in the affirmative, and part 2 of the amendments was agreed to.

On the question,
Will the House agree to part 3 of the amendments?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Philadelphia, Mr. Kosinski.

Mr. KOSINSKI. Even briefer than before, vote "yes." Thank you.

On the question recurring,
Will the House agree to part 3 of the amendments?

The following roll call was recorded:

YEAS—139

Acosta	Coy	Kasunic	Punt
Angstadt	DeLuca	Kennedy	Raymond
Argall	Daley	Kenney	Rieger
Arty	Dawida	Kosinski	Robbins
Baldwin	Dempsey	LaGrotta	Rudy
Barley	Dietterick	Langtry	Ryan
Battisto	Distler	Laughlin	Rybak
Belardi	Dombrowski	Leh	Saloom
Belfanti	Donatucci	Lescovitz	Schuler
Billow	Duffy	Letterman	Serafini
Birmelin	Durham	Levdansky	Seventy

Black	Fargo	Livengood	Sirianni
Blaum	Farmer	Lloyd	Smith, S. H.
Book	Fee	Lucyk	Snyder, G.
Boyes	Fischer	McCall	Staback
Broujos	Flick	McClatchy	Stairs
Bunt	Freind	McVerry	Steighner
Burd	Gallen	Manmiller	Stevens
Burns	Gamble	Markosek	Stuban
Bush	Gannon	Mayernik	Taylor, E. Z.
Caltagirone	Geist	Melio	Taylor, F.
Cappabianca	George	Miller	Telek
Carlson	Gruitza	Morris	Tigue
Carn	Gruppo	Mowery	Trello
Cawley	Haluska	Mrkonic	Van Horne
Cessar	Hasay	Murphy	Vroon
Chadwick	Hayes	Noye	Wass
Civera	Herman	O'Brien	Weston
Clark	Hershey	Olasz	Wilson
Clymer	Hess	Perzel	Wogan
Cohen	Hutchinson	Petrarca	Wozniak
Colafella	Jadlowiec	Petrone	Wright, D. R.
Cole	Jarolin	Phillips	Wright, J. L.
Corrigan	Johnson	Pistella	Yandrisevits
Cowell	Josephs	Pitts	

NAYS—53

Bortner	Godshall	McHale	Reinard
Bowley	Hagarty	Maine	Richardson
Bowser	Harper	Merry	Ritter
Brandt	Hayden	Michlovic	Roebuck
Cornell	Heckler	Moehlmann	Saurman
DeVerter	Honaman	Nahill	Semmel
DeWeese	Hughes	O'Donnell	Showers
Davies	Itkin	Oliver	Smith, B.
Dorr	Jackson	Piccola	Snyder, D. W.
Evans	Kitchen	Pievsky	Taylor, J.
Fattah	Kukovich	Pressmann	Truman
Fox	Lashinger	Preston	Veon
Freeman	Linton	Reber	Wambach
Gladeck			

NOT VOTING—1

Maiale

EXCUSED—10

Dininni	Manderino	Sweet	Irvis,
Foster	Micozzie	Wiggins	Speaker
Howlett	Scheetz	Wright, R. C.	

The question was determined in the affirmative, and part 3 of the amendments was agreed to.

On the question,

Will the House agree to the bill on third consideration as amended?

Mr. MAYERNIK offered the following amendment No. A3701:

Amend Sec. 3, page 3, line 27, by inserting after "interest" annually

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On the question, the Chair recognizes the gentleman from Allegheny, Mr. Mayernik.

Mr. MAYERNIK. Thank you, Mr. Speaker.

Under the present legislation, attorneys will be required to estimate the interest-earning potential of varying sizes of deposits for varying lengths of time. That is without statutory guidelines. Amendment 3701 would clearly define the statute and set guidelines for annual reporting.

This bill, SB 426, had passed the Judiciary Committee last session by a vote of 13 to 2, and it is my belief, after reviewing it, that this amendment was inadvertently excluded, and I am asking for an affirmative vote to include it in this legislation.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Westmoreland, Mr. Kukovich.

Mr. KUKOVICH. Mr. Speaker, it is a little unclear to me what the bottom-line effect will be. Perhaps David could listen to this scenario and then respond if it is accurate or not.

Without the amendment, if someone would put in, let us say, \$500, which is going to be taken out the next day, the interest that would be accrued would obviously be under \$50 and then the interest for that would be available for the IOLTA fund. With the amendment, are you saying that that \$500 that would be put into the account would then be calculated on how much interest that would accrue over a year, and if it goes over \$50, then that amount could not be put into the fund? Is that the effect?

Mr. MAYERNIK. No; that is not my understanding. My understanding is that they would only report annually the amount of money. It would be the annual reporting.

Mr. KUKOVICH. All right. So the purpose of the amendment is only for reporting and not for calculation of the interest.

Mr. MAYERNIK. That is my understanding. That is correct.

Mr. KUKOVICH. Well, that is your understanding according to whom? Is there any basis or is that just your intent?

Mr. MAYERNIK. That is my intent.

Mr. KUKOVICH. All right. Mr. Speaker, if that is the intent, I would suggest that we support the amendment. If there is a problem with that, perhaps it could be dealt with later.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—188

Acosta	Dempsey	Kenney	Preston
Angstadt	Dietterick	Kosinski	Punt
Argall	Distler	Kukovich	Raymond
Arty	Dombrowski	LaGrotta	Reinard
Baldwin	Donatucci	Langtry	Richardson
Barley	Dorr	Lashinger	Rieger
Battisto	Duffy	Laughlin	Ritter
Belardi	Durham	Leh	Robbins
Belfanti	Evans	Lescovitz	Roebuck
Billow	Fargo	Letterman	Rudy
Birmelin	Farmer	Levdanský	Ryan
Black	Fattah	Linton	Rybak
Blaum	Fee	Livengood	Saloom
Book	Fischer	Lloyd	Saurman
Bortner	Flick	Lucyk	Schuler
Bowley	Fox	McCall	Semmel
Bowser	Freeman	McClatchy	Serafini
Boyes	Freind	McHale	Seventy
Brandt	Gallen	McVerry	Showers
Broujos	Gamble	Maine	Sirianni
Bunt	Gannon	Manmiller	Smith, B.
Burd	Geist	Markosek	Smith, S. H.
Burns	George	Mayernik	Snyder, D. W.
Bush	Gladeck	Melio	Snyder, G.
Caltagirone	Godshall	Merry	Staback

Cappabianca	Gruitza	Michlovic	Stairs
Carlson	Gruppo	Miller	Steighner
Carn	Hagarty	Moehlmann	Stevens
Cawley	Haluska	Morris	Stuban
Cessar	Harper	Mowery	Taylor, E. Z.
Chadwick	Hasay	Mrkonic	Taylor, F.
Civera	Hayden	Murphy	Telek
Clark	Hayes	Nahill	Tigue
Clymer	Heckler	Noye	Trello
Cohen	Herman	O'Brien	Truman
Colafranca	Hershey	O'Donnell	Van Horne
Cole	Hess	Olasz	Veon
Cornell	Honaman	Oliver	Vroon
Corrigan	Hughes	Perzel	Wambach
Cowell	Itkin	Petrarca	Wass
Coy	Jackson	Petrone	Weston
DeLuca	Jadlowiec	Phillips	Wilson
DeVerter	Jarolin	Piccola	Wogan
DeWeese	Johnson	Pievsky	Wozniak
Daley	Josephs	Pistella	Wright, D. R.
Davies	Kasunic	Pitts	Wright, J. L.
Dawida	Kennedy	Pressmann	Yandrisevits

NAYS—1

Reber

NOT VOTING—4

Hutchinson	Kitchen	Maiale	Taylor, J.
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EXCUSED—10

Dininni	Manderino	Sweet	Irvis,
Foster	Micozzie	Wiggins	Speaker
Howlett	Scheetz	Wright, R. C.	

The question was determined in the affirmative, and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. MOEHLMANN offered the following amendments No. A3838:

Amend Sec. 5, page 5, lines 12 and 13, by striking out "EACH ATTORNEY SHALL" and inserting

An attorney electing to

Amend Sec. 5, page 5, line 13, by striking out "AND"

Amend Sec. 5, page 5, lines 14 through 16, by removing the comma after "account" and inserting a period

Amend Sec. 5, page 5, lines 14 through 16, by striking out "UNLESS AN" in line 14 and all of lines 15 and 16

On the question,

Will the House agree to the amendments?

The SPEAKER pro tempore. On the question, the Chair recognizes the gentleman from Lebanon, Mr. Moehlmann.

Mr. MOEHLMANN. Thank you, Mr. Speaker.

Mr. Speaker, the debate of the last 2 hours notwithstanding, SB 426 is not a bill having to do with abortion. It is a bill having to do with the moneys that lawyers hold in their office accounts, moneys that belong to their clients that attorneys hold in trust or in escrow, and the bill attempts to direct what shall be done with the interest that is earned by those trust or escrow accounts. My amendment deals with the paragraph in section 5 on page 5, "Attorney participation."

The IOLTA bill concept has been around this General Assembly for some years now. In all of the prior years with

which I am familiar, this concept has been in prior bills a mandatory concept; that is, the law says that any attorney holding funds that generate interest amounting to X number of dollars must participate in the IOLTA concept. This year, however, this session, this bill, as a result of the negotiations among various parties in interest, has come over to us from the Senate as a voluntary matter; that is, as it came over from the Senate, the lawyer—and presumably the client, since in that situation the lawyer is the extension of the client—has the option to participate in the IOLTA program or not to participate.

In committee, when this bill was considered in the Judiciary Committee of the House, an amendment was offered and accepted by the committee which changed that option - substituted for the opt-in provision a provision that in effect was an opt-out provision. It says that each attorney shall participate under the provisions of this act unless he files an election not to participate to the board at times and under conditions as specified by the board.

My amendment removes that amendment that was placed in the bill in the Judiciary Committee, and if it were accepted, it would take the bill back to voluntary participation by the attorneys. In other words, it returns the bill to opt in rather than opt out.

I request an affirmative vote for this amendment. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair now recognizes the gentleman from Westmoreland, Mr. Kukovich.

Mr. KUKOVICH. Mr. Speaker, I ask for a "no" vote on this amendment.

This bill is still a voluntary bill. It is not mandatory in any way. All the opt-out language does, which is currently in the bill and was placed in there during the Judiciary Committee meetings and which the Moehlmann amendment would take out, is simply says that if an attorney does not want to participate, he or she simply has to write to the trust fund account board created in this act and tell them they do not want to participate. It is as simple as that.

The purpose for the opt-out language is to place an affirmative action on the attorneys. In the States that have adopted IOLTA, and there are about 43 States that have done so—once again, Pennsylvania is extremely backward in these sorts of areas—most of the States are moving towards and a lot of them now have opt-out, the reason being that you cannot build up a very large source of funds unless a lot of the attorneys participate.

The whole purpose for this bill is to try to add some supplemental funds through a program that is grossly underfunded. According to the fiscal analysts, if we can get about 20 percent attorney participation, we could raise about \$3 million, 75 percent of which would go to legal services. Without opt-out, I do not think we can hit that mark. With opt-out, again relying on the history of what has happened in other States, I think we can hit that mark and have adequate funding. If we

accept this amendment, we probably doom this legislation to being financially inadequate to accomplish the purpose for which we have drafted the bill.

I would ask for a "no" vote.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Dauphin, Mr. Piccola.

Mr. PICCOLA. Thank you, Mr. Speaker.

I would urge the House to adopt the Moehlmann amendment. One further point of clarification: The House should remember that although Mr. Kukovich makes it appear as if opting out is something easily done, it may or may not be. The language of the bill as currently written says that the attorney may opt out, and I quote, "...at times and under conditions as specified by the board." Since it would be in the interest of the board to maximize their income from this source of funding, they could make it very difficult for an attorney or the client to opt out and to adopt rules whereby it would be almost impossible to opt out or perhaps easy to overlook the opportunity to opt out.

I think we should make this a voluntary program, as it was originally intended by the Senate, and adopt the Moehlmann amendment.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Montgomery, Mr. Reber.

Mr. REBER. Thank you, Mr. Speaker Pro Tempore.

Mr. Speaker, with the adoption earlier of the Kosinski amendment, we have begun an embarking, if you will, onto a very, very serious course, and I think with the language of the bill as it is currently drawn, we are embarking even further into uncharted territories to the extent of what this particular Commonwealth, the Commonwealth of Pennsylvania, is going to do in regard to professionals practicing whatever that particular trade might be.

I think the Moehlmann amendment restores some sanity to what is slowly becoming a very insane piece of legislation, and for that reason, I think we should give those individuals the opportunity to voluntarily participate, if it is their desire, and require no affirmative act whatsoever, if they do not desire, to involve themselves in this particular program. I think if there is ever any fundamental fairness, this is fundamental fairness, and it must be extended to the profession in question.

I would urge the adoption of the Moehlmann amendment. Thank you.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Westmoreland, Mr. Kukovich, who is speaking for the second time.

Mr. KUKOVICH. Mr. Speaker, I have a hard time accepting those last two arguments. On the one hand, if we do not leave this language intact, we are not going to have a viable program. On the other hand, I have a hard time believing that this would be so burdensome on the attorneys of this Commonwealth that they could not figure out how to write a brief one-page letter and where and when to send it.

I think that is patently absurd, and I have a hard time bleeding for the attorneys on this particular issue. I think it is very simple for them to opt out if they want to, and I again would suggest that we vote "no."

The SPEAKER pro tempore. The Chair recognizes the gentleman from Philadelphia, Mr. Cohen.

Mr. COHEN. Mr. Speaker, in debating the Kosinski amendments and debating the bill as a whole, we have proceeded under the assumption that there is some amount of money here that is meaningful. If we pass this amendment, there will not be any meaningful sum of money that we are talking about, and then it really will not matter where the money is going because there just will not be any of any significance.

There is nothing stopping attorneys right now from making voluntary contributions. The whole purpose of this legislation is to set up a mechanism which will encourage people to give so they give automatically without having them sit down every year and make a decision.

Lawyers, I think, can afford this. The average lawyer in Pennsylvania makes something like \$35,000 a year. There are a significant number of lawyers who make over \$100,000 a year. This is certainly a group of people that is not economically deprived. Certainly lawyers can afford to pay the costs of legal aid. Certainly lawyers have the intelligence to write a short one-page letter if they strongly do not want to pay the costs of legal aid.

I would urge that this bill pass without this amendment and that this amendment be defeated so that we could have some sort of meaningful legal aid in Pennsylvania. Thank you.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Lehigh, Mr. McHale.

Mr. McHALE. Thank you, Mr. Speaker.

Mr. Speaker, I am not going to talk about the philosophy of the Moehlmann amendment, but I am going to talk about the practical impact of it. Under current law, attorneys must place clients' funds in a trust account. Normally, that is a commingled trust account on which interest is not paid because the lawyer may not accept interest earned on a client's money. What that amounts to is free use of the money by banks. It is that simple. This money is now placed in a commingled account and the bank where that account is located has the free use of that money. It is a pretty good deal for that financial institution.

If the Moehlmann amendment is passed, based on the experience of other States, the banks will continue to have the free use of that money. If we reject the Moehlmann amendment and continue with the existing language in the bill, it will say, I think in a very fair way to attorneys, you will automatically be included in the IOLTA system, unless you fill out a form and choose to opt out. The bottom line is, the Moehlmann amendment, if adopted, will drastically cut the funds available to legal services pursuant to the IOLTA program.

I urge a negative vote on the Moehlmann amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from York, Mr. Bortner.

Mr. BORTNER. Thank you, Mr. Speaker.

Mr. McHale has framed the issue of the legislation very well. I would rise to oppose the amendment and argue to the members that the effect of this amendment will be to emasculate the bill.

The success of this legislation depends on the funding base or the base of participants that are going to be available. Under the present language of the legislation, all lawyers are participants unless they "opt out," which is the language that Representative Kukovich has been referring to. It is not a very difficult task or a very difficult burden to comply with. You simply write to the board and advise that you do not want to participate. With this amendment, lawyers will have to take an affirmative act to be part of the program. Now, I may not know a lot about a lot of things, but I know a little bit about the way lawyers operate, and if they are required to do something affirmatively, in a lot of cases it is just not going to get done.

I believe that the success of this legislation is keyed to the amount of lawyers or the number of lawyers that will participate. I think most of them will find that not very objectionable, very easy to comply with. I would urge you to defeat the amendment, which I think will reduce the base of participants and therefore reduce the amount of funding that will be available for the program. Thank you.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Mercer, Mr. Gruitza.

Mr. GRUITZA. Thank you, Mr. Speaker.

Will the gentleman, Mr. Kukovich, consent to brief interrogation?

The SPEAKER pro tempore. The gentleman indicates that he will.

Mr. GRUITZA. Mr. Speaker, I have a question on the practical implementation of this in terms of I think a lot of attorneys presently maintain trust accounts, escrow accounts within their law practices that do not generate any type of interest. They are non-interest-bearing accounts. If this legislation were to pass without the Moehlmann amendment, it is my understanding that by operation of law, somehow all of these accounts would be converted into interest-bearing accounts and the banks would then automatically, as of a given date, begin paying interest on these accounts?

Mr. KUKOVICH. That is basically right. The banks would, for the first time, begin to accrue interest on those accounts unless they were informed by the board that certain attorneys were not participating. So only those participating attorneys' funds would be accrued.

Mr. GRUITZA. I guess my question is, how are the banks going to know or going to be able to pinpoint these accounts and, you know, how is this all going to be done unless there is some affirmative action taken by the attorney himself to go in and say, I wish to convert this into an interest-bearing account and participate in such a program?

Mr. KUKOVICH. It is up to the board to notify the banks, and unless the banks are notified, they accrue the funds.

Mr. GRUITZA. So if I am an attorney out there—and I really have not paid much attention to this issue—without my knowledge the bank will be converting my account into an interest-bearing account and then, monthly or quarterly or whatever, forwarding those funds to this board?

Mr. KUKOVICH. That is basically true.

Mr. GRUITZA. Mr. Speaker, could I speak to the amendment?

The SPEAKER pro tempore. The gentleman is in order and may proceed.

Mr. GRUITZA. I have a little bit of a problem in understanding practically how this is going to work, how these banks are going to be able to pinpoint all of these accounts without the affirmative involvement of an attorney. You are going to have attorneys out there that, unless they have taken some affirmative action, may not even know that their accounts are generating interest or not know what is happening until they maybe get a bank statement or something which indicates this.

I would say for this reason that I would support the amendment, just as a practical matter for the attorneys so that they have an understanding of what is taking place and they have assented to that account being used in that way. You know, quite often people ask me, what happens to the interest when I give you this money for a real estate closing or whatever? Where does that interest go that is being earned? And I will explain to them that it is in an account that does not have any interest. I just wonder what kind of confusion we are creating by not actually requiring that the attorneys take an affirmative action on their part to participate rather than just having this imposed on them where a number of attorneys are not even going to realize what is taking place.

So I think that the Moehlmann amendment really is not intended to have a chilling effect on this but to keep everybody's books straight and so that everybody understands, as a practical matter, what is happening to this money and you do not have clients thinking that somehow their moneys have been used for something other than what their attorney may have in good faith told them they were being used for. So I think the Moehlmann amendment makes some sense here.

Mr. KUKOVICH. Am I to answer that?

The SPEAKER pro tempore. I do not believe that was an interrogation; it was a statement.

The Chair now recognizes the gentleman from Philadelphia, Mr. Kosinski.

Mr. KOSINSKI. Very briefly, Mr. Speaker.

I am rising to oppose the Moehlmann amendment for reasons cited before. This program will only work where it is mandatory and not voluntary. We need the participation of the attorneys in the State of Pennsylvania to make it a good program, and I ask your support to defeat the Moehlmann amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from York, Mr. Dorr.

Mr. DORR. Mr. Speaker, I do not blame them for this, but the debaters, I think, have attempted to—some debaters have attempted to—couch this amendment incorrectly in terms of a get-the-lawyers amendment or a get-the-bankers amendment, depending on which debater was talking. I think it would be equally irresponsible to couch it as a help-legal-services amendment.

The question here, Mr. Speaker, is a matter of whether we ought to force people to do something or whether we ought not to. Now, clearly there is an opt-out provision and all of that, but frankly, Mr. Speaker, I think people ought to make an affirmative election with all of the restrictions and requirements we have placed in this legislation. People ought to have to make an affirmative election to get into the program; otherwise, you are going to have a lot of people out there not understanding where the money of their clients is going. I think we ought to adopt the Moehlmann amendment.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Cambria, Mr. Wozniak.

Mr. WOZNIAK. Thank you, Mr. Speaker.

May I interrogate the maker of this amendment?

The SPEAKER pro tempore. Mr. Moehlmann, will you consent to interrogation? The gentleman indicates he will.

Mr. MOEHLMANN. Yes, Mr. Speaker.

Mr. WOZNIAK. Thank you, Mr. Speaker.

A couple of questions have been raised in my mind and I am getting a bit confused right now for all the different speeches that have gone on. Mr. Speaker, the first question I want to ask you is, at this moment in time, do the lawyers or the lawyers' clients collect any interest on these accounts whatsoever?

Mr. MOEHLMANN. On accounts where the amounts of interest earned are de minimis, they probably do not. Where there are amounts in escrow that are sufficient to require separate accounts being kept, then any interest earned on the account would be the property of the client.

Mr. WOZNIAK. So those accounts are not covered under this particular piece of legislation, what we are speaking about today?

Mr. MOEHLMANN. Are you talking about accounts which are large enough to earn interest by themselves? Significant interest if they are kept by themselves?

Mr. WOZNIAK. I believe this legislation deals with all the little accounts that different law firms must accrue and keep but do not, under present conditions, accrue interest. Is that correct?

Mr. MOEHLMANN. I did not hear the gentleman's question. Let me plug in my earpiece here and see if I can.

Mr. WOZNIAK. Okay.

Mr. MOEHLMANN. Go ahead.

Mr. WOZNIAK. Okay. Let me see if I can rephrase this. At this moment, for the intention of the legislation, are these accounts interest bearing, these accounts that we are talking about creating a system where they are going to go to legal aid where opt-out or opt-in is not the— Are they bearing interest now to the attorney?

Mr. MOEHLMANN. The bill on page 3 defines "Qualified funds." Those funds are "Moneys received by an attorney in a fiduciary capacity which, in the judgment of the attorney, are nominal in amount or are reasonably expected to be held for such a short term that sufficient interest income will not be generated to justify the expense of administering a segregated account."

Mr. WOZNIAK. Okay. So in other words, we are talking about a situation where neither the lawyer nor the client gets any additional interest or any income out of these accounts sitting in a bank.

Mr. MOEHLMANN. That is probably correct in almost all cases.

Mr. WOZNIAK. Okay. Now we have a situation where with your amendment you wish to say that an attorney or law firm can opt in to participate and put their moneys into an account that bears interest that would go to service poor people, indigent people in our legal aid system in Pennsylvania.

Mr. MOEHLMANN. I would like to go back to the way the bill was in the Senate, and my amendment does that as Senator Reibman drafted it and as it passed the Senate, saying that one opts in by taking an affirmative action rather than the much more difficult procedure of opting out by taking an affirmative action, an action which the board may decide when it may be taken and how it may be taken, where the attorney or the client does not decide when that may be done or how that may be done.

Mr. WOZNIAK. Thank you, Mr. Speaker.

May I speak on the amendment?

The SPEAKER pro tempore. The gentleman is in order and may proceed.

Mr. WOZNIAK. Thank you.

I move that we defeat this amendment. It seems to me that we are in a situation where we have an opportunity to generate some funds from an area where before this piece of legislation—well, it is not enacted at this moment—where before it just sat in a bank, allowed the banking institution to use money without having to pay for it. Nobody made a dime on a dollar, and I think this is a very good way for the law profession, through no skin off their backs, so to speak, to help fund our legal aid system, which is underfunded in Pennsylvania and probably across this Nation, to help those poor people who have legal problems, just like many of us, and can ill afford to do it. We have a situation whereby opting in, many attorneys simply will not go through the trouble to opt in, while with the opportunity to opt out, they are neither winning nor losing. So it would be in their interests, being for good faith and for other reasons, that they would remain in the system, because there is no additional paperwork or less paperwork if they just continue to change the accounts over to interest-bearing accounts and let the interest be paid to the State.

I just have one question. I do not know if it deals strictly with the amendment or with the maker of the bill, and I was wondering if it would be in order to ask the maker of the bill a question.

The SPEAKER pro tempore. The bill is a Senate bill, and therefore—

Mr. WOZNIAK. Could I have Representative Kukovich—

The SPEAKER pro tempore. Perhaps Mr. Kukovich might speak to the issue.

Mr. WOZNIAK. Thank you, Mr. Speaker.

The only question I have is, let us say, just for this purpose, the Moehlmann amendment goes down and the bill passes in its form right now. The banks begin to collect interest on these accounts. Is that correct?

Mr. KUKOVICH. The way it would work and the way it has operated in other States is that when the bill becomes effective, the board would notify the banks of the effect of the bill and they would have to accrue interest on accounts where they never did before—

Mr. WOZNIAK. Okay.

Mr. KUKOVICH. —and then provide them with a list of attorneys who would be participating and not participating, and then the program would begin.

Mr. WOZNIAK. So it would be the bank's responsibility to tell the board what attorneys opted in and opted out.

Mr. KUKOVICH. To tell whom?

Mr. WOZNIAK. The board that you create.

Mr. KUKOVICH. No; the attorneys have to report to the board. If they want out, they report. If they do not report, then those funds are accrued. The attorneys only report to the board - one letter, one time.

Mr. WOZNIAK. Okay.

When the money is accrued in the bank, who collects it?

Mr. KUKOVICH. The bank.

Mr. WOZNIAK. And they send it in to the State somehow? Is that it?

Mr. KUKOVICH. Yes.

Mr. WOZNIAK. Okay. Thank you, Mr. Speaker.

Just one last statement. I think this is fair. I think the concept is sound to help our poor people get the legal aid they need in a very complex legalistic society. I oppose the Moehlmann amendment and I wish my colleagues to do the same. Thank you.

PARLIAMENTARY INQUIRY

Mr. DAVIES. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Berks, Mr. Davies.

Mr. DAVIES. Mr. Speaker, by the action that just occurred, I take it from here on, under your rules, we will be able to get two interrogations and then be able to speak to the bill twice. Is that correct, Mr. Speaker?

The SPEAKER pro tempore. Mr. Davies, if a member consents to being interrogated, it is not his initiative, and therefore, when he is asked to respond, common courtesy requires him to do so.

Mr. DAVIES. So then I am to assume that if I can get somebody to answer as many questions as I have, I can get that many cracks at interrogation.

The SPEAKER pro tempore. Notwithstanding the patience of the House.

Mr. DAVIES. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Montgomery, Mr. Saurman.

Mr. SAURMAN. Thank you, Mr. Speaker.

Mr. Speaker, in my opinion, today we are once again putting our General Assembly hands into other people's pockets and taking their money. I do not know what comes next, whether we will do this with real estate accounts or automobile sales accounts or whether we will go into the funds of the PTA (parent-teachers' association) and say, hey, this money is not earning interest; we are going to tell you what to do with it; we have some place that it should go. That is what this bill is doing.

What this amendment does is to try to at least put some voluntary aspect into this, and I understand there is another amendment that would require that the individual whose money it is would be informed of what is happening so that perhaps a decision could be made jointly.

I think we make a mistake when we tell people what they have to do with their money. It is not tax money. I do not know of any authority that we have that says that we can do this, but do it we will.

I think from the amendment that was put in with the \$50 annually, we at least have made that sum of money reasonable, but if an attorney feels now that the money is going to go into an account of this type, he may very well opt to put it into an IOLTA fund instead of an interest-bearing account when there is that opportunity. There is no definition as to what that interest could be, and therefore, an attorney could say, well, I think that the interest is \$50 or that is all it is and so we are not going to do it. But that whole matter of resolution could go on and on and on, and had they put that money into an interest-bearing account, perhaps then the client, who has put that money up in the first place, could get some benefit from it.

I think this is a very dangerous thing we are doing with this legislation, but I think that the Moehlmann amendment brings at least some sanity to it, and I would ask that you support that.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,
Will the House agree to the amendments?

The following roll call was recorded:

YEAS—87

Angstadt	Davies	Hershey	Punt
Arty	Dempsey	Hess	Reber
Baldwin	Distler	Honaman	Reinard
Barley	Dorr	Jackson	Robbins
Birmelin	Duffy	Johnson	Ryan
Black	Durham	Kennedy	Saurman
Book	Fargo	Kenney	Schuler
Bowser	Farmer	Langtry	Serafini
Boyes	Fischer	Lashingier	Sirianni
Brandt	Flick	Leh	Smith, B.
Bunt	Fox	McClatchy	Smith, S. H.
Burd	Freind	McVerry	Snyder, G.
Burns	Gallen	Manmiller	Stairs
Bush	Gannon	Merry	Stevens
Carlson	Geist	Miller	Taylor, E. Z.
Cessar	Godshall	Moehlmann	Taylor, J.
Chadwick	Gruitza	Mowery	Telek
Clark	Gruppo	Mrkonic	Vroon
Clymer	Hagarty	Nahill	Weston

Cornell	Hayes	Noye	Wilson
Coy	Heckler	Phillips	Wright, J. L.
DeVerter	Herman	Piccola	

NAYS—96

Acosta	Dietterick	Letterman	Richardson
Argall	Dombrowski	Levdansky	Rieger
Battisto	Donatucci	Linton	Ritter
Belardi	Evans	Livengood	Roebuck
Belfanti	Fattah	Lloyd	Rudy
Billow	Fee	Lucyk	Rybak
Blaum	Freeman	McCall	Saloom
Bortner	Gamble	McHale	Semmel
Bowley	George	Maine	Seventy
Broujos	Haluska	Markosek	Showers
Caltagirone	Harper	Mayernik	Snyder, D. W.
Cappabianca	Hasay	Melio	Staback
Carn	Hayden	Michlovic	Steighner
Cawley	Hughes	Morris	Stuban
Civera	Hutchinson	Murphy	Tigue
Cohen	Itkin	O'Donnell	Trello
Colafella	Jarolin	Olasz	Truman
Cole	Josephs	Oliver	Van Horne
Corrigan	Kitchen	Petrarca	Veon
Cowell	Kosinski	Petrone	Wambach
DeLuca	Kukovich	Pievsky	Wass
DeWeese	LaGrotta	Pistella	Wozniak
Daley	Laughlin	Pressmann	Wright, D. R.
Dawida	Lescovitz	Preston	Yandrisevits

NOT VOTING—10

Gladeck	Maiale	Pitts	Taylor, F.
Jadlowiec	O'Brien	Raymond	Wogan
Kasunic	Perzel		

EXCUSED—10

Dininni	Manderino	Sweet	Irvis,
Foster	Micozzie	Wiggins	Speaker
Howlett	Scheetz	Wright, R. C.	

The question was determined in the negative, and the amendments were not agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mrs. HAGARTY offered the following amendments No. A3837:

Amend Sec. 5, page 5, line 16, by inserting after "BOARD." A participating attorney shall notify, in writing, each client or beneficial owner from whom qualified funds are received of the attorney's participation in the IOLTA fund. The notice shall be accompanied by the written explanation of the IOLTA fund under section 9(g).

Amend Sec. 9, page 11, by inserting between lines 17 and 18 (g) Explanation of IOLTA fund.—The board shall provide each attorney who participates in the IOLTA fund with a written explanation of the IOLTA fund for distribution to clients and beneficial owners under section 5(a).

On the question,

Will the House agree to the amendments?

The SPEAKER pro tempore. The Chair recognizes the lady from Montgomery, Mrs. Hagarty.

Mrs. HAGARTY. Thank you, Mr. Speaker.

Mr. Speaker, my amendment requires that each attorney who is participating in the IOLTA program notify each client that their funds are going to be used in this IOLTA program,

and further, that they receive an explanation of what IOLTA is.

The reason I think that this is important is we have to remember that the moneys in these attorney escrow accounts do not come from the attorneys, they come from clients, people who are going to that attorney. They are giving their attorney and entrusting to their attorney their money, which is then being put into an account by that attorney. I think it is important that people ought to at least receive notice that their money is going to be used to fund legal services. People may have different views of legal services. Although, you know, the courts have held and Representative Kukovich will probably tell you that it is not a property right and it is not their money, still to my mind, if it is your money that is going in that bank and the interest from your money is being cumulated to go to legal services, you ought to at least know about it.

Now, under the Federal tax law, apparently, you cannot be given the right to refuse to have your money used in that way, so this amendment does not suggest that. All it suggests is that you be told that. And the reason I think it is important is I think a person has a basic right to know that their money, the interest which comes from their principal, is going to be used in that way.

I ask for an affirmative vote. Thank you.

The SPEAKER pro tempore. The Chair thanks the lady and recognizes the gentleman from Westmoreland, Mr. Kukovich.

Mr. KUKOVICH. Thank you, Mr. Speaker.

I think the amendment is well intentioned but again goes to the heart of reducing the pool of funds and rendering the bill inoperative. Again, in all the other States that have passed this, the trend—and some have mandated this notice requirement—the trend has been away from mandating a notice requirement. It is not only cumbersome but extremely burdensome on the attorneys. The courts have held that there is no Fifth-Amendment right to property because there is no property unless this pool is first created. So the courts hold that the only thing that is there is an expectation of property. That is not protected in any way by the courts, so there is no reason to provide that notice.

Again, the pragmatic effect is that it is too burdensome. It restricts the amount of funds in the program and hurts the fiscal viability of the program, and I would ask for a "no" vote.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Lehigh, Mr. McHale.

Mr. McHALE. Thank you, Mr. Speaker.

Mr. Speaker, in order for the members to analyze the Hagarty amendment, I think, briefly, they have to understand what happens now when they give money to their attorney. Now when you go to a lawyer and that lawyer says to you, I will take your case but I would like to have a retainer of \$100, and you write a check for \$100 and you give it to that attorney, that does not go into an account with your name on it. That goes into a commingled trust account in which \$25 and

\$50 and \$100 payments from other clients are commingled with your own contribution, so the account may end up having \$5,000 or \$10,000 in it of which only \$100 is your money. Under existing law the attorney may not obtain any interest on that \$10,000 account, and so in effect, that \$10,000 account is given to the bank interest free, and that is the way every law firm virtually in this State sets up a commingled trust account. It is of great benefit to the financial institution to have the free use of your money.

Now, what the lady, Mrs. Hagarty, is suggesting is this: If you establish an IOLTA account, the principal, the \$100, remains yours, but you will not get any interest on that money just as you do not get any interest on it today. However, the attorney who is choosing to participate in the IOLTA system will have to mail out notices to all of his clients advising them that he has chosen to participate in IOLTA in order to assist in the funding of legal services. In the real world, a lot of lawyers who are supportive of IOLTA and legal services will not want to send out those notices for fear of offending some of their clients, and so they will choose not to participate in the program rather than send a notice and potentially offend a client.

The bottom line is this: Right now your money is used, interest free, by the bank. No notice is sent to you advising you that your money is being so used and there is nothing in the Hagarty amendment that would require notice to you when the money is used for the benefit of the bank. However, under the Hagarty amendment, if your money is used to benefit IOLTA, a notice will have to be sent out. I do not see that as being evenhanded. I see that as an inadvertent impact on IOLTA that will very, very significantly decrease the number of lawyers who will choose to participate for fear of offending their clients.

I would ask for a negative vote on the Hagarty amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the lady from Montgomery, Mrs. Hagarty, for the second time.

Mrs. HAGARTY. Thank you, Mr. Speaker.

Mr. Speaker, I think I should clear up a couple of points that were made. First of all, nowhere in this amendment does it suggest that the notice must be mailed. I would think that typically the way this would occur is when a client is sitting across the desk from the attorney opening the case, the attorney would give them in writing—as they give them other; you know, pieces of paper—this notice. Absolutely nowhere does this suggest that the notice must be mailed to the client.

Secondly, I find it ironic that Mr. Kukovich finds this procedure too burdensome, and yet on the other hand it is not burdensome at all, he suggests, for attorneys to opt out. I think that the point of whether or not it is burdensome is not the point. The point is that the client ought to know if that is how interest from his principal is being used.

And the third point I would like to make is I think we have to stop focusing entirely on how much money we are going to raise at all costs. We do not just raise money at all costs. If the practical effect of this may be that we will raise less money but

the purpose is served of notifying people of where their money is going, then we may have to settle for raising less money. Then that practicality may have to give way to principal. Thank you.

The SPEAKER pro tempore. The Chair recognizes the gentleman from York, Mr. Bortner.

Mr. BORTNER. Very quickly, Mr. Speaker. There is an impression being created that clients are losing something or being deprived of something due to this legislation and that this amendment is designed to correct that. That just is not the case, as has been pointed out by Mr. McHale and other speakers. Clients are not losing any money. Their money is not being used for any purpose which they may or may not support.

The practical effect of this is to defeat the effect of the program. Nobody will participate if they have to be concerned about whether they have given adequate notice to every client which they may represent. I would urge that the amendment be defeated.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—86

Arty	Davies	Hershey	Pitts
Baldwin	Dempsey	Hess	Punt
Barley	Distler	Honaman	Raymond
Birmelin	Dorr	Jackson	Reber
Black	Durham	Jadlowiec	Reinard
Book	Evans	Johnson	Robbins
Bowser	Fargo	Kennedy	Ryan
Boyes	Farmer	Langtry	Saurman
Brandt	Fischer	Lashingier	Schuler
Bunt	Flick	Leh	Serafini
Burd	Fox	McClatchy	Sirianni
Burns	Freind	McVerry	Smith, B.
Bush	Gallen	Manmiller	Smith, S. H.
Carlson	Gannon	Merry	Snyder, G.
Cessar	Geist	Miller	Stairs
Chadwick	Gladeck	Moehlmann	Stevens
Civiera	Godshall	Mowery	Taylor, E. Z.
Clark	Gruppo	Nahill	Vroon
Clymer	Hagarty	Noye	Wass
Cornell	Hayes	Phillips	Wilson
Coy	Heckler	Piccola	Wright, J. L.
DeVerter	Herman		

NAYS—103

Acosta	Duffy	Lloyd	Roebuck
Angstadt	Fattah	Lucyk	Rudy
Argall	Fee	McCall	Rybak
Battisto	Freeman	McHale	Saloom
Belardi	Gamble	Maine	Semmel
Belfanti	George	Markosek	Seventy
Billow	Gruitza	Mayernik	Showers
Blaum	Haluska	Melio	Snyder, D. W.
Bortner	Hasay	Michlovic	Staback
Bowley	Hayden	Morris	Steighner
Broujos	Hughes	Mrkonik	Stuban
Caltagirone	Hutchinson	Murphy	Taylor, F.
Cappabianca	Itkin	O'Brien	Taylor, J.
Carn	Jarolin	O'Donnell	Telek
Cawley	Josephs	Olasz	Tigue
Cohen	Kenney	Oliver	Trello
Colafella	Kitchen	Perzel	Truman

Cole	Kosinski	Petrarca	Van Horne
Corrigan	Kukovich	Petrone	Veon
Cowell	LaGrotta	Pievsky	Wambach
DeLuca	Laughlin	Pistella	Weston
Daley	Lescovitz	Pressmann	Wogan
Dawida	Letterman	Preston	Wozniak
Dietterick	Levdansky	Richardson	Wright, D. R.
Dombrowski	Linton	Rieger	Yandrisevits
Donatucci	Livengood	Ritter	

NOT VOTING—4

DeWeese	Harper	Kasunic	Maiale
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EXCUSED—10

Dininni	Manderino	Sweet	Irvis,
Foster	Micozzie	Wiggins	Speaker
Howlett	Scheetz	Wright, R. C.	

The question was determined in the negative, and the amendments were not agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. RYAN offered the following amendment No. A3666:

Amend Sec. 8, page 9, lines 11 through 16, by striking out "Two members" in line 11, and all of lines 12 through 15 and "attorney." in line 16 and inserting

One member shall be appointed by each of the following: the Speaker and Minority Leader of the House of Representatives, and the President pro tempore and Minority Leader of the Senate; two shall be attorneys and two shall be public members who are not attorneys.

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. The Chair recognizes the minority leader.

Mr. RYAN. Thank you, Mr. Speaker.

Mr. Speaker, this is another one of my reasonable amendments. I simply ask for equal representation between the majority and minority parties. The appointments to the board would be one by the Speaker, one by the minority leader, and in the case of the Senate, one by the pro tem and the other by the minority leader of the Senate. I would ask that the amendment be gratefully accepted by the members.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the majority whip.

Mr. O'DONNELL. Mr. Speaker, it is with great reluctance that I concede the reasonableness of Mr. Ryan's position.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—190

Acosta	Dietterick	Kukovich	Raymond
Angstadt	Distler	LaGrotta	Reber
Argall	Dombrowski	Langtry	Reinard
Arty	Donatucci	Lashingier	Richardson
Baldwin	Dorr	Laughlin	Rieger
Barley	Duffy	Leh	Ritter
Battisto	Durham	Lescovitz	Robbins
Belardi	Evans	Letterman	Roebuck
Belfanti	Fargo	Levdansky	Rudy
Billow	Farmer	Linton	Ryan
Birmelin	Fattah	Livengood	Rybak

Black	Fee	Lloyd	Saloom
Blaum	Fischer	Lucyk	Saurman
Book	Flick	McCall	Schuler
Bortner	Fox	McClatchy	Semmel
Bowley	Freeman	McHale	Serafini
Bowser	Freind	McVerry	Seventy
Boyes	Gallen	Maine	Showers
Brandt	Gannon	Manmiller	Sirianni
Broujos	Geist	Markosek	Smith, B.
Bunt	George	Mayernik	Smith, S. H.
Burd	Gladeck	Melio	Snyder, D. W.
Burns	Godshall	Merry	Snyder, G.
Bush	Gruitza	Michlovic	Staback
Caltagirone	Gruppo	Miller	Stairs
Cappabianca	Hagarty	Moehlmann	Steighner
Carlson	Haluska	Morris	Stevens
Carn	Hasay	Mowery	Stuban
Cawley	Hayden	Mrkonic	Taylor, E. Z.
Cessar	Hayes	Murphy	Taylor, F.
Chadwick	Heckler	Nahill	Taylor, J.
Civera	Herman	Noye	Telek
Clark	Hershey	O'Brien	Tigue
Clymer	Hess	O'Donnell	Trello
Cohen	Honaman	Olasz	Truman
Colafella	Hughes	Oliver	Van Horne
Cole	Hutchinson	Perzel	Veon
Cornell	Itkin	Petrarca	Vroon
Corrigan	Jackson	Petrone	Wambach
Cowell	Jadlowiec	Phillips	Wass
Coy	Jarolin	Piccola	Weston
DeLuca	Johnson	Pievsky	Wilson
DeVerter	Josephs	Pistella	Wogan
DeWeese	Kasunic	Pitts	Wozniak
Daley	Kennedy	Pressmann	Wright, D. R.
Davies	Kenney	Preston	Wright, J. L.
Dawida	Kitchen	Punt	Yandrisevits
Dempsey	Kosinski		

NAYS—1

Gamble

NOT VOTING—2

Harper Maiale

EXCUSED—10

Dininni	Manderino	Sweet	Irvis,
Foster	Micozzie	Wiggins	Speaker
Howlett	Scheetz	Wright, R. C.	

The question was determined in the affirmative, and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

YEAS—161

Acosta	Dietterick	Kukovich	Raymond
Angstadt	Dombrowski	LaGrotta	Reinard
Argall	Donatucci	Lashingier	Rieger
Arty	Dorr	Laughlin	Ritter
Baldwin	Duffy	Lescovitz	Robbins
Battisto	Durham	Letterman	Roebuck
Belardi	Evans	Levdansky	Rudy
Belfanti	Farmer	Linton	Ryan

Billow	Fee	Livengood	Rybak
Black	Fischer	Lloyd	Saloom
Blaum	Fox	Lucyk	Semmel
Book	Freeman	McCall	Serafini
Bortner	Freind	McHale	Seventy
Bowley	Gallen	McVerry	Showers
Boyes	Gamble	Maine	Smith, B.
Broujos	Gannon	Manmiller	Snyder, D. W.
Bunt	Geist	Markosek	Snyder, G.
Burd	George	Mayernik	Staback
Burns	Gruitza	Melio	Stairs
Bush	Gruppo	Merry	Steighner
Caltagirone	Haluska	Michlovic	Stevens
Cappabianca	Harper	Miller	Stuban
Carlson	Hasay	Morris	Taylor, E. Z.
Carn	Hayden	Mowery	Taylor, F.
Cawley	Hayes	Mrkonic	Taylor, J.
Cessar	Herman	Murphy	Telek
Civera	Hershey	Noye	Tigue
Clark	Hess	O'Brien	Trello
Clymer	Hughes	O'Donnell	Truman
Cohen	Hutchinson	Olasz	Van Horne
Colafrilla	Itkin	Perzel	Veon
Cole	Jadlowiec	Petrarca	Wambach
Corrigan	Jarolin	Petrone	Wass
Cowell	Johnson	Phillips	Weston
Coy	Josephs	Pievsky	Wilson
DeLuca	Kasunic	Pistella	Wogan
DeWeese	Kennedy	Pitts	Wozniak
Daley	Kenney	Pressmann	Wright, D. R.
Davies	Kitchen	Preston	Wright, J. L.
Dawida	Kosinski	Punt	Yandrisevits
Dempsey			

NAYS—29

Barley	Fargo	Honaman	Reber
Birmelin	Fattah	Jackson	Richardson
Bowser	Flick	Langtry	Saurman
Brandt	Gladeck	Leh	Schuler
Chadwick	Godshall	Mochlmann	Sirianni
Cornell	Hagarty	Nahill	Smith, S. H.
DeVerter	Heckler	Piccola	Vroon
Distler			

NOT VOTING—3

McClatchy	Maiale	Oliver
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EXCUSED—10

Dininni	Manderino	Sweet	Irvis,
Foster	Micozzie	Wiggins	Speaker
Howlett	Scheetz	Wright, R. C.	

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

CAUCUSES

The SPEAKER pro tempore. The Chair wishes to make the following announcement: Because of the lateness of the hour, caucuses will not be held today, but I wish to advise the membership that both parties will hold caucuses tomorrow morning promptly at 9:30 a.m. because we will go into session at 10 a.m. tomorrow morning.

ANNOUNCEMENT BY MR. RICHARDSON

The SPEAKER pro tempore. The Chair recognizes the gentleman from Philadelphia, Mr. Richardson. For what purpose does the gentleman rise?

Mr. RICHARDSON. At the proper time, Mr. Speaker, I would like to be recognized for an announcement.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. RICHARDSON. Mr. Speaker, the House Health and Welfare Committee, under its responsibility, has the responsibility for making sure that the reauthorization of the Department of Aging is in fact sunsetted properly. We have a piece of legislation giving the reauthorization for that for any members who may want to cosponsor that bill, and we will put it up in the front of the House of Representatives for any members who want to sign onto that with their seat numbers. We respectfully ask anyone who wants to sign the reauthorization bill for the Department of Aging, it is now available and ready to be introduced.

The SPEAKER pro tempore. The Chair thanks the gentleman.

REMARKS ON VOTES

The SPEAKER pro tempore. The Chair recognizes the lady from Philadelphia, Ms. Josephs.

Ms. JOSEPHS. I would like to correct the record, Mr. Speaker, if I might.

The SPEAKER pro tempore. The lady may proceed.

Ms. JOSEPHS. On amendment 4309 to SB 426, Kosinski 3, I was recorded in the affirmative. I would like to be recorded in the negative.

The SPEAKER pro tempore. The lady's remarks will be spread upon the record.

The Chair now recognizes the gentleman from McKean, Mr. Jadlowiec.

Mr. JADLOWIEC. Thank you, Mr. Speaker.

To correct the record, please.

The SPEAKER pro tempore. The gentleman is in order and may proceed.

Mr. JADLOWIEC. On amendment 3838 to SB 426, my button did not function. I would like to be recorded in the affirmative.

The SPEAKER pro tempore. The gentleman's remarks will be spread upon the record.

FEDERAL-STATE RELATIONS COMMITTEE MEETING

The SPEAKER pro tempore. The Chair recognizes the gentleman from Adams, Mr. Cole.

Mr. COLE. Mr. Speaker, the Federal-State Relations Committee meeting is being held immediately in the back of the House.

The SPEAKER pro tempore. The Chair thanks the gentleman.

REMARKS ON VOTE

The SPEAKER pro tempore. The Chair recognizes the gentleman from Philadelphia, Mr. Acosta.

Mr. ACOSTA. Thank you, Mr. Speaker.

On amendment 4309 to SB 426, I should be voted in the negative.

The SPEAKER pro tempore. The gentleman's remarks will be spread upon the record.

ANNOUNCEMENT BY MR. DORR

The SPEAKER pro tempore. The Chair recognizes the gentleman from York, Mr. Dorr.

Mr. DORR. Mr. Speaker, I do not know how many members might have missed the gentleman, Mr. Richardson's remarks, but the members may want to take note of the fact that the Department of Aging, which would sunset under the sunset rules, must be reauthorized in that process, and the bill to do so is going to be available, as I understood him, at the front of the hall of the House for cosponsorship. It is now at the majority leader's desk, and the members who wish to cosponsor the Department of Aging reauthorization may want to join in that today because it must be introduced today.

The SPEAKER pro tempore. The Chair thanks the gentleman.

REMARKS ON VOTE

The SPEAKER pro tempore. The Chair now recognizes the lady from Philadelphia, Ms. Kitchen.

Ms. KITCHEN. Mr. Speaker, I would like to correct my vote on the last bill on final passage. I voted "yes"; I wished to vote "no" on SB 426.

The SPEAKER pro tempore. The lady's remarks will be spread upon the record.

SUBCOMMITTEE MEETING POSTPONED

The SPEAKER pro tempore. The Chair recognizes the gentleman from Cumberland, Mr. Broujos.

Mr. BROUJOS. Did I understand, Mr. Speaker, that caucus is going to be tomorrow at 9:30?

The SPEAKER pro tempore. That is correct.

Mr. BROUJOS. We had scheduled an Authorities Subcommittee meeting of the Local Government Committee, and I would like to make an announcement that that will be postponed until another time because of that caucus meeting. I will make an announcement of that and I will be at the meeting location at that time.

The SPEAKER pro tempore. The Chair thanks the gentleman.

SENATE MESSAGE**ADJOURNMENT RESOLUTION
FOR CONCURRENCE**

The clerk of the Senate, being introduced, presented the following extract from the Journal of the Senate, which was read as follows:

In the Senate, November 23, 1987

RESOLVED, (the House of Representatives concurring), That when the Regular Session of the Senate adjourns this week it reconvene on Tuesday, December 1, 1987, unless sooner recalled by the President Pro Tempore of the Senate; and be it further

RESOLVED, That when the Regular Session of the House of Representatives adjourns this week it reconvene on Tuesday, December 1, 1987, unless sooner recalled by the Speaker of the House of Representatives.

Ordered, That the clerk present the same to the House of Representatives for its concurrence.

On the question,

Will the House concur in the resolution of the Senate?

Resolution was concurred in.

Ordered, That the clerk inform the Senate accordingly.

BILLS AND RESOLUTIONS PASSED OVER

The SPEAKER pro tempore. Without objection, all remaining bills and resolutions on today's calendar will be passed over. The Chair hears no objection.

ADJOURNMENT

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Luzerne, Mr. Dieterick.

Mr. DIETTERICK. Mr. Speaker, I move that this House do now adjourn until Tuesday, November 24, 1987, at 10:10 a.m., e.s.t., unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 4:19 p.m., e.s.t., the House adjourned.