

# Legislative Journal

TUESDAY, JULY 12, 1977

Session of 1977

161st of the General Assembly

Vol. 1, No. 59

## HOUSE OF REPRESENTATIVES

The House convened at 9:30 a.m., e.d.t.

THE SPEAKER (K. LEROY IRVIS) IN THE CHAIR

### PRAYER

REVEREND DOCTOR DAVID R. HOOVER, chaplain of the House of Representatives and pastor of St. Paul's Lutheran Church, McConnellsburg, Pennsylvania, offered the following prayer:

O Lord, Thou art the Most Wise God; Thou art the All-Knowing Father. We laud and magnify Thy name for the great attribute of omniscience which Thou dost possess. Yet, we are fully aware that knowledge is attained by degrees and cannot everywhere be found as far as man is concerned. O God, we look to Thee with the confidence and assurance that Thou wilt impart to these workmen of Thine the awareness of Thy presence in all of life, that Thou wilt grant to them the truth they need in each trying hour, and that Thou wilt bestow upon them the comfort of Thy blessed peace. Amen.

### JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, approval of the Journal for Monday, July 11, 1977, will be postponed until printed.

### MASTER ROLL CALL RECORDED

The SPEAKER. The Speaker announces that the Chair is about to take up the master roll call. The Speaker urges all members to report very promptly to the floor of the House.

The SPEAKER. The clerk will strike the master roll.

The Chair is taking an accurate master roll. The members who are present will proceed to vote on the master roll, only those members present.

The Chair will keep the master roll open another 2 minutes, and that will exhaust the 10-minute period.

The following roll call was recorded:

YEAS—197

|           |            |           |           |
|-----------|------------|-----------|-----------|
| Abraham   | Gallen     | Manderino | Scheaffer |
| Anderson  | Gamble     | Manmiller | Schmitt   |
| Armstrong | Garzia     | McCall    | Schweder  |
| Arthurs   | Gatski     | McClatchy | Scirica   |
| Bellomini | Geesey     | McGinnis  | Seltzer   |
| Beloff    | Geisler    | McIntyre  | Shuman    |
| Bennett   | George, C. | McLane    | Shupnik   |
| Berlin    | George, M. | Mebus     | Sirianni  |
| Berson    | Giammarco  | Meluskey  | Smith, E. |

|                |                |               |               |
|----------------|----------------|---------------|---------------|
| Bittinger      | Gillette       | Milanovich    | Smith, L.     |
| Bittle         | Gleeson        | Miller        | Spencer       |
| Borski         | Goebel         | Milliron      | Spitz         |
| Brandt         | Goodman        | Miscevich     | Stairs        |
| Brown          | Gray           | Moehlmann     | Stapleton     |
| Brunner        | Greenfield     | Morris        | Stewart       |
| Burd           | Greenleaf      | Mowery        | Suban         |
| Burns          | Grieco         | Mrkonic       | Sweet         |
| Butera         | Halverson      | Mullen, M. P. | Taddonio      |
| Caltagirone    | Hamilton       | Mullen, M. M. | Taylor, E.    |
| Caputo         | Harper         | Musto         | Taylor, F.    |
| Cassidy        | Hasay          | Novak         | Tenaglio      |
| Cessar         | Haskell        | Noye          | Thomas        |
| Cianciulli     | Hayes, D. S.   | O'Brien, B.   | Trello        |
| Cimini         | Hayes, S. E.   | O'Brien, D.   | Valicenti     |
| Cohen          | Helfrick       | O'Connell     | Vroon         |
| Cole           | Hoeffel        | O'Keefe       | Wagner        |
| Cowell         | Honaman        | Oliver        | Wansacz       |
| Davies         | Hopkins        | Pancoast      | Wargo         |
| DeMedio        | Hutchinson, A. | Parker        | Wass          |
| DeVerter       | Hutchinson, W. | Petrarca      | Weidner       |
| DeWeese        | Itkin          | Piccola       | Wenger        |
| DiCarlo        | Johnson        | Pievisky      | White         |
| Dietz          | Jones          | Pitts         | Wiggins       |
| Dininni        | Katz           | Polite        | Williams      |
| Dombrowski     | Kelly          | Pott          | Wilson        |
| Donatucci      | Kernick        | Pratt         | Wilt          |
| Dorr           | Klingaman      | Prendergast   | Wise          |
| Doyle          | Knepper        | Pyles         | Wright, D.    |
| Duffy          | Kolter         | Rappaport     | Wright, J. L. |
| Dumas          | Kowalshyn      | Ravenstahl    | Yahner        |
| Englehart      | Laughlin       | Reed          | Yohn          |
| Fee            | Lehr           | Renwick       | Zearfoss      |
| Fischer, R. R. | Letterman      | Rhodes        | Zeller        |
| Fisher, D. M.  | Levi           | Richardson    | Zitterman     |
| Flaherty       | Lincoln        | Rieger        | Zord          |
| Foster, A.     | Livengood      | Ritter        | Zwilk         |
| Foster, W.     | Logue          | Ruggiero      |               |
| Freind         | Lynch          | Ryan          | Irvis,        |
| Fryer          | Mackowski      | Salvatore     | Speaker       |
| Gallagher      | Madigan        | Scanlon       |               |

NAYS—0

NOT VOTING—3

Barber  
O'Donnell  
Shelton

The SPEAKER. One hundred ninety-seven members having indicated their presence, a master roll is established.

### BILL SIGNED BY SPEAKER

Bill numbered and entitled as follows was prepared for presentation to the Governor:

#### SENATE BILL No. 271

An Act amending the act of July 14, 1961 (P. L. 637, No. 329), entitled "Wage Payment and Collection Law" amending

and adding definitions; providing for the payment and collection of fringe benefits and wage supplements; requiring employers to notify their employes of the amount of fringe benefits and wage supplements due to their employes; permitting persons separated from their employment to have their final wage payments mailed to them; reaffirming the right of private individuals to institute criminal prosecutions under the act and permitting such prosecutions to be instituted by labor organizations and by the persons to whom any type of wages is due; permitting the assignment of claims for unpaid wages to and imposing the duty to prosecute such assigned claims on the Secretary of Labor and Industry; exempting the secretary from payment of filing fees and posting of bonds; providing for increase in liquidated damages; and providing for criminal penalties.

Whereupon,

The SPEAKER, in the presence of the House, signed the same.

### SENATE MESSAGE

#### AMENDED HOUSE BILL RETURNED FOR CONCURRENCE

The clerk of the Senate returned HOUSE BILL NO. 626 with the information that the Senate has passed the same with amendments in which concurrence of the House of Representatives is requested.

The SPEAKER. The bill will appear on the calendar.

### SENATE MESSAGE

#### AMENDED HOUSE BILL RETURNED FOR CONCURRENCE

The clerk of the Senate returned HOUSE BILL NO. 631 with the information that the Senate has passed the same with amendments in which concurrence of the House of Representatives is requested.

The SPEAKER. The bill will appear on the calendar.

### LEAVE OF ABSENCE GRANTED

The SPEAKER. The Chair recognizes the majority whip.

Mr. GREENFIELD. Mr. Speaker, I request leave of absence for Mr. BARBER for today's session.

The SPEAKER. The Chair recognizes the gentleman from Blair, Mr. Hayes.

Mr. S. E. HAYES. Mr. Speaker, I do not request any leaves of absence for today.

The SPEAKER. Without objection, leave is granted.

### ANNOUNCEMENTS BY SPEAKER

The SPEAKER. The Chair wishes to make this announcement: A request for a recess of this House, to take place at 10 o'clock and to last until 11:15, will be made. The Democratic members are urged to report immediately to caucus. At 5 minutes after 11 that caucus will be terminated. At 11:15 the Speaker will drop the gavel to call the House to order, and the Speaker urges all members to be seated at that time so that we are seated when the Senate comes in at 25 minutes after 11 and we may start precisely on time at 11:30 in joint session.

The Chair also advises the members—do not say I did not warn you if you are talking—that a special order of business

will be taken up at the request of the Honorable Martin Mullen of Philadelphia, on page 4, HB 71. That will be taken up as a special order of business as the first order of business of this floor immediately following the lunch recess.

Have a good lunch.

### STATE GOVERNMENT COMMITTEE MEETING

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Geisler.

Mr. GEISLER. There will be a meeting of the State Government Committee July 13, 1977, at 9 a.m. in room 115A.

### CALENDAR

#### EDUCATION BILL ON SECOND CONSIDERATION

Agreeable to order,

The House proceeded to second consideration of **Senate bill No. 804, printer's No. 863**, entitled:

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), entitled "Public School Code of 1949" changing dates or organizational meetings levying of school taxes and the taxing power of boards of education of school districts of the first class A.

And said bill having been considered the second time and agreed to,

Ordered, to be transcribed for third consideration.

#### APPROPRIATION BILL ON SECOND CONSIDERATION

Agreeable to order,

The House proceeded to second consideration of **Senate bill No. 746, printer's No. 791**, entitled:

An Act amending the act of December 30, 1974 (P. L. 1160, No. 369), entitled "Capital Budget Act for Fiscal Year 1973-1974 Highway Project Itemization Supplement" further providing for a project in Armstrong County.

And said bill having been considered the second time and agreed to,

Ordered, to be transcribed for third consideration.

### REPUBLICAN CAUCUS

The SPEAKER. The Chair recognizes the gentleman from Blair, Mr. Hayes.

Mr. S. E. HAYES. Thank you, Mr. Speaker.

There will be a Republican caucus immediately at the call of the recess.

### RECESS

The SPEAKER. The Chair recognizes the majority leader, who requests that this House stand in recess until 11:10 a.m., and that there be an immediate caucus of the Democratic Party declared on this recess. This House stands in recess until 11:10 a.m. today.

### AFTER RECESS

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

**COMMUNICATION FROM GOVERNOR  
REQUEST FOR JOINT SESSION**

The Secretary to the Governor presented the following communication from the Governor:

Commonwealth of Pennsylvania  
Governor's Office, Harrisburg

July 12, 1977.

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

If it meets with the approval of the General Assembly, I should like to address the Members in Joint Session on Tuesday, July 12, 1977, at a time convenient to the General Assembly.

MILTON J. SHAPP,  
GOVERNOR

**SENATE MESSAGE  
JOINT SESSION**

The clerk of the Senate presented the following extract from the Journal of the Senate, which was read:

In the Senate,  
July 11, 1977.

RESOLVED, (the House of Representatives concurring), That the Senate and House of Representatives meet in Joint Session at eleven thirty o'clock A.M., Daylight Saving Time on Tuesday, July 12, 1977 for the purpose of hearing an address by His Excellency, the Governor of the Commonwealth; and be it further

RESOLVED, That a committee of three on the part of the Senate be appointed to act with a similar committee on the part of the House of Representatives to escort His Excellency, the Governor of the Commonwealth to the Hall 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.

**COMMITTEE TO ESCORT  
GOVERNOR APPOINTED**

The SPEAKER. The Chair appoints as a committee on the part of the House to escort the Governor to the hall of the House, the lady from Philadelphia, Mrs. Scanlon, the lady from Bucks, Mrs. George; and the lady from Lancaster, Mrs. Honaman.

**RESOLUTION  
COMMITTEE TO ESCORT SENATE**

Mr. MRKONIC offered the following resolution, which was read, considered and adopted:

RESOLVED, That the Speaker appoint a committee of two to escort the members and officers of the Senate to the hall of the House for the purpose of attending a joint session of the

General Assembly.

**COMMITTEE TO ESCORT SENATE APPOINTED**

The SPEAKER. The Chair appoints as a committee to wait upon the Senate, the gentleman from Westmoreland, Mr. Hutchinson; and the gentleman from Montgomery, Mr. Greenleaf.

The committee will proceed with the performance of its duties.

**SENATE MESSAGE**

**SENATE BILLS FOR CONCURRENCE**

The clerk of the Senate presented the following bills for concurrence:

**SENATE BILL No. 320**

An Act providing reimbursement to insured by insurance company for services performed by a psychologist.

Referred to Committee on Insurance.

**SENATE BILL No. 901**

An Act relating to amygdalin (laetrile).

Referred to Committee on Health and Welfare.

**HOUSE BILLS INTRODUCED AND  
REFERRED TO COMMITTEES**

**No. 1483** By Messrs. B. F. O'BRIEN, J. L. WRIGHT,  
STAIRS, GOODMAN, and BURNS

An Act amending the "Pennsylvania Bituminous Coal Mine Act," approved July 17, 1961 (P. L. 659, No. 399), further providing for qualifications for certification as miners.

Referred to Committee on Mines and Energy Management.

**No. 1484** By Messrs. MILLIRON, GARZIA, D. R.  
WRIGHT, CASSIDY, REED, DiCARLO,  
LINCOLN, LOGUE, COWELL,  
BITTINGER, FREIND and PRATT

An Act making an appropriation to the Department of Public Welfare for the publicizing of the "Operation Peace of Mind" program.

Referred to Committee on Appropriations.

**No. 1485** By Messrs. ZORD, MRKONIC, CESSAR,  
BITTINGER, DAVIES, SCHEAFFER,  
POTT, GARZIA, LEHR, SCHMITT,  
HASKELL, BRANDT, POLITE, WENGER,  
KNEPPER, PRATT, CIMINI, D. M.  
FISHER, GIAMMARCO, NOYE, REED,  
WILT, BROWN, PARKER, HOPKINS,  
SALVATORE and HALVERSON

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, requiring certain persons convicted of rape to be sentenced to life imprisonment.

Referred to Committee on Judiciary.

**No. 1486** By Messrs. D. M. FISHER, GAMBLE and SCIRICA

An Act amending the "Mental Health Procedures Act," approved July 9, 1976 (P. L. 817, No. 143), further providing for certain persons undergoing involuntary treatment.

Referred to Committee on Health and Welfare.

#### STATEMENT BY MR. MEBUS

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Mebus. For what purpose does the gentleman rise?

Mr. MEBUS. Just to make a brief statement to you, Mr. Speaker.

Getting through the post office area out there to get in here is a major problem this morning. I do not have a solution for you, but it is just a mob of people out there.

The SPEAKER. Outside the door?

Mr. MEBUS. Outside the door of the House, sir.

The SPEAKER. The sergeant at arms will see to it that the means of egress from this House are kept open so the members may come in and out.

#### REPORT OF COMMITTEE TO ESCORT THE SENATE

The SPEAKER. The Chair is advised that the Senate is about to enter the hall of the House.

The Chair recognizes the sergeant at arms of the House of Representatives.

The SERGEANT AT ARMS. Mr. Speaker, the committee of the House escorting the Senate to the hall of the House.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the chairman of the committee of the House escorting the Senate.

Mr. A. K. HUTCHINSON. Mr. Speaker, your committee appointed to wait upon the Senate and to escort them to the hall of the House has performed that duty and reports that the Senate is now in attendance.

The SPEAKER. The committee is discharged with the thanks of the House.

#### PRESIDENT PRO TEMPORE REQUESTED TO PRESIDE

The SPEAKER. The Chair requests that the President pro tempore, the Honorable Martin L. Murray, preside over the proceedings of the joint session of the General Assembly.

The members of the Senate will please be seated.

The Chair is delighted to present to the General Assembly the Honorable Martin L. Murray, President pro tempore of the Senate of the Commonwealth of Pennsylvania.

#### JOINT SESSION OF THE GENERAL ASSEMBLY

##### PRESIDENT PRO TEMPORE MARTIN L. MURRAY PRESIDING

The PRESIDENT pro tempore. The General Assembly will be at ease while awaiting the arrival of His Excellency, the Govern-

nor of the Commonwealth.

#### REPORT OF COMMITTEE TO ESCORT THE GOVERNOR

The PRESIDENT pro tempore. The Chair recognizes the chairman of the committee to escort the Governor, the Senator from Philadelphia, Senator McKinney.

SENATOR MCKINNEY. Mr. President, as chairman of the committee to escort the Governor to the joint session, I announce that the Governor is present and ready to address the session.

Thank you.

The PRESIDENT pro tempore. The Chair thanks the committee.

Members of the General Assembly, I have the honor and the privilege of presenting His Excellency, the Governor, the Honorable Milton J. Shapp, who will now address this joint session.

#### ADDRESS ON 1977-78 BUDGET BY GOVERNOR MILTON J. SHAPP

Mr. Speaker, Mr. President, Ladies and Gentlemen of the General Assembly:

Not quite five months ago I appeared before you and delivered my budget message and state of the Commonwealth address. In it I proposed an increase in state spending of approximately seven percent over last year. And I recommended an increase in the state sales tax and the gasoline tax to fund this modest increase.

Today, the state is operating under a stopgap appropriation which will run out within a week.

The conference committee is wrestling day to day with four or five budget proposals, some calling for no new taxes, and some providing for programs that would require additional tax revenues.

However, there is only one actual no-tax budget presently being considered. It is the House proposal made last week in the conference committee. As of now that budget is the only one which lives within estimated revenues and fully funds those programs which are mandated by law.

In a moment I will try to outline for you the effect implementation of this budget would have on Pennsylvania. I believe that once you have recognized the real impact of such a policy you will agree that this year we must face our responsibilities as elected leaders and provide the Commonwealth with a solid fiscal plan.

But first, let me dispel some of the myths that are obscuring the focus on the current debate.

It is popular to talk casually about cutting back state government—to applaud the furlough of 7,000 or 8,000 people—as something that should be done. And we hear about how state government has grown enormously and about our bloated payrolls.

But what is the truth?

The truth is this: In Pennsylvania there are 401 state and local government workers for every 10,000 people. That is considerably below the national average of 476 state and local government employees per 10,000 people.

In fact, Pennsylvania ranks last among the 50 states in that category. And in terms of state workers alone, Pennsylvania ranked 44th of the 50 states—with 113 state workers per 10,000 population, far below the national average of 129. I might add, these figures were compiled by the Federal Government in 1975.

I cannot say to you or to the people of Pennsylvania that there are no state employees who fail to put in a full day's work for a full day's pay. I venture to say that no public or private employer anywhere in the world could make such a claim.

But dismissing thousands of state workers through a sweeping budget cut will not guarantee that those who remain are the most productive. *And it certainly won't guarantee that those who are lazy will be the ones who will be fired.*

There is another illusion that distorts consideration of our true fiscal needs. It is said that there are those who won't vote for a tax increase to fund government adequately because they fear they won't be reelected.

In 1970, I campaigned on a tax platform and defeated my opponent by 500,000 votes. And in 1974, I was reelected, even after taxes had been instituted during my first administration.

In 1971, the legislature twice passed new income tax laws. Yet, in the House, of the 103 members who voted for this measure, 93 won reelection the very next year.

In 1974, the General Assembly passed a \$300-million tax cut including a reduction of the personal income tax from 2.3 to 2 percent.

What happened? Only 19 members of the House who voted for that tax cut were defeated when they ran for reelection.

Political success rarely depends on one single action. Each political leader is judged on his total performance and his ability and, most important, his courage in the face of critical issues.

In fact, a public opinion poll conducted in May of this year showed that 48 percent of those Pennsylvanians polled thought the state income tax had gone up since 1972. Thirty percent thought it had stayed the same, and only 10 percent knew the correct answer—that the only action taken on state taxes has been to cut the corporate and personal income tax rates by the equivalent of \$300 million since 1972.

Ironically, that \$300-million figure is about what is needed now to maintain state programs at the level I proposed last February.

The people of Pennsylvania are responsible people who are willing to foot the bill for government if it provides them with vital services.

And they will justifiably be angry when they realize how a budget such as that proposed last week will impair, seriously impair, the quality of life here in Pennsylvania. The cuts that will have to be made will make state government inefficient and ineffective.

Let me provide you with a tour of state government under the no-tax budget proposed last week.

I will show you how failure to enact a realistically funded budget will deprive many citizens of services on which they depend. While no one wants to pay more taxes, it is also true that our people do not want to see the reduction of our mass transit service, an end to urban renewal efforts, the closing of mental health institutions, the potential loss of many millions of dollars in Federal Medicaid and Medicare funds, or a host of other vitally necessary services.

Some may think it is politically wise to enact a budget without a tax increase. But this is false wisdom. Local taxes are already on the rise and a cut in state taxes will accelerate this trend, because state spending to help local communities will be reduced.

Here is what will happen if we have to live with the proposed no-tax budget during fiscal year 1977-78. First of all, ironically our revenue collections will decline so that we will end the year in a deficit.

This "Catch-22" situation arises from the severe reduction mandated for the Department of Revenue. To reduce the Revenue Department's budget by \$14 million, a substantial lay-off of personnel will be required. Without adequate personnel, the Revenue Department's enforcement activities will be sufficiently hampered to reduce collections by nearly \$106 million. Therefore, by saving \$14 million, we will be losing \$106 million.

Being penny wise and dollar foolish is apparent in what such a budget would do to the Department of Welfare.

The House version of the budget requires that our institutions for the mentally ill, mentally retarded and the elderly decrease their staffs significantly. A cut of this magnitude would seriously hamper our ability to provide proper care to 21,000 patients and could result in the decertification for Medicaid-Medicare payments of every state mental hospital, state center for the retarded and restoration center for the elderly. We

could, therefore, jeopardize as much as \$160 million in Federal funds, making our system inoperable.

Our public assistance programs will be severely interrupted at a time when caseloads unfortunately are unusually high and still rising because of continued high unemployment.

Further, this cutback will come at a time when we are preparing to distribute \$14 million in Federal funds to elderly and poor persons who had high fuel bills last winter.

The Welfare Department's newly established Internal Audit and Investigation unit, which has been our most effective attack on fraud and abuse in public assistance, will have to be eliminated. Therefore, this no-tax budget, far from producing savings, will create greater waste in government spending.

In PennDOT, the reduction of state spending will trigger an enormous loss of Federal funds that could permanently disable our mass transit systems.

If we are limited to \$54 million in state assistance for mass transit, instead of the required \$78 million, we will also lose about \$34 million in Federal funds for mass transit operating subsidies and \$14 million for ConRail commuter rail services. This means all commuter rail services in nine southeastern counties would be stopped in 60 days.

As for the remainder of the state, mass transit services would have to impose fare increases of about 60 percent. Also, we can discard our plans to initiate a state rural public transportation program.

In Pittsburgh, the transit authority would lose about \$5 million in state money and as much as \$10 million additional in Federal funds. SEPTA, which serves Philadelphia and the southeast area, would lose \$14 million in state aid and as much as an additional \$40 million in Federal funds. The result is obvious. These important transit systems which provide basic mobility for hundreds of thousands of Pennsylvanians will be left without sufficient funds to operate.

The loss of about \$100 million in PennDOT's road maintenance program will be felt also in every county in the Commonwealth.

Snow removal, concrete patching, resurfacing and other maintenance activities will be severely curtailed below existing low levels, rightfully fueling the anger of all our motorists. And our bridge maintenance program, which already is below what is needed, would have to be cut an additional 10 percent. We can also forget about new highway and bridge construction, which will cost thousands of jobs in the private sector.

I stress the loss of Federal funds in a hamstrung state budget, because I think that point has not been clearly understood. Trimming \$200 or \$300 million from our state budget is amplified by the loss of many millions of dollars more in direct Federal assistance and, I might add, by billions more in the ultimate impact on the private sector of our economy.

Take the Department of Community Affairs. Here the House budget cuts lead to the complete elimination of the \$15.6-million urban renewal and housing grant program. This is a virtual red-lining of our state's urban areas. Philadelphia and Pittsburgh will each be cut by \$3.1 million. Other cities that would have their grants eliminated include Erie, Meadville, New Castle, Bradford, Aliquippa, Lancaster, Williamsport, Johnstown, Easton and Wilkes-Barre.

It should be remembered that most community renewal programs stimulate private sector spending by a factor of five to one, which means that in this fiscal year, another \$78 million in private investment will be lost.

As far as new housing construction in Pennsylvania is concerned, the House budget means the elimination of about 2,500 units of new housing construction for the elderly. In addition, we will lose about \$11.4 million in annual Federal housing subsidies, a loss that will continue annually for about the next 40 years. In a time of high unemployment, another 1,800 construction jobs will go by the boards.

The preservation of law and order in the Commonwealth will definitely suffer a setback. Investigations being conducted by the Justice Department's Bureau of Investigations will be brought to a virtual standstill.

Legal services by the Regional Offices and Criminal and Civil Law Offices will be reduced, and undercover investigating and enforcement actions by our Bureau of Drug Control will be severely limited.

In addition, the Health Department will lose \$4 million in Federal crippled children's funds used for treatment of birth defects and other diseases. This loss will zero in on the State Hospital for Children and Youth in Elizabethtown, Lancaster County, which will have to close its doors after serving crippled young people for nearly 50 years.

In the field of special education, the cutbacks of Education Department funds will mean that 8,000 children would no longer have special education services. Students at our state colleges and Indiana University will likely face a tuition increase of an additional \$150 a year.

I can continue to run down the list of reduced services agency by agency, but I think the point is sufficiently clear, a stripped-down budget in reality will save Pennsylvanians nothing. Instead, it will cost us a range of vital services—from home construction to medical care of our elderly. It could cost us millions of Federal dollars. It could cost us vast amounts of money through failure to stimulate the private sector.

Yet, there seems to be an atmosphere that pervades political life. It is an atmosphere of breast-beating, of fear.

I think every member of this General Assembly, Republican and Democrat alike, makes important sacrifices each day of his political life.

We make these sacrifices for a variety of reasons—including a firm belief that we can run the business of government better than the next man and a genuine concern for the quality of life for all our people. In each of us this mixture is different, but in each of us there are these principles.

Today we are faced with a severe dilemma. To continue the progress we have made together over the past 6 years, we must ask our citizens to shoulder a new burden. If we do not, then we must take those very real services that only government provides to our citizens and cut them to levels where they are ineffective or in some cases nonexistent.

A lot of people will blame the outcome, whatever it is, on me. How many times have you heard a clerk in a store say, "That'll be one dollar—and six cents for the Governor." Yet I wasn't even in office when the sales tax was enacted.

A lot of people will blame you, whatever the outcome. They'll say you raised taxes and you shouldn't have, or they'll say you didn't raise taxes and you should have.

The only real measure of how we resolve this dilemma should be in our own hearts. The only real measure should be whether we can answer "yes" when we ask ourselves, "Did we do what was needed by the 12 million people we serve?"

I am in my seventh year as Governor of Pennsylvania. Many of you have been there that long or longer. Together we have faced many great challenges. And we have faced them successfully.

I am proud of the record of fiscal stability we have achieved in Pennsylvania when other states, many nearby, have wallowed through one crisis after another. You members of the General Assembly have a right to be proud of the record of fiscal management and budget writing you have compiled, particularly in the last few years.

What I have outlined today is only the surface effect of the proposed no-tax budget. I urge each of you to examine carefully the effect such a budget will have on your own constituents and on the state as a whole. Each and every one of my Cabinet members stands ready to answer any questions you have regarding any details of the budget as fully and completely as possible.

The time has come for us to join together and enact a budget that will preserve what we have gained together through the last 6 years. All of Pennsylvania is watching and waiting to see what we do—and they will judge us fairly if we think of them as we act and if we fulfill our responsibility.

I want to thank you for the opportunity of appearing before you today, and, as I indicated before, any questions that you have, ask any of the Cabinet officers or do not hesitate to call my office. We will be glad to furnish whatever details and answer any questions that you desire.

Thank you.

#### **PRESIDENT PRO TEMPORE THANKS GOVERNOR**

The PRESIDENT pro tempore, Governor Shapp, on behalf of

the members of the General Assembly, I thank you for your message. It is an excellent message.

#### **JOINT SESSION ADJOURNED**

The PRESIDENT pro tempore. The Chair asks the members of the House and visitors to remain seated for just a moment while the members of the Senate leave the hall of the House.

The members of the Senate will please reassemble immediately in the Senate chamber upon adjournment of this meeting.

The business for which the joint session has been assembled having been transacted, the session is now adjourned.

#### **THE SPEAKER (K. LEROY IRVIS) IN THE CHAIR**

#### **MOTION TO PRINT PROCEEDINGS OF JOINT SESSION**

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. White.

Mr. WHITE. Mr. Speaker, I move that the proceedings of the joint session of the Senate and House of Representatives held this 12th day of July 1977 be printed in full in this day's Legislative Journal.

On the question,

Will the House agree to the motion?

Motion was agreed to.

#### **ANNOUNCEMENT BY SPEAKER**

The SPEAKER. For the information of the House, the House is about to be declared in recess for a period of 1 hour for the purpose of lunch. The House will then return, and the Chair will turn immediately to today's calendar, taking up certain resolutions immediately following the end of the recess.

#### **RECESS**

The SPEAKER. The Chair recognizes the majority whip.

Mr. GREENFIELD. Mr. Speaker, I move that this House be now declared in recess until 1:15.

On the question,

Will the House agree to the motion?

Motion was agreed to.

The SPEAKER. This House is declared in recess until 1:15.

#### **AFTER RECESS**

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

The SPEAKER. The Speaker advises all members to report immediately to the floor of the House, as the Speaker intends to take up, under special order of business, HR 119, PN 1596, on page 9.

#### **CALENDAR**

#### **SPECIAL ORDER OF BUSINESS RESOLUTION ADOPTED**

Mr. RITTER called up HOUSE RESOLUTION NO. 119.

General Assembly urge Congress expedite construction au-

thorization of Arctic Gas Project.

On the question,

Will the House adopt the resolution?

The SPEAKER. The Chair advises the members that the vote is being taken at this time on HR 119, PN 1596, and under the rules of the House, the electronic roll call may be kept open no longer than 10 minutes. The time is running.

On the question, recurring,

Will the House adopt the resolution?

The following roll call was recorded:

YEAS—183

|                |                |               |               |
|----------------|----------------|---------------|---------------|
| Abraham        | Fryer          | Mackowski     | Schmitt       |
| Anderson       | Gallagher      | Madigan       | Schweder      |
| Armstrong      | Gallen         | Manderino     | Seltzer       |
| Arthurs        | Gamble         | Manmiller     | Shuman        |
| Barber         | Garzia         | McCall        | Shupnik       |
| Bellomini      | Gatski         | McIntyre      | Sirianni      |
| Beloff         | Geesey         | McLane        | Smith, E.     |
| Bennett        | Geisler        | Mebus         | Smith, L.     |
| Berlin         | George, C.     | Meluskey      | Spencer       |
| Berson         | George, M.     | Milanovich    | Spitz         |
| Bittinger      | Giammarco      | Miller        | Stairs        |
| Bittle         | Gillette       | Milliron      | Stapleton     |
| Borski         | Gleeson        | Miscevich     | Stewart       |
| Brandt         | Goebel         | Moehlmann     | Stuban        |
| Brown          | Goodman        | Morris        | Sweet         |
| Brunner        | Gray           | Mowery        | Taddonio      |
| Burd           | Greenfield     | Mrkonic       | Taylor, E.    |
| Burns          | Grieco         | Mullen, M. P. | Taylor, F.    |
| Butera         | Halverson      | Mullen, M. M. | Tenaglio      |
| Caltagirone    | Hamilton       | Musto         | Thomas        |
| Caputo         | Harper         | Novak         | Trello        |
| Cassidy        | Hasay          | Noye          | Vroon         |
| Cessar         | Haskell        | O'Brien, B.   | Wagner        |
| Cianciulli     | Hayes, D. S.   | O'Brien, D.   | Wansacz       |
| Cohen          | Hayes, S. E.   | O'Connell     | Wargo         |
| Cole           | Helfrick       | O'Keefe       | Wass          |
| Cowell         | Honaman        | Oliver        | Weidner       |
| Davies         | Hopkins        | Parker        | Wenger        |
| DeMedio        | Hutchinson, A. | Petrarca      | White         |
| DeVerter       | Hutchinson, W. | Piccola       | Wiggins       |
| DeWeese        | Johnson        | Pitts         | Williams      |
| DiCarlo        | Jones          | Pott          | Wilson        |
| Dietz          | Katz           | Pratt         | Wilt          |
| Dininni        | Kelly          | Prendergast   | Wise          |
| Dombrowski     | Kernick        | Ravenstahl    | Wright, D.    |
| Donatucci      | Klingaman      | Reed          | Wright, J. L. |
| Dorr           | Knepper        | Renwick       | Yahner        |
| Doyle          | Kolter         | Rhodes        | Zearfoss      |
| Duffy          | Kowalshyn      | Richardson    | Zeller        |
| Dumas          | Laughlin       | Rieger        | Zitterman     |
| Englehart      | Lehr           | Ritter        | Zord          |
| Fee            | Letterman      | Ruggiero      | Zwinkl        |
| Fischer, R. R. | Levi           | Ryan          |               |
| Fisher, D. M.  | Lincoln        | Salvatore     | Irvis,        |
| Foster, A.     | Livengood      | Scanlon       | Speaker       |
| Foster, W.     | Logue          | Scheaffer     |               |
| Freind         | Lynch          |               |               |

NAYS—1

Hoeffel

NOT VOTING—16

|          |           |         |         |
|----------|-----------|---------|---------|
| Cimini   | McClatchy | Pievsky | Scirica |
| Flaherty | McGinnis  | Polite  | Shelton |

|           |           |           |           |
|-----------|-----------|-----------|-----------|
| Greenleaf | O'Donnell | Pyles     | Valicenti |
| Itkin     | Pancoast  | Rappaport | Yohn      |

The question was determined in the affirmative and the resolution was adopted.

QUESTION OF PERSONAL PRIVILEGE

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Itkin. For what purpose does the gentleman rise?

Mr. ITKIN. I rise to a question of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. ITKIN. Mr. Speaker, I was out of my seat when the vote on HR 119, PN 1596, was taken. If I had been in my seat, I would have voted in the affirmative.

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

RESOLUTION ADOPTED

Mr. MISCEVICH called up HOUSE RESOLUTION NO. 118.

General Assembly memorialize Congress separate proposals of Senate Bill 790.

On the question,

Will the House adopt the resolution?

The following roll call was recorded:

YEAS—185

|             |                |               |               |
|-------------|----------------|---------------|---------------|
| Abraham     | Gamble         | Manmiller     | Schweder      |
| Anderson    | Garzia         | McCall        | Scirica       |
| Arthurs     | Gatski         | McClatchy     | Shuman        |
| Bellomini   | Geesey         | McGinnis      | Shupnik       |
| Beloff      | Geisler        | McIntyre      | Sirianni      |
| Bennett     | George, C.     | McLane        | Smith, E.     |
| Berlin      | George, M.     | Mebus         | Smith, L.     |
| Berson      | Giammarco      | Meluskey      | Spencer       |
| Bittinger   | Gillette       | Milanovich    | Spitz         |
| Bittle      | Gleeson        | Miller        | Stairs        |
| Borski      | Goebel         | Miscevich     | Stapleton     |
| Brandt      | Goodman        | Moehlmann     | Stewart       |
| Brown       | Gray           | Morris        | Stuban        |
| Brunner     | Greenfield     | Mowery        | Sweet         |
| Burd        | Greenleaf      | Mrkonic       | Taddonio      |
| Burns       | Grieco         | Mullen, M. P. | Taylor, E.    |
| Butera      | Halverson      | Mullen, M. M. | Taylor, F.    |
| Caltagirone | Hamilton       | Musto         | Tenaglio      |
| Cessar      | Harper         | Novak         | Thomas        |
| Cianciulli  | Hasay          | Noye          | Trello        |
| Cimini      | Haskell        | O'Brien, B.   | Valicenti     |
| Cohen       | Hayes, D. S.   | O'Brien, D.   | Vroon         |
| Cole        | Hayes, S. E.   | O'Connell     | Wagner        |
| Cowell      | Helfrick       | O'Keefe       | Wansacz       |
| Davies      | Honaman        | Oliver        | Wargo         |
| DeMedio     | Hopkins        | Pancoast      | Wass          |
| DeVerter    | Hutchinson, A. | Petrarca      | Weidner       |
| DeWeese     | Hutchinson, W. | Piccola       | Wenger        |
| DiCarlo     | Johnson        | Pitts         | White         |
| Dietz       | Jones          | Polite        | Wiggins       |
| Dininni     | Katz           | Pott          | Williams      |
| Dombrowski  | Kelly          | Pratt         | Wilson        |
| Donatucci   | Kernick        | Prendergast   | Wilt          |
| Dorr        | Klingaman      | Pyles         | Wise          |
| Doyle       | Knepper        | Rappaport     | Wright, D.    |
| Duffy       | Kolter         | Ravenstahl    | Wright, J. L. |
| Englehart   | Kowalshyn      | Reed          | Yahner        |
| Fee         | Laughlin       | Renwick       | Yohn          |

|                |           |           |           |
|----------------|-----------|-----------|-----------|
| Fischer, R. R. | Lehr      | Rhodes    | Zearfoss  |
| Fisher, D. M.  | Letterman | Rieger    | Zeller    |
| Flaherty       | Levi      | Ritter    | Zitterman |
| Foster, A.     | Lincoln   | Ruggiero  | Zord      |
| Foster, W.     | Livengood | Ryan      | Zwikel    |
| Freind         | Logue     | Salvatore |           |
| Fryer          | Lynch     | Scanlon   | Irvis,    |
| Gallagher      | Mackowski | Scheaffer | Speaker   |
| Gallen         | Madigan   | Schmitt   |           |

NAYS—3

|         |         |          |
|---------|---------|----------|
| Cassidy | Hoeffel | Milliron |
|---------|---------|----------|

NOT VOTING—12

|           |           |           |            |
|-----------|-----------|-----------|------------|
| Armstrong | Dumas     | O'Donnell | Richardson |
| Barber    | Itkin     | Parker    | Seltzer    |
| Caputo    | Manderino | Pievsky   | Shelton    |

The question was determined in the affirmative and the resolution was adopted.

QUESTION OF PERSONAL PRIVILEGE

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Itkin. For what purpose does the gentleman rise?

Mr. ITKIN. I rise to a question of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. ITKIN. Mr. Speaker, I was out of my seat when the vote on HR 118, PN 1765, was taken. If I had been in my seat, I would have voted in the affirmative.

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

RESOLUTION ADOPTED

Mr. BENNETT called up HOUSE RESOLUTION NO. 115.

Joint State Government Commission study and coordinate efforts of new industries wishing to locate in Pennsylvania.

On the question,  
Will the House adopt the resolution?

RULES SUSPENDED FOR ADDITION OF SPONSOR

The SPEAKER. The Chair recognizes the gentleman from Mercer, Mr. Bennett.

Mr. BENNETT. Mr. Speaker, I move that the rules of the House be suspended so that my name may be added as the chief sponsor of HR 115.

The SPEAKER. For the information of the members of the House, it was Mr. Bennett's resolution originally, and there was a misprint which did not list his name as the chief sponsor.

The motion on the part of Mr. Bennett is to suspend the rules.

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

The following roll call was recorded:

YEAS—185

|          |        |           |           |
|----------|--------|-----------|-----------|
| Abraham  | Gallen | Lynch     | Scheaffer |
| Anderson | Gamble | Mackowski | Schmitt   |

|                |                |               |               |
|----------------|----------------|---------------|---------------|
| Arthurs        | Garzia         | Madigan       | Schweder      |
| Bellomini      | Gatski         | Manderino     | Scirica       |
| Beloff         | Geesey         | Mannmiller    | Shuman        |
| Bennett        | Geisler        | McCall        | Shupnik       |
| Berlin         | George, C.     | McClatchy     | Sirianni      |
| Berson         | George, M.     | McIntyre      | Smith, E.     |
| Bittinger      | Giammarco      | McLane        | Smith, L.     |
| Bittle         | Gillette       | Mebus         | Spencer       |
| Borski         | Gleeson        | Meluskey      | Spitz         |
| Brandt         | Goebel         | Milanovich    | Stairs        |
| Brown          | Goodman        | Miller        | Stapleton     |
| Brunner        | Gray           | Milliron      | Stewart       |
| Burd           | Greenfield     | Miscevich     | Stuban        |
| Burns          | Greenleaf      | Moehlmann     | Sweet         |
| Butera         | Grieco         | Morris        | Taddonio      |
| Caltagirone    | Halverson      | Mowery        | Taylor, E.    |
| Cassidy        | Hamilton       | Mrkonic       | Taylor, F.    |
| Cessar         | Harper         | Mullen, M. P. | Tenaglio      |
| Cianciulli     | Hasay          | Mullen, M. M. | Thomas        |
| Cimini         | Haskell        | Musto         | Trello        |
| Cohen          | Hayes, D. S.   | Novak         | Valicenti     |
| Cole           | Hayes, S. E.   | Noye          | Vroon         |
| Cowell         | Helfrick       | O'Brien, B.   | Wagner        |
| Davies         | Hoeffel        | O'Brien, D.   | Wansacz       |
| DeMedio        | Honaman        | O'Connell     | Wargo         |
| DeVerter       | Hopkins        | O'Keefe       | Wass          |
| DeWeese        | Hutchinson, A. | Oliver        | Weidner       |
| DiCarlo        | Hutchinson, W. | Parker        | Wenger        |
| Dietz          | Itkin          | Petrarca      | White         |
| Dininni        | Johnson        | Piccola       | Wiggins       |
| Dombrowski     | Jones          | Pitts         | Williams      |
| Donatucci      | Katz           | Pott          | Wilt          |
| Dorr           | Kelly          | Pratt         | Wise          |
| Doyle          | Kernick        | Prendergast   | Wright, D.    |
| Duffy          | Klingaman      | Pyles         | Wright, J. L. |
| Dumas          | Knepper        | Rappaport     | Yahner        |
| Engelhart      | Kolter         | Ravenstahl    | Yohn          |
| Fee            | Kowalshyn      | Reed          | Zeller        |
| Fischer, R. R. | Laughlin       | Renwick       | Zitterman     |
| Fisher, D. M.  | Lehr           | Rieger        | Zord          |
| Foster, A.     | Letterman      | Ritter        | Zwikel        |
| Foster, W.     | Levi           | Ruggiero      |               |
| Freind         | Lincoln        | Ryan          | Irvis,        |
| Fryer          | Livengood      | Salvatore     | Speaker       |
| Gallagher      | Logue          | Scanlon       |               |

NAYS—2

|        |          |
|--------|----------|
| Wilson | Zearfoss |
|--------|----------|

NOT VOTING—13

|           |           |         |            |
|-----------|-----------|---------|------------|
| Armstrong | McGinnis  | Pievsky | Richardson |
| Barber    | O'Donnell | Polite  | Seltzer    |
| Caputo    | Pancoast  | Rhodes  | Shelton    |
| Flaherty  |           |         |            |

The question was determined in the affirmative and the motion was agreed to.

RULES SUSPENDED TO REPRINT RESOLUTION

The SPEAKER. The Chair recognizes the gentleman from Mercer, Mr. Bennett.

Mr. BENNETT. Mr. Speaker, I move that HR 115 be reprinted so as to add my name as the chief sponsor of the resolution.

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

The following roll call was recorded:



YEAS—192

|                |                |               |               |
|----------------|----------------|---------------|---------------|
| Abraham        | Gallagher      | Mackowski     | Scheaffer     |
| Anderson       | Gallen         | Madigan       | Schmitt       |
| Armstrong      | Gamble         | Manderino     | Schweder      |
| Arthurs        | Garzia         | Manmiller     | Scirica       |
| Bellomini      | Gatski         | McCall        | Shuman        |
| Beloff         | Geesey         | McClatchy     | Shupnik       |
| Bennett        | Geisler        | McGinnis      | Sirianni      |
| Berlin         | George, C.     | McIntyre      | Smith, E.     |
| Berson         | George, M.     | McLane        | Smith, L.     |
| Bittinger      | Giammarco      | Mebus         | Spencer       |
| Bittle         | Gillette       | Meluskey      | Spitz         |
| Borski         | Gleeson        | Milanovich    | Stairs        |
| Brandt         | Goebel         | Miller        | Stapleton     |
| Brown          | Goodman        | Milliron      | Stewart       |
| Brunner        | Gray           | Miscevich     | Stuban        |
| Burd           | Greenfield     | Moehlmann     | Sweet         |
| Burns          | Greenleaf      | Morris        | Taddonio      |
| Butera         | Grieco         | Mowery        | Taylor, E.    |
| Caltagirone    | Halverson      | Mrkonic       | Taylor, F.    |
| Caputo         | Hamilton       | Mullen, M. P. | Tenaglio      |
| Cassidy        | Harper         | Mullen, M. M. | Thomas        |
| Cessar         | Hasay          | Musto         | Trello        |
| Cianciulli     | Haskell        | Novak         | Valicenti     |
| Cimini         | Hayes, D. S.   | O'Brien, B.   | Vroon         |
| Cohen          | Hayes, S. E.   | O'Brien, D.   | Wagner        |
| Cole           | Helfrick       | O'Connell     | Wansacz       |
| Cowell         | Hoeffel        | O'Keefe       | Wargo         |
| Davies         | Honaman        | Oliver        | Wass          |
| DeMedio        | Hopkins        | Pancoast      | Weidner       |
| DeVerter       | Hutchinson, A. | Parker        | Wenger        |
| DeWeese        | Hutchinson, W. | Petrarca      | White         |
| DiCarlo        | Itkin          | Piccola       | Wiggins       |
| Dietz          | Johnson        | Pitts         | Williams      |
| Dininni        | Jones          | Polite        | Wilson        |
| Dombrowski     | Katz           | Pott          | Wilt          |
| Donatucci      | Kelly          | Pratt         | Wise          |
| Dorr           | Kernick        | Prendergast   | Wright, D.    |
| Doyle          | Klingaman      | Pyles         | Wright, J. L. |
| Duffy          | Knepper        | Rappaport     | Yahner        |
| Dumas          | Kolter         | Ravenstahl    | Yohn          |
| Englehart      | Kowalyshyn     | Reed          | Zearfoss      |
| Fee            | Laughlin       | Renwick       | Zeller        |
| Fischer, R. R. | Lehr           | Rieger        | Zitterman     |
| Fisher, D. M.  | Letterman      | Ritter        | Zord          |
| Flaherty       | Levi           | Ruggiero      | Zwikel        |
| Foster, A.     | Lincoln        | Ryan          |               |
| Foster, W.     | Livengood      | Salvatore     | Irvis,        |
| Freind         | Logue          | Scanlon       | Speaker       |
| Fryer          | Lynch          |               |               |

NAYS—1

Noye

NOT VOTING—7

|           |         |            |         |
|-----------|---------|------------|---------|
| Barber    | Pievsky | Richardson | Shelton |
| O'Donnell | Rhodes  | Seltzer    |         |

The question was determined in the affirmative and the motion was agreed to.

On the question recurring,  
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—190

|           |           |           |           |
|-----------|-----------|-----------|-----------|
| Abraham   | Gallagher | Mackowski | Scanlon   |
| Anderson  | Gallen    | Madigan   | Scheaffer |
| Armstrong | Gamble    | Manderino | Schmitt   |

|                |                |               |               |
|----------------|----------------|---------------|---------------|
| Arthurs        | Garzia         | Manmiller     | Schweder      |
| Bellomini      | Gatski         | McCall        | Scirica       |
| Beloff         | Geesey         | McClatchy     | Shuman        |
| Bennett        | Geisler        | McGinnis      | Shupnik       |
| Berlin         | George, C.     | McIntyre      | Sirianni      |
| Berson         | George, M.     | McLane        | Smith, E.     |
| Bittinger      | Giammarco      | Mebus         | Smith, L.     |
| Bittle         | Gillette       | Meluskey      | Spencer       |
| Borski         | Gleeson        | Milanovich    | Spitz         |
| Brandt         | Goebel         | Miller        | Stairs        |
| Brown          | Goodman        | Milliron      | Stapleton     |
| Brunner        | Gray           | Miscevich     | Stewart       |
| Burd           | Greenfield     | Moehlmann     | Stuban        |
| Burns          | Greenleaf      | Morris        | Sweet         |
| Butera         | Grieco         | Mowery        | Taddonio      |
| Caltagirone    | Halverson      | Mrkonic       | Taylor, E.    |
| Caputo         | Hamilton       | Mullen, M. P. | Taylor, F.    |
| Cassidy        | Harper         | Mullen, M. M. | Tenaglio      |
| Cessar         | Hasay          | Musto         | Thomas        |
| Cianciulli     | Haskell        | Novak         | Trello        |
| Cimini         | Hayes, D. S.   | Noye          | Valicenti     |
| Cohen          | Hayes, S. E.   | O'Brien, B.   | Vroon         |
| Cole           | Helfrick       | O'Brien, D.   | Wagner        |
| Cowell         | Honaman        | O'Connell     | Wansacz       |
| Davies         | Hopkins        | O'Keefe       | Wargo         |
| DeMedio        | Hutchinson, A. | Oliver        | Wass          |
| DeVerter       | Hutchinson, W. | Pancoast      | Weidner       |
| DeWeese        | Itkin          | Parker        | Wenger        |
| Dietz          | Johnson        | Petrarca      | White         |
| Dininni        | Jones          | Piccola       | Wiggins       |
| Dombrowski     | Katz           | Pitts         | Wilson        |
| Donatucci      | Kelly          | Polite        | Wilt          |
| Dorr           | Kernick        | Pott          | Wise          |
| Doyle          | Klingaman      | Pratt         | Wright, D.    |
| Duffy          | Knepper        | Prendergast   | Wright, J. L. |
| Dumas          | Kolter         | Pyles         | Yahner        |
| Englehart      | Kowalyshyn     | Rappaport     | Yohn          |
| Fee            | Laughlin       | Ravenstahl    | Zearfoss      |
| Fischer, R. R. | Lehr           | Reed          | Zeller        |
| Fisher, D. M.  | Letterman      | Renwick       | Zitterman     |
| Flaherty       | Levi           | Rieger        | Zord          |
| Foster, A.     | Lincoln        | Ritter        | Zwikel        |
| Foster, W.     | Livengood      | Ruggiero      |               |
| Freind         | Logue          | Ryan          | Irvis,        |
| Fryer          | Lynch          | Salvatore     | Speaker       |

NAYS—1

Hoeffel

NOT VOTING—9

|           |         |            |          |
|-----------|---------|------------|----------|
| Barber    | Pievsky | Richardson | Shelton  |
| DiCarlo   | Rhodes  | Seltzer    | Williams |
| O'Donnell |         |            |          |

The question was determined in the affirmative and the resolution was adopted.

QUESTION OF PERSONAL PRIVILEGE

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Hoeffel. For what purpose does the gentleman rise?

Mr. HOEFFEL. I rise to a question of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. HOEFFEL. Mr. Speaker, on HR 115, PN 1578, I was incorrectly recorded. I would like to be recorded in the affirmative.

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

**BILLS TAKEN FROM TABLE**

The SPEAKER. The Chair recognizes the majority whip.

Mr. GREENFIELD. Mr. Speaker, I move that SB 927, PN 1130, and SB 701, PN 1069, be removed from the table and placed on the active calendar.

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

**APPROPRIATION BILLS ON SECOND CONSIDERATION**

Agreeable to order,

The House proceeded to second consideration of **Senate bill No. 701, printer's No. 1069**, entitled:

An Act making an appropriation from the Public School Employee's Retirement Fund to provide for expenses of the Public School Employees' Retirement Board for the fiscal period July 1, 1977 to June 30, 1978 and for the payment of bills incurred and remaining unpaid at the close of the fiscal period ending June 30, 1977.

And said bill having been considered the second time and agreed to,

Ordered, to be transcribed for third consideration.

Agreeable to order,

The House proceeded to second consideration of **Senate bill No. 927, printer's No. 1130**, entitled:

An Act making an appropriation from the State Employees' Retirement Fund to provide for expenses of the State Employees' Retirement Board for the fiscal period July 1, 1977 to June 30, 1978 and for the payment of bills incurred and remaining unpaid at the close of the fiscal period ending June 30, 1977.

And said bill having been considered the second time and agreed to,

Ordered, to be transcribed for third consideration.

**ANNOUNCEMENTS****DEMOCRATIC CAUCUS**

The SPEAKER. The Chair recognizes the majority whip.

Mr. GREENFIELD. Mr. Speaker, I would like to announce a 1-hour recess until 2:30, during which time the Democratic caucus will meet immediately.

**REPUBLICAN CAUCUS**

The SPEAKER. The Chair recognizes the gentleman from Blair, Mr. Hayes.

Mr. S. E. HAYES. Mr. Speaker, due to the fact that some privileged resolutions will be offered this afternoon, it will be necessary for the Republicans to caucus for a short while on those resolutions immediately.

**RECESS**

The SPEAKER. This House stands in recess until 2:30 p.m.

There has been a request by both the caucus chairman of the Democratic Party and the caucus chairman of the Republican

Party for immediate caucuses. This House stands in recess until 2:30 p.m.

**THE SPEAKER PRO TEMPORE (THOMAS J. McCALL) IN THE CHAIR****RECESS EXTENDED**

The SPEAKER pro tempore. The Speaker has asked me to announce that the recess will be extended until 2:50 p.m.

The Speaker has asked me to announce an extension of the recess until 4:15 p.m.

**AFTER RECESS****THE SPEAKER (K. LEROY IRVIS) IN THE CHAIR****ANNOUNCEMENT BY SPEAKER**

The SPEAKER. The members who are within the hearing of the Speaker's voice are advised that the earlier announcement of 4:15 was an error. The error was the fault of the Speaker. The correct time of the recess expiration is 3:15, and the Speaker urges all members to report promptly to the floor.

**SPECIAL ORDER OF BUSINESS****JUDICIARY BILL ON THIRD CONSIDERATION**

Agreeable to order,

The House proceeded to third consideration of **House bill No. 71, printer's No. 81**, entitled:

A Joint Resolution making application to the Congress of the United States to call a convention for drafting and proposing an amendment to the Constitution of the United States to guarantee the right to life to the unborn fetus.

On the question,

Will the House agree to the bill on third consideration?

Mr. WILSON offered the following amendments:

Amend Title, page 1, line 1, by inserting after "States" upon approval by the electorate

Amend Sec. 1, page 1, line 8, by inserting after "concurring)" upon approval of the electorate as herein provided,

Amend Bill, page 2, by inserting between lines 4 and 5

Section 2. At the next municipal or general election taking place more than 60 days after the final passage of this Joint Resolution, there shall be submitted in the manner provided by the election laws of the Commonwealth of Pennsylvania, a question to determine the will of the electorate in regard to calling a Constitutional Convention for the purpose of guaranteeing the right to life to the unborn fetus as herein provided.

The question shall be printed on the official and specimen ballots or on separate official ballots in bound form by the county board of elections in each county and a sufficient number of ballots shall be furnished to the election officers in each election district of every county so that one ballot may be supplied to each voter at such election. In districts where voting machines are used, such question shall appear on the face of the machine where the machine is properly equipped for such purposes.

The results of such election shall be tabulated by the proper election officers of each county and the results thereof certified to the Secretary of the Commonwealth.

Amend Sec. 2, page 2, line 5, by striking out "2. The" and inserting 3. Upon approval of this question by a majority of the electorate voting, the

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Wilson.

Mr. WILSON. Mr. Speaker, HB 71 is, I believe, in most cases and in many cases, an emotional issue. I think it is one of those rare occasions when I feel convinced that the general public should make the decision and not this legislature. I realize that we have been elected to make decisions, some of them very tough, such as budgets and taxes and things like that, but really what my amendment offers to do is turn over to the electorate of the Commonwealth of Pennsylvania, by referendum, the choice as to whether or not we want to change the abortion law via the amendment to the United States Constitution; more particularly, do we want to open up the constitutional process, the United States constitutional process, for the purpose of the resolution, HB 71.

I would recommend to this body that we adopt this amendment and run this as a referendum in the next general or municipal election.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Mullen.

Mr. M. P. MULLEN. Mr. Speaker, I oppose the amendment.

Certainly we all recognize that whenever we have a controversial matter of this nature we always have a proposal to have a referendum. But I think we must recognize that when the people elect us to a responsible body such as the House of Representatives, they expect us to act accordingly. I do not think that every controversial matter should be made the subject matter of a referendum, and certainly not in this particular case because what we are trying to do here is to amend the Constitution for the express purpose of trying to save lives. I think all of us recognize that since the United States Supreme Court decision in 1972, we have aborted almost 3 million children in the United States of America. I think we have an obligation to do something about that.

This amendment which we have before us today would, in fact, delay that process a considerable time. As you know, 34 states are required to adopt this particular proposal, and to adopt the amendment to this proposal would require that the question be submitted to the people.

If we were to adopt Mr. Wilson's amendment, what would happen is that this question would appear on a statewide ballot at the next general election, either in November, if it passes the Senate in time, or in the general election next year when the Governor is running for office and when all of you are running for office. I do not think that is a proper question to put on the ballot in either event, and I think it would create a lot more problems which could easily be solved by our passing this particular bill without the amendment. This is nothing more, in my opinion, than passing the buck to the people. I do not think the people elected us to pass the buck.

But I think the most serious objection to this amendment is the constitutional question, because if we adopt Mr. Wilson's amendment, the bill is going to read as follows: "Upon approval of this question by a majority of the electorate voting, the Secretary of the Commonwealth shall transmit certified copies of

this resolution to the President of the Senate of the United States, . . ." et cetera.

I believe that what this would do would in fact make this House resolution invalid, because if you look at Article V of the United States Constitution, it reads as follows: "The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this constitution, or,"—now this is important—"on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, . . ."

What we in fact are doing, instead of doing it in the legislature, is sending it back to the people, and I think this would make the House resolution unconstitutional, and I do not think we want to do that.

Mr. Foster from York is going to recite to you in a few moments, I hope, an Ohio case which has, in fact, interpreted the constitution to read this way, if you submit the question to the people in the form of a referendum, it is defective. Mr. Speaker, when Mr. Foster speaks later on, he is going to speak about an Ohio case which pointed out clearly that by submitting the question in the form of a referendum to the people, you are in fact not complying with the requirement of Article V of the Constitution.

So for this reason and for the reasons I stated previously, I think we ought to vote down the amendment and get on with the House resolution and pass it, because we are interested in saving lives and this is what it is all about. Thank you very much.

#### POINTS OF ORDER

The SPEAKER. The Chair recognizes the gentleman from Lehigh, Mr. Ritter. For what purpose does the gentleman rise?

Mr. RITTER. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. RITTER. Mr. Speaker, is it in order to make a motion to recommit this bill along with the amendment to a standing committee in the House? Is it in order at this time to do that?

The SPEAKER. A motion to recommit is in order on third consideration but, of course, the gentleman was not recognized for that purpose. The gentleman is recognized for the purpose of asking a question, and the Chair would answer the question saying that such a motion is in order.

If the gentleman wishes to be recognized to make that motion, if the gentleman would advise the Chair, the Chair would recognize the gentleman and he may make the motion.

Mr. RITTER. I would like to do that, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Lehigh, Mr. Ritter.

Mr. RITTER. Mr. Speaker, we have in this House a standing committee on Federal-State Relations, and it has been the practice in the last session and in this session that bills dealing with the Federal Government memorializing the Congress or the President, or what have you, have been referred to the Federal-State Relations Committee, and it is for that—

The SPEAKER. Will the gentleman yield?

The Chair recognizes the gentleman from Berks, Mr. Gallen.

For what purpose does the gentleman rise?

Mr. GALLEN. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. GALLEN. Mr. Ritter rose to a point of order. There are other people waiting to speak in turn. He rose to a point of order, and you answered his point of order. I do not think he should then be recognized immediately to make a motion that has nothing to do with his point of order.

The SPEAKER. Let us check with the Parliamentarian for that. The House will be at ease.

In reply to the gentleman, Mr. Gallen, and I think the Chair is accurate in this, if the gentleman, Mr. Mullen, had yielded the floor to Mr. Ritter when Mr. Ritter raised the point of order, then Mr. Ritter could not be recognized except for an answer to that point of order. But the Chair was under the impression, and will now query the gentleman, Mr. Mullen, if the gentleman, Mr. Mullen, completed his statement and it was not a matter of yielding the floor. Had the gentleman, Mr. Mullen, completed his statement?

Mr. M. P. MULLEN. Yes, I had, Mr. Speaker.

The SPEAKER. Then you see, Mr. Gallen, it was not a matter of yielding the floor; the floor was then free. The Speaker recognized Mr. Ritter, answered his point of order and then, in turn, recognized Mr. Ritter to make his motion. So the gentleman, Mr. Ritter, is in order to make his motion. Will the gentleman make that motion, please?

#### MOTION TO RECOMMIT

Mr. RITTER. Yes, Mr. Speaker.

For the reasons I just stated, I move that HB 71, together with the amendment, be recommitted to the Committee on Federal-State Relations.

The SPEAKER. The question now is on the motion placed by the gentleman from Lehigh, Mr. Ritter, to recommit HB 71, PN 81, together with the Wilson amendment offered thereto, to the Committee on Federal-State Relations.

Only on that question will the Chair recognize a member.

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

Mr. RICHARDSON. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. RICHARDSON. Mr. Speaker, I would just like to know whether the motion is debatable or not.

The SPEAKER. The motion is debatable only to the limit as to reasons for or against recommitment. There would be no permission granted by the Chair to debate the substance of the bill, only the question of, shall the bill be recommitted, on the motion, to the Federal-State Relations Committee?

Mr. RICHARDSON. At the proper time, then, Mr. Speaker, I would like to be recognized.

The SPEAKER. Does the gentleman wish to debate the motion?

Mr. RICHARDSON. No. I am indicating that at the proper time, Mr. Speaker, I would like to be recognized on the motion.

The SPEAKER. The gentleman is in order and may debate the motion now. No one else has asked the Chair for recogni-

tion on the motion.

Mr. RICHARDSON. I rise in support of the Ritter motion and ask that this bill be recommitted to the Federal-State Relations Committee.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Mullen, on the motion.

Mr. M. P. MULLEN. Mr. Speaker, I oppose the motion. First of all, this bill has been in the assembly here since January or February. It has been in the Judiciary Committee; it has been given a complete airing. We discussed it; we discussed amendments and everything like that. I think it has been amply discussed. I think it is an issue that should be faced and I ask that the motion be voted down and we proceed with the amendment.

The SPEAKER. The Chair recognizes the gentleman from York, Mr. Foster, on the motion.

Mr. A. C. FOSTER. Mr. Speaker, I rise to oppose the motion to recommit. First of all, I do not see the purpose of recommitting the bill to the Committee on Federal-State Relations. The issue we face here may be a controversial one, but it is not a complex one in this sense. It is not one in which we will be enlightened by referring the bill to still another committee in the House, but, rather, I think it is the time that we should address ourselves on the floor to this issue. I think we can just as well do it today in this hour as wait a month from now and do it then. I would oppose the recommitment and urge a negative vote on the motion.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Pyles, on the motion.

Mr. PYLES. Mr. Speaker, I rise in support of the Ritter motion to recommit to Federal-State Relations Committee.

It should be noted, I believe, Mr. Speaker, that I also am a sponsor of an amendment which wording is exactly as the Wilson amendment.

In view of the fact that the chief sponsor has challenged this approach to the Wilson and Pyles amendment on the constitutional ground and, apparently from the discussion, that the Ohio decision was going to be made a part of our deliberations here today, it seems to me that the Federal-State Relations Committee is the proper vehicle of this body to study this issue, both the constitutionality of a referendum on the issue and the Ohio previous decision on this issue. I urge my colleagues to vote in favor of recommitment.

The SPEAKER. The Chair recognizes the gentleman from Delaware, Mr. Doyle, on the motion.

Mr. DOYLE. Mr. Speaker, if we adopted the last gentleman's viewpoint and logic that every bill that had a Federal court decision involved in it should be recommitted to the Federal-State Relations Committee, we would never get anything done in this chamber.

There is a time element involved here. I am opposed to the motion because nine of the 50 states have already passed a resolution petitioning Congress to call a constitutional convention, and time is of the essence. It is important that we act and act as speedily as possible. I would, therefore, ask every

member to vote against the motion.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Itkin, on the motion.

Mr. ITKIN. Mr. Speaker, I support the motion to recommit principally on the basis that we have created a standing committee, the Federal-State Relations Committee, which, to my understanding, is supposed to consider any introduction of resolutions or bills that have any bearing on the Federal Government, the executive or legislative branches.

As a consequence—and if I may just divert for a moment—I had a resolution, HR 54, which dealt with nuclear power and the energy question, and I thought that that resolution would have been more adequately placed in the Mines and Energy Management Committee of which I am a member. When this HR 54 was introduced, the prior Speaker indicated to me that it would be most important to give this type of consideration to the Federal-State Relations Committee since it was a memorialization of Congress. I consented to that and I felt that the experience of that particular resolution in the Federal-State Relations Committee was most appreciated and tended to jell the issue for the full body.

Now with respect to the present resolution, HB 71 was introduced by a member of the Judiciary Committee and referred to the same committee, and I feel that it should be considered by the standing committee created exclusively by this House to serve this House for these purposes.

I would like to finally point out that the Federal-State Relations Committee is probably the least used standing committee of the House. I am looking at the most recent history that came out today and I see that the standing committee only has now seven bills assigned to it and perhaps several resolutions. When you compare that with the number of bills and resolutions which have been introduced, there becomes a real question as to whether the 23 members assigned to the Federal-State Relations Committee really have a job to perform for the House.

I would suggest that if we do recommit this bill to that committee, they will have the time, as the chairman of the committee has suggested, to consider this bill in depth prior to its consideration on the floor by the entire House. So I, too, would concur in the motion to recommit the bill.

The SPEAKER. The Chair recognizes the gentleman from Northumberland, Mr. Helfrick.

Mr. HELFRICK. Mr. Speaker, I rise in opposition to this recommittal motion. I think we should take this by the horns and vote this bill. This has been around a long time, and I think all of us realize this is nothing more than a delaying tactic right here.

I think at this time the members who are opposed to this bill should get up and say so and speak their piece if they are opposed to it, but let us run this resolution and vote on it. If the members are in favor of it, I am sure they are willing to stand their ground and vote for it. I personally am in favor of it and I can see no reason for this delaying tactic.

Thank you.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Berson, to speak on the motion.

Mr. BERSON. Mr. Speaker, I favor a recommittal of this bill. We are about to utilize, if this bill were to succeed, a procedure set forth in our constitution which has been there for 190 years but has never been used. There are serious, open questions about how that procedure is to be followed.

#### POINTS OF ORDER

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. McClatchy. For what purpose does the gentleman rise?

Mr. McCLATCHY. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. McCLATCHY. Is the gentleman speaking on recommittal or is he explaining his position on the HB 71?

The SPEAKER. The Chair was listening very carefully and the Chair would advise the gentleman from Philadelphia that he ought to state his conclusion first, so that the Chair would be certain and the members would be certain that he is arguing on the question of recommittal rather than on the merits of the bill.

The Chair was just about to interrupt the gentleman when the gentleman, Mr. McClatchy, raised the point of order.

The gentleman, Mr. Berson, may proceed.

Mr. BERSON. Mr. Speaker, what I am trying to point out to the House is that recommittal here to the Federal-State Relations Committee will give the committee an opportunity to inform the House about several serious open questions that exist about the procedure that this bill proposes to utilize.

If you examine the bill, you cannot tell how delegates to this constitutional convention are to be selected. That is the question that a committee ought to look into.

The SPEAKER. The Chair recognizes the gentleman from Delaware, Mr. Doyle. For what purpose does the gentleman rise?

Mr. DOYLE. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. DOYLE. Please listen carefully because the gentleman from Philadelphia is going far afield of the motion to recommit.

Mr. Mullen was interrupted, but before he was interrupted he alluded to the fact that Mr. Foster was going to refer to a case which specifically refers to what Mr. Berson is speaking about now.

I can get into a half-hour debate about this subject.

The SPEAKER. Will the gentleman yield?

The gentleman has convinced the Chair of the logic of his position.

The gentleman, Mr. Berson, is going too far afield on the narrow question of recommittal. The gentleman will restrict himself to that narrow question and that narrow question alone.

Mr. BERSON. Mr. Speaker, in that event, I will content myself with saying that there are serious, unresolved questions in this bill that ought to be examined by a committee that has the time to study it and to have witnesses, conduct hearings and make a decision about the procedure to be followed. I would, therefore, support recommittal.

The SPEAKER. The Chair recognizes the gentleman from Beaver, Mr. Laughlin.

Mr. LAUGHLIN. Mr. Speaker, to be very brief, I support the gentleman's contention that the bill should not be referred to Mr. Ritter's committee, although I have the utmost faith in Mr. Ritter in giving any legislation fair consideration.

I believe this legislation has been put before the House for a specific purpose. Those of us who are going to vote in favor of it are going to do so; those who are going to vote against it are going to equally do so. I suggest we roll the bill now and vote this amendment down.

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

The following roll call was recorded:

YEAS—80

|           |                |            |               |
|-----------|----------------|------------|---------------|
| Anderson  | Gamble         | Miller     | Smith, L.     |
| Armstrong | Geesey         | Miscevich  | Spencer       |
| Arthurs   | George, M.     | Moehlmann  | Stewart       |
| Bennett   | Gleeson        | Morris     | Sweet         |
| Berlin    | Greenfield     | Mowery     | Weidner       |
| Berson    | Greenleaf      | Noye       | Wenger        |
| Bittinger | Harper         | O'Connell  | White         |
| Bittle    | Hasay          | Pancoast   | Wiggins       |
| Borski    | Hoeffel        | Parker     | Williams      |
| Brandt    | Honaman        | Piccola    | Wilson        |
| Brown     | Hutchinson, A. | Pott       | Wilt          |
| Burd      | Itkin          | Pratt      | Wise          |
| Burns     | Johnson        | Pyles      | Wright, D.    |
| Cohen     | Jones          | Rappaport  | Wright, J. L. |
| Cole      | Kernick        | Rhodes     | Yohn          |
| Cowell    | Knepper        | Richardson | Zearfoss      |
| Davies    | Levi           | Ritter     | Zwinkl        |
| DeVerter  | Madigan        | Scanlon    |               |
| DeWeese   | Manmiller      | Scirica    | Irvis,        |
| Dorr      | Mebus          | Seltzer    | Speaker       |
| Fryer     | Meluskey       |            |               |

NAYS—113

|                |                |               |            |
|----------------|----------------|---------------|------------|
| Abraham        | Garzia         | Logue         | Ryan       |
| Bellomini      | Gatski         | Lynch         | Scheaffer  |
| Brunner        | Geisler        | Mackowski     | Schmitt    |
| Butera         | George, C.     | McCall        | Schweder   |
| Caltagirone    | Giammarco      | McClatchy     | Shuman     |
| Caputo         | Gillette       | McGinnis      | Shupnik    |
| Cassidy        | Goebel         | McIntyre      | Sirianni   |
| Cessar         | Goodman        | McLane        | Smith, E.  |
| Cianciulli     | Gray           | Milanovich    | Spitz      |
| Cimini         | Grieco         | Milliron      | Stairs     |
| DeMedio        | Halverson      | Mrkonic       | Stapleton  |
| DiCarlo        | Hamilton       | Mullen, M. P. | Suban      |
| Dietz          | Haskell        | Mullen, M. M. | Taddonio   |
| Dininni        | Hayes, D. S.   | Musto         | Taylor, E. |
| Dombrowski     | Hayes, S. E.   | Novak         | Taylor, F. |
| Donatucci      | Helfrick       | O'Brien, B.   | Tenaglio   |
| Doyle          | Hopkins        | O'Brien, D.   | Thomas     |
| Duffy          | Hutchinson, W. | O'Keefe       | Trello     |
| Dumas          | Katz           | Oliver        | Valicenti  |
| Englehart      | Kelly          | Petrarca      | Vroon      |
| Fee            | Klingaman      | Pitts         | Wagner     |
| Fischer, R. R. | Kolter         | Polite        | Wansacz    |
| Fisher, D. M.  | Kowalshyn      | Prendergast   | Wargo      |
| Flaherty       | Laughlin       | Ravenstahl    | Wass       |
| Foster, A.     | Lehr           | Reed          | Yahner     |
| Foster, W.     | Letterman      | Renwick       | Zeller     |
| Freind         | Lincoln        | Rieger        | Zitterman  |
| Gallagher      | Livengood      | Ruggiero      | Zord       |
| Gallen         |                |               |            |

NOT VOTING—7

|        |           |           |         |
|--------|-----------|-----------|---------|
| Barber | Manderino | Pievsky   | Shelton |
| Beloff | O'Donnell | Salvatore |         |

The question was determined in the negative and the motion was not agreed to.

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

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Pyles. We are now back on the Wilson amendment to HB 71.

Mr. PYLES. Mr. Speaker, I wonder if the prime sponsor will agree to a brief interrogation.

The SPEAKER. The gentleman from Philadelphia, Mr. Mullen, indicates he will stand for interrogation. The gentleman from Montgomery is in order and may proceed.

Mr. PYLES. Mr. Speaker, is it true that on the 20th of June of this year you sent a memorandum to all members which had attached a memorandum, "Pennsylvania for a Constitutional Convention"?

Mr. M. P. MULLEN. I believe I sent a copy of the proposed bill, and I asked the members if they wished to be cosponsors to let us know. That is correct.

Mr. PYLES. This memorandum is dated the 20th of June 1977, just less than a month ago.

Mr. M. P. MULLEN. No, I did not send anything that I can recall. I did not send it.

Mr. PYLES. Mr. Speaker, may I acquaint the sponsor with this document for a moment, please, sir?

The SPEAKER. The Chair did not understand the gentleman's question.

The Chair is requested that the House be placed at ease. Is that the request?

The Chair places the House at ease.

The House will be in order.

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

Mr. M. P. MULLEN. Mr. Speaker, I was in error. I sent a copy of a statement from Pennsylvania for a Constitutional Convention to the members. Yes, that is correct. It is dated June 17. I did not prepare it personally, but I was asked if I would distribute it to the members to enlighten them on this particular question. Mr. Speaker, I did send that, yes.

Mr. PYLES. Thank you, Mr. Speaker.

I draw your attention to the leading sentence of the fourth paragraph of the enclosure, which says:

Our congressional legislators are more remote, more isolated from the grass roots sentiment while the State legislator is more responsive to his constituency, thus pro-life concern is evident at this level.

Mr. Speaker, my question is: The Wilson amendment proposes a referendum, that this question be put on the ballot and that the people vote on it. Do you agree that that is as close to the grass roots in the democratic process as we could get?

## POINT OF ORDER

The SPEAKER. The Chair recognizes the gentleman from Washington, Mr. DeMedio. For what purpose does the gentleman rise?

Mr. DeMEDIO. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. DeMEDIO. Are we presently on the resolution?

Mr. PYLES. No, we are on the amendment. I am sorry.

The SPEAKER. I knew my tenure in office had been brief, but I did not know it was that brief.

Mr. PYLES. I apologize.

The SPEAKER. The Chair would advise the gentleman that we are on an amendment offered by Mr. Wilson to HB 71.

Mr. DeMEDIO. Thank you, Mr. Speaker.

The SPEAKER. The gentleman may now proceed.

Mr. M. P. MULLEN. Mr. Speaker, my personal opinion, as I stated a minute ago when I was discussing the amendment, is that it is the responsibility of the legislature to act on these matters and not pass them on to the general public in the form of a referendum. That is especially so when you think that the proposal is unconstitutional in and of itself and will create a problem with doing what we are trying to do. I explained that before and I reiterate again that I do not think that we should send controversial issues back to the people in the form of a referendum. I think it is a bad procedure. The people elect us and we should do the job.

Mr. PYLES. Mr. Speaker, you have mentioned at least twice during your discussion of the Wilson amendment that it appears to be your opinion that it is unconstitutional. Did you want to make such a motion to let the body of this House determine whether that is so or not?

Mr. M. P. MULLEN. Mr. Speaker, I do not want to delay this matter. I think it is a matter that is before us and I think that what we ought to do is consider the amendment. I do not want any delaying tactics. I am not going to offer that motion. Let each and every member consider the amendment and let him vote the way he thinks is best for his constituency and for the people of Pennsylvania. That is what we are here for.

Mr. PYLES. Mr. Speaker, one more brief question: The history of the use of the application procedure allowed by Article V of the U. S. Constitution to call a constitutional convention I believe was used in the history of the United States about 20 times. Are you aware that any constitutional convention to amend the Constitution through this procedure that is, the application procedure, has ever been successful?

Mr. M. P. MULLEN. No. As a matter of fact, Mr. Speaker, to the best of my recollection based on our research, we found there were 414 applications at one time or another in the history of the country, not 25.

The only one that was almost successful was back in the one-man, one-vote situation. If I recall then, 32 states filed applications to the Federal Congress to call a constitutional convention. As I stated a minute ago, you only need 34. The late Senator Dirkson of Illinois was the sponsor of that particular resolution in the various states. He died and the issue died with him, because the various legislatures had apportioned their states in accordance with the United States Constitution, and they did

not want to go over it again. The only other time that it was almost successful was back in 1908. If you recall, when the Constitution of the United States was originally adopted, United States Senators were not elected by the people; they were elected by the legislatures of the respective states. In 1908, 27 states filed applications similar to this with the Federal Congress. In those days, they only needed 32. What happened then was that the Federal Congress on their own initiated the constitutional amendment which eventually was adopted by the states, and this is why we have the election of the United States Senators by popular vote.

Mr. PYLES. Mr. Speaker, I would like to speak on the amendment.

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

Mr. PYLES. Mr. Speaker, the Wilson amendment, which is identical to the one that I also circulated several weeks ago, proposes to give the people of this state, the grass roots of democracy, the opportunity to make a determination whether what we do here is within their feelings. The proposition before us is that we would pass a resolution which would only become effective when the majority of the voters so determine.

The issue before us is one of very important magnitude: number one, whether a constitutional convention should take place, which has never been done in the history of our democracy by the application procedure; and, two, the subject is of very important magnitude to each individual citizen of our Commonwealth.

I would suggest to the members, my colleagues, that the proper procedure for the implementation of a call for a constitutional convention would be to allow each voter in this state to make the determination whether that is their feeling on this issue. I recommend that my colleagues vote in favor of the Wilson amendment.

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

Mr. A. C. FOSTER. Mr. Speaker, the Wilson amendment is laudable; it has good intent; but, unfortunately, it is unconstitutional. It represents an unconstitutional delegation of the powers of this body.

I say this because there are two means by which the Federal Constitution may be amended: One is through an amendment initiated through the Congress; The second—once again in Article V of the Federal Constitution—would be through the process we are presently attempting. I will read:

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the Legislatures—

note the legislatures, again the legislatures—  
of two-thirds of the several States . . .

So it is clearly a legislative responsibility in this matter, one which we cannot delegate to any group or even to the entire populace of this Commonwealth.

I would make reference to a Supreme Court decision involving the case of Ohio and the 18th Amendment to the Federal Constitution. When this particular amendment was being considered by the Ohio legislature, it was brought up that just a

few years earlier the Ohio legislature had passed an amendment to their state constitution requiring that all constitutional amendments be subject to referendum. When this case was brought before the Supreme Court, the Supreme Court struck down the provision of the Ohio Constitution, ruling that they could make no law or amendment which contravened the Federal Constitution. So for this reason, the Wilson amendment is unconstitutional.

I would urge you to consider some of the practical objections to it that would arise and, indeed, the can of worms or perhaps even the barrel of worms we would be opening in this House. In the very near future we will be considering a variety of controversial legislation. Suppose on each occasion an amendment of this type would be offered saying passage of this particular bill shall be contingent upon popular referendum. I assure you that there would be very few tax bills which would pass this House until the Commonwealth was in utter chaos.

So I would urge the leadership to consider this aspect of it. I would urge the individual members to consider the problems that arise from this, but, above all, I urge you to assume the responsibility here that we were elected to assume. It is we who must make decisions, and we cannot shuffle those decisions off upon others.

#### CONSTITUTIONAL POINT OF ORDER

Mr. A. C. FOSTER. Mr. Speaker, with this in mind, I would rise to a point of constitutionality on the Wilson amendment. I would urge that we reject the Wilson amendment as unconstitutional, and I so move.

The SPEAKER. It is moved by the gentleman from York, Mr. Foster, that the amendment submitted by the gentleman, Mr. Wilson, to HB 71 is unconstitutional.

This is a question which must be decided by a vote of the members of this House.

The Chair recognizes the gentleman from Delaware, Mr. Zearfoss.

Mr. ZEARFOSS. Mr. Speaker, I gather that the question of constitutionality raised by Mr. Foster is based on his reading of Article V of the Constitution, which requires that the call of a convention be by the legislatures of the states.

I would like to refer the members to the Wilson amendment, and if you will notice, if amended, the bill would still say: "The General Assembly of the Commonwealth of Pennsylvania (the Senate concurring), upon approval of the electorate as herein provided . . ." So the petition would still be directed from the General Assembly and it seems to me would still come within the constitutional mandate of Article V of the Federal Constitution.

If there is some other constitutional objection that I have missed, I would appreciate hearing from Mr. Foster what other reasons he may have.

The SPEAKER. The Chair recognizes the gentleman from York, Mr. Foster, on the constitutional question.

Mr. A. C. FOSTER. Yes. I would answer the gentleman from Delaware in this fashion: This House may not enact legislation of this type contingent upon a referendum. What we are ac-

tually doing by terms of this amendment is making passage of the resolution contingent upon the outcome of the referendum.

Let us say the referendum had been held previously and was advisory only. That would be a different story. But we are making the actual passage of this resolution contingent upon referendum, and this we may not do.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Pyles.

Mr. PYLES. Mr. Speaker, on the constitutional question, my colleague from York indicates that he believes that we would be setting a precedent so that every piece of legislation would be subjected to this type of referendum.

I submit to my colleague from York and my other colleagues that we are not dealing with a law that is being passed within the purview of the Commonwealth Constitution. We are dealing with a concurrent resolution that is dealing with Article V of the United States Constitution. Therefore, his observation that if we pass this type of approach with this resolution, this concurrent resolution, that it could set a precedent is wrong in my judgment. Every law we pass in this House must meet the test of the constitutionality of the Commonwealth Constitution. Resolutions are not binding in that regard. This is a concurrent resolution. It carries a number of HB 71, to be sure, but it is not law as we understand the law under our state constitution. I recommend our colleagues vote down the constitutional challenge.

The SPEAKER. The Chair recognizes the gentleman from Delaware, Mr. Doyle.

Mr. DOYLE. Mr. Speaker, the gentleman from York, Mr. Foster, correctly alluded to the Hawke vs. Smith decision. I would like to read briefly the very words of the United States Supreme Court in deciding this very issue:

It is true that the power to legislate in the enactment of the laws of a State is derived from the people of the State. But the power to ratify a proposed amendment to the Federal Constitution has its source in the Federal Constitution. The act of ratification by the State derives its authority from the Federal Constitution to which the State and its people have alike assented.

The precedent which Mr. Pyles alluded to is right there. That is the precedent that Mr. Foster meant when he said that the amendment would be unconstitutional if passed.

Also, in 1965, Sam Ervin, the Senator from North Carolina, undertook an exhaustive study of this problem, and when dealing with a similar proposition of whether or not the governors of the states would have to sign the resolution if passed, he decided in the negative.

Also cited was an analogous case back in 1797, Hollingsworth vs. Virginia, that also said the President of the United States and the legislative process does not come into effect because it is clearly stated what has to be done right in the document itself in the Federal Constitution. So I would urge a positive vote on Mr. Foster's motion.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Cowell.



Mr. COWELL. Mr. Speaker, I am waiting to be recognized on the following question.

The SPEAKER. The Chair thanks the gentleman.

PARLIAMENTARY INQUIRY

The SPEAKER. The Chair recognizes the gentleman from York, Mr. Foster. For what purpose does the gentleman rise?

Mr. A. C. FOSTER. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. A. C. FOSTER. So that there be no misunderstanding on the vote, would you state clearly whether an "aye" or a "nay" would indicate constitutionality?

The SPEAKER. The questions to be determined by the House is as follows: Is the amendment offered by the gentleman, Mr. Wilson, to HB 71 constitutional?

A member who votes "aye" votes that it is constitutional; a member who votes "no" votes that it is not constitutional.

The Chair recognizes the gentleman from Delaware, Mr. Doyle.

Mr. DOYLE. As the question is stated, I incorrectly stated that the vote should be in the affirmative. Actually, I meant to say that the vote should be in the negative on that question.

On the question,

Will the House sustain the constitutionality of the amendments?

The following roll call was recorded:

YEAS—94

|                |                |             |               |
|----------------|----------------|-------------|---------------|
| Anderson       | Gatski         | Mebus       | Seltzer       |
| Armstrong      | Geesey         | Meluskey    | Smith, L.     |
| Arthurs        | George, M.     | Miller      | Spencer       |
| Beloff         | Gleeson        | Moehlmann   | Spitz         |
| Berlin         | Greenfield     | Morris      | Stapleton     |
| Berson         | Greenleaf      | Mowery      | Stewart       |
| Bittinger      | Grieco         | Noye        | Stuban        |
| Bittle         | Harper         | O'Connell   | Sweet         |
| Borski         | Hasay          | Oliver      | Taylor, E.    |
| Brandt         | Haskell        | Parker      | Wagner        |
| Brown          | Hayes, D. S.   | Piccola     | Wass          |
| Burns          | Hayes, S. E.   | Pott        | Weidner       |
| Cohen          | Hoeffel        | Pratt       | Wenger        |
| Cole           | Honaman        | Prendergast | White         |
| Cowell         | Hopkins        | Pyles       | Wilson        |
| Davies         | Hutchinson, A. | Rappaport   | Wilt          |
| DeVerter       | Kelly          | Reed        | Wise          |
| DeWeese        | Kernick        | Rhodes      | Wright, D.    |
| Dininni        | Klingaman      | Richardson  | Wright, J. L. |
| Dorr           | Letterman      | Ritter      | Zearfoss      |
| Fischer, R. R. | Levi           | Ryan        | Zwinkl        |
| Flaherty       | Madigan        | Scanlon     |               |
| Foster, W.     | Manmiller      | Scheaffer   | Irvis,        |
| Garzia         | McLane         | Schweder    | Speaker       |

NAYS—99

|             |            |           |           |
|-------------|------------|-----------|-----------|
| Abraham     | Gallen     | Lynch     | Salvatore |
| Bellomini   | Gamble     | Mackowski | Schmitt   |
| Bennett     | Geisler    | McCall    | Scirica   |
| Brunner     | George, C. | McClatchy | Shuman    |
| Burd        | Giammarco  | McGinnis  | Shupnik   |
| Butera      | Gillette   | McIntyre  | Sirianni  |
| Caltagirone | Goebel     | Milliron  | Smith, E. |
| Caputo      | Goodman    | Miscevich | Stairs    |

|               |                |               |            |
|---------------|----------------|---------------|------------|
| Cassidy       | Gray           | Mrkonic       | Taddonio   |
| Cessar        | Halverson      | Mullen, M. P. | Taylor, F. |
| Cimini        | Hamilton       | Mullen, M. M. | Tenaglio   |
| DeMedio       | Helfrick       | Musto         | Thomas     |
| DiCarlo       | Hutchinson, W. | Novak         | Trello     |
| Dietz         | Itkin          | O'Brien, B.   | Valicenti  |
| Dombrowski    | Johnson        | O'Brien, D.   | Vroon      |
| Doyle         | Jones          | O'Keefe       | Wansacz    |
| Duffy         | Katz           | Pancoast      | Wargo      |
| Dumas         | Knepper        | Petrarca      | Wiggins    |
| Englehart     | Kolter         | Pievsky       | Williams   |
| Fee           | Kowalyszyn     | Pitts         | Yahner     |
| Fisher, D. M. | Laughlin       | Polite        | Yohn       |
| Foster, A.    | Lehr           | Ravenstahl    | Zeller     |
| Freind        | Lincoln        | Renwick       | Zitterman  |
| Fryer         | Livengood      | Rieger        | Zord       |
| Gallagher     | Logue          | Ruggiero      |            |

NOT VOTING—7

|            |           |            |         |
|------------|-----------|------------|---------|
| Barber     | Donatucci | Milanovich | Shelton |
| Cianciulli | Manderino | O'Donnell  |         |

Less than the majority required by the constitution having voted in the affirmative, the question was determined in the negative, and the amendments were declared unconstitutional.

On the question recurring,

Will the House agree to the bill on third consideration?

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Pyles. Does the gentleman have an amendment?

Mr. PYLES. Mr. Speaker, my amendment was the same as Mr. Wilson's. It was issued about 2 days earlier than his.

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?

MOTION TO RECOMMIT

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Richardson, on final passage of the bill.

Mr. RICHARDSON. Yes. Mr. Speaker, I rise for a motion and ask whether or not this bill can be recommitted to the Judiciary Committee. I raise that question, Mr. Speaker, because of the fact that earlier a motion was placed before this House and at that time the motion was on the amendment which automatically, according to the rules of this House, tabled a particular bill. I am asking now whether or not this bill can be recommitted to the Judiciary Committee of the House of Representatives.

The SPEAKER. The Chair is advised that the gentleman's motion is in order. Because there has been an intervening action on the part of the House between the gentleman's motion and the motion to recommit the Wilson amendment, together with the bill, therefore, the gentleman's motion is in order.

Does the gentleman so move?

Mr. RICHARDSON. Yes, Mr. Speaker.

The SPEAKER. Will the gentleman let the Chair place the motion?

The gentleman, Mr. Richardson, moves that HB 71 be recommitted to the Committee on Judiciary.

On that question, the Chair recognizes the gentleman, Mr. Richardson.

POINT OF ORDER

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

Mr. RICHARDSON. I rise to a point of order.

The SPEAKER. The gentleman may state his point of order.

Mr. RICHARDSON. Mr. Speaker, I rise to ask that HB 71 be recommitted to the Judiciary Committee.

I think that there have been several points that have been raised concerning this particular piece of legislation. I have received numerous letters and other correspondence concerning this issue asking that this bill be recommitted to either the State Government Relations Committee or the Judiciary Committee so that there can be further study of the whole question of constitutional amendments, and I ask that the members do likewise and vote in the affirmative to recommit this bill.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. M. P. Mullen, on the motion.

Mr. M. P. MULLEN. Mr. Speaker, I oppose the motion, because this bill has been in the Judiciary Committee for at least 4 or 5 months and we considered it back and forth every which way. I think that it is only useless to send it back into committee. I think that we ought to vote the motion down and vote the bill.

Thank you.

The SPEAKER. The Chair recognizes the gentleman from York, Mr. A. C. Foster, on the motion.

Mr. A. C. FOSTER. Mr. Speaker, I likewise oppose the motion to recommit. If we did not recommit the bill to the Federal-State Relations Committee, certainly there is no point in recommitting it to the Committee on Judiciary.

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

The following roll call was recorded:

YEAS—51

|          |            |            |               |
|----------|------------|------------|---------------|
| Anderson | Gleeson    | Moehlmann  | Scanlon       |
| Arthurs  | Greenfield | Morris     | Scirica       |
| Berlin   | Greenleaf  | Mowery     | Weidner       |
| Berson   | Harper     | Noye       | White         |
| Borski   | Hoeffel    | O'Connell  | Wiggins       |
| Burns    | Itkin      | Oliver     | Williams      |
| Cohen    | Kelly      | Parker     | Wilson        |
| Cowell   | Kernick    | Piccola    | Wright, J. L. |
| Davies   | Knepper    | Pott       | Yohn          |
| DeVerter | Madigan    | Pratt      | Zearfoss      |
| DeWeese  | Mebus      | Rappaport  |               |
| Dorr     | Miller     | Rhodes     | Irvis,        |
| Fryer    | Miscevich  | Richardson | Speaker       |
| Geesey   |            |            |               |

NAYS—140

|                |                |               |            |
|----------------|----------------|---------------|------------|
| Abraham        | Gallen         | Logue         | Scheaffer  |
| Armstrong      | Gamble         | Lynch         | Schmitt    |
| Bellomini      | Garzia         | Mackowski     | Schweder   |
| Bennett        | Gatski         | Manmiller     | Shuman     |
| Bittinger      | Geisler        | McCall        | Shupnik    |
| Bittle         | George, C.     | McClatchy     | Sirianni   |
| Brandt         | George, M.     | McGinnis      | Smith, E.  |
| Brown          | Giammarco      | McIntyre      | Smith, L.  |
| Brunner        | Gillette       | McLane        | Spitz      |
| Burd           | Goebel         | Meluskey      | Stairs     |
| Butera         | Goodman        | Milanovich    | Stapleton  |
| Caltagirone    | Gray           | Milliron      | Stewart    |
| Caputo         | Grieco         | Mrkonic       | Stuban     |
| Cassidy        | Halverson      | Mullen, M. P. | Sweet      |
| Cessar         | Hamilton       | Mullen, M. M. | Taddonio   |
| Cianciulli     | Hasay          | Musto         | Taylor, E. |
| Cimini         | Haskell        | Novak         | Taylor, F. |
| Cole           | Hayes, D. S.   | O'Brien, B.   | Tenaglio   |
| DeMedio        | Hayes, S. E.   | O'Brien, D.   | Thomas     |
| DiCarlo        | Helfrick       | O'Keefe       | Trello     |
| Dietz          | Honaman        | Pancoast      | Valicenti  |
| Dombrowski     | Hopkins        | Petrarca      | Vroon      |
| Donatucci      | Hutchinson, A. | Pievsky       | Wagner     |
| Doyle          | Hutchinson, W. | Pitts         | Wansacz    |
| Duffy          | Jones          | Polite        | Wargo      |
| Dumas          | Katz           | Prendergast   | Wass       |
| Englehart      | Klingaman      | Pyles         | Wenger     |
| Fee            | Kolter         | Ravenstahl    | Wilt       |
| Fischer, R. R. | Kowalyshyn     | Reed          | Wise       |
| Fisher, D. M.  | Laughlin       | Renwick       | Wright, D. |
| Flaherty       | Lehr           | Rieger        | Yahner     |
| Foster, A.     | Letterman      | Ritter        | Zeller     |
| Foster, W.     | Levi           | Ruggiero      | Zitterman  |
| Freind         | Lincoln        | Ryan          | Zord       |
| Gallagher      | Livengood      | Salvatore     | Zwilk      |

NOT VOTING—9

|         |           |           |         |
|---------|-----------|-----------|---------|
| Barber  | Johnson   | O'Donnell | Shelton |
| Beloff  | Manderino | Seltzer   | Spencer |
| Dininni |           |           |         |

The question was determined in the negative and the motion was not agreed to.

On the question recurring,  
Shall the bill pass finally?

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Cowell.

Mr. COWELL. Mr. Speaker, would the prime sponsor of the bill consent to interrogation please?

Mr. M. P. MULLEN. Yes, Mr. Speaker.

The SPEAKER. The gentleman, Mr. M. P. Mullen, indicates that he will stand for interrogation.

The gentleman, Mr. Cowell, may proceed.

Mr. COWELL. Thank you, Mr. Speaker.

Mr. Speaker, in terms of the language of the bill and the express will of the legislatures that might adopt this legislation or this particular bill and this particular language, am I correct in understanding that the mandate that would be given to this constitutional convention would be a very narrow and specifically stated mandate?

Mr. M. P. MULLEN. Yes, Mr. Speaker, this is what is intended. It is intended by the 13 legislatures that have already adopted this and it is certainly intended by us.

We are not interested in considering any other amendment to the Constitution except an amendment that will consider life

from the moment of conception, to protect life from the moment of conception to the moment of death. It is to be confined to that specific area.

This is what is intended by this resolution and by all of the other resolutions that have been similarly adopted in the other states.

Mr. COWELL. Mr. Speaker, rather than examining that issue area in a broad sense, that is the question of right to life, if you will, or the rights of the fetus and what have you?

Mr. M. P. MULLEN. Right.

Mr. COWELL. I interpret the legislation in this particular language to really charge this constitutional convention to adopt language or a constitutional amendment that would provide that every human being subject to the jurisdiction of the U. S. or any state shall be deemed from the moment of fertilization to be a person and entitled to the rights of life. I interpret that to be a very specific and very narrow charge and mandate for this constitutional convention. Is that correct?

Mr. M. P. MULLEN. No. That is the purpose for the calling of the constitutional convention. You must realize that when 34 states adopt similar resolutions to this particular resolution, the Federal Congress then must set up the procedures that will be followed. They have a number of ways they can do it. They can call for delegates to be elected by congressional districts or any other way that they want to do it. They have the authority to do it. In their instructions to the constitutional convention, they must instruct them in accordance with the resolutions that this matter is only to be considered, this particular issue.

What they do at that constitutional convention in regards to this particular issue is a matter only for the members who are elected or appointed or however they will come to the constitutional convention to decide.

Mr. COWELL. But am I correct in reading this language and it does not say to study this issue? It does not say to take a look at it? It says to do the following, "provide that every human being subject to the jurisdiction," et cetera, et cetera.

Mr. MULLEN. That is what is intended. That is the purpose of the call, but the decision has to be made by the delegates to the constitutional convention. Whatever decision has to be made in relation to this bill.

For example, let us take the most important issue in this bill, the right to permit an abortion or protection of the life of a mother. They would have to make that basic decision as to whether that should be in there, because you must remember that the constitutional convention is only the third step. The first step is what we are doing here today. The second step is the action of the Federal Congress. The third step is the action of the constitutional convention. The fourth step goes back to the states again and requires three-quarters of the states to ratify whatever the constitutional convention delegates do not propose. There is ample protection here, in my opinion, to protect all issues in this particular area.

Mr. COWELL. I am concerned, Mr. Speaker, because while you say that the language is written narrowly enough that the constitutional convention would focus only on this issue, you are also saying that we should ignore the very specific exact language provided here, and, in fact, your intent is that the

convention would actually study the issue in a broad sense and not be restricted to this specific language.

Mr. MULLEN. That is correct, Mr. Speaker.

Mr. COWELL. You seem to contradict yourself a little bit.

Mr. MULLEN. Yes, that is correct. That is my opinion and that is the opinion of most people who are involved in this particular field.

The delegates who will be elected will be restricted to this area, but they have to come up with a consensus. The majority of the delegates will have to recommend to the states a particular constitutional amendment in this particular area.

Mr. COWELL. Well, let me ask you another question, Mr. Speaker, on a different type of issue. Am I correct in understanding that right now we do not know what the procedure would be to select delegates or to elect delegates to this constitutional convention?

Mr. M. P. MULLEN. That is correct, Mr. Speaker.

Some years ago back in 1971, Senator Ervin, when he was then a Member of the United States Senate, recognized that one of these days one of these constitutional conventions was going to be called. It was almost called in those particular days. He set up a procedure. The Federal Congress, under the Constitution, is obligated to set up the procedures. There are really no procedures to set up, so he proposed a bill which would set up procedures to be followed in the event that one of these constitutional conventions was to be called.

That bill passed the U. S. Senate, I think it was, 84-to-nothing. Then back in 1973, again it passed unanimously, but we were never able to get it out of the Judiciary Committee, which was chaired by Representative Celler of New York, who opposed this type of an amendment.

I think that the Federal Congress is going to have to recognize that one of these days they are going to be faced with this issue and I hope that this is the one. They are going to have to adopt procedures that are going to have to be followed.

In answer, specifically, to your question, there has been no procedures set up by the Federal Congress, but they are mandated by the Constitution to set up the procedures.

Mr. COWELL. Mr. Speaker, do we have any particular reason to believe that in light of the fact that we have shot down the Wilson amendment that that would have subjected this broad question to public referendum in the state? Do you have any particular reason to believe that the people of this state, if given the opportunity to elect delegates to this constitutional convention, would not or might not elect delegates who in fact would not tend to agree with the language of this particular bill and in fact might be sent to a constitutional convention with the feeling of doing something exactly opposite to what your intent is as stated in this bill?

Mr. M. P. MULLEN. Mr. Speaker, in my opinion, that is a distinct possibility because you must recognize, let us say, that if the Federal Congress decides to elect a delegate to the constitutional convention based upon one delegate from each congressional district in the United States, it is conceivable that people who would oppose this amendment—and I am sure that there will be some—will be elected. Those people have a right to express their opinion because that is what they are delegated to

do. Now, if they oppose this particular type of an amendment, they do not have to vote for it. It is conceivable where we might have a situation, after going all through this work, where the delegates elected or appointed or however they will be assigned at the convention, might in fact adopt something diametrically opposed to what we are trying to do. That is correct.

Mr. COWELL. Finally, Mr. Speaker, with that possibility in mind which has presented us with a dilemma of perhaps electing delegates to a constitutional convention committed to, and perhaps having campaigned on, the basis of doing something exactly opposite to the intent of the constitutional convention, I do not understand why the Speaker and others have opposed efforts on the part of some members of this body and many members of the general public to first allow the citizens of Pennsylvania to speak out on the issues through a referendum, that might or might not have best been done through the Wilson amendment, but I think it might give us some type of indication as to the general feeling of the people of Pennsylvania and it might help us skip over or circumvent the possibility of the kind of dilemma that we have just discussed.

Could the sponsor of the bill indicate why he is opposed to that type of a referendum?

Mr. M. P. MULLEN. I oppose that particular proposal because, as I stated before, I thought it was unconstitutional based upon the research that we made in this particular field and I do not want to adopt something which might be unconstitutional.

Mr. COWELL. Mr. Speaker, I am certain that if you and I would agree and a majority in this House would agree that a referendum would be in order first, we could find some type of constitutional way of doing that.

#### POINT OF ORDER

Mr. DEMEDIO. The remarks of the gentleman—

The SPEAKER. Would the gentleman wait until he is recognized?

The Chair recognizes the gentleman from Washington, Mr. DeMedio. For what purpose does the gentleman rise?

Mr. DeMEDIO. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. DeMEDIO. Mr. Speaker, the remarks of the gentleman, I submit, are not relevant to the issue before this body. The referendum question was already decided; that amendment was voted down.

The SPEAKER. The Chair perforce agrees with the pure logic of Mr. DeMedio's position and would advise the gentleman from Allegheny County to restrain his remarks and interrogation to those points not already decided by this House.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Cowell.

Mr. COWELL. Mr. Speaker, I would submit that the House spoke to the question of the constitutionality of the Wilson amendment which would have amended HB 71.

I am asking a question in terms of a referendum in a broad context. Certainly there have been constitutional referenda held in this state. I think that the House has not addressed that specific question. I was raising that point to get Mr. Mullen's

general attitude about a referendum, if we could find one that would be constitutional.

And I repeat that question, Mr. Speaker, and I am done.

Thank you.

The SPEAKER. Does the gentleman, Mr. M. P. Mullen, desire to answer the question?

The Chair recognizes the gentleman from Philadelphia, Mr. M. P. Mullen.

Mr. M. P. MULLEN. Mr. Speaker, I have no further comment on that.

The SPEAKER. The Chair recognizes on the question, Shall the bill pass finally? the gentleman from Lehigh, Mr. Ritter.

Mr. RITTER. Mr. Speaker, what we are about to vote on is certainly, at the very least, emotional and, at the very best, very controversial. We are asked to vote on something really without any proper guidelines.

The gentleman, Mr. Mullen, said, among other things, that this convention can consider certain things, and if you read the language of the bill, it directs that Congress call a convention for drafting and proposing an amendment to the Constitution of the United States to guarantee the rights to life to the unborn fetus by doing the following. It says about the same thing. There is no room in there for discussion as to whether or not the mother's life is in danger or in jeopardy. That is a very specific restriction that this legislature will be imposing.

But there are many other unanswered questions, Mr. Speaker, and I think that this is an important issue for this legislature to decide. For instance, how are the delegates to be selected? Are they going to be by population of the various states? Are they going to be by congressional districts, by state senatorial districts? Are they to be elected at a primary election? Are they to be elected at a general election? Are they to run on a partisan or nonpartisan ballot? Are they to run on a pro-abortion or anti-abortion ballot? Just how are they to be selected?

Another question is, must all states pass identical language? The United States Constitution is silent on that question. Will the convention, if it is called, be restricted to just the subject matter of the resolution or is the entire Constitution subject to consideration? Do we in this state or in any other state have the power to bind Congress, in the calling of the convention, to consider only the subject matter of this resolution and no other business?

I submit to you, Mr. Speaker, that there are many other unanswered questions. The real solution, it seems to me, lies with the United States Congress itself.

Mr. Mullen alluded to the fact that Senator Ervin had proposed for 2 consecutive years, guidelines, rules, if you will, on how conventions are to be convened and conducted. Congress, in its wisdom or lack thereof, has decided not to act, but I submit that we ought to be urging Congress to take some action so that when the various legislatures are asked to consider a question, whether it be pro-life, equal rights, civil rights, or what have you, that we know what it is we are voting for, because otherwise, Mr. Speaker, we are voting on the issue itself and not on the very important question of, how or should the

United States Constitution be amended.

The National Conference of State Legislatures has passed again a resolution calling on Congress to assume its constitutional obligations to pass guidelines, to pass rules, so that the 50 state legislatures know what it is that we are getting into when we are asked to vote on HR 71 or any other like resolution.

It is for those reasons, Mr. Speaker, because I do not think that we have the answers and because there is too much left to doubt, that I would ask that we vote in the negative on HR 71.

The SPEAKER. The Chair recognizes the lady from Centre, Mrs. Wise.

Mrs. WISE. Mr. Speaker, it is precisely because this is an emotional issue that I rise to oppose the amendment or the bill. I do not expect that many minds or many votes will be changed, but I think that it is necessary to listen to some very real concerns because of the specific wording in this resolution.

Several weeks ago, the Honorable Mr. Ryan and I had a friendly exchange when Mr. Ryan correctly pointed out the rules of our House regarding the nomenclature. I believe that he was probably more interested in a friendly jive at me than in updating the rules, and that was okay. But it points up a very significant statement and a very significant problem.

The rules of this House date back decades to Mason's and Jefferson's precedents. Those rules and all of the laws and rules of society from ancient time have been made by men for men, and it is the men who are taking issue with it behind me.

In the last decade, we have made great strides in Pennsylvania in this respect, in respect of equal rights and considerations for all life. This House has been in the foreground, and I have commended the House several times and I will do it again, but today we again find ourselves in a similar situation where 190 men will make a decision which will never affect them directly. It will have a profound effect on the lives of thousands of women.

None of you can put yourselves in this position, and I do not ask that you do that, but I ask that you consider two very specific examples of the problems that could arise if this resolution with its very specific wording is approved by this House with the intent of the House.

Two examples of what you are approving: As this resolution is worded, there is no room for any leeway. So suppose, just suppose, that your wife or your daughter or your sister became pregnant as a result of a violent rape. Your relative, under the intent of this resolution, would have no decision to make. The decision would absolutely guarantee the life of the unborn child regardless of the trauma of that violence. Or suppose that your wife or daughter or sister was told that if a pregnancy went full term, her life would be lost. You and your wife, your doctor, your pastor or rabbi or priest would have no choice under the specific charge in this resolution. That decision would be made for you.

It may be that you feel that you would never have these problems because, with your power or money or prestige, you could guarantee an illegal and expensive abortion, because that is the way that it always has been and that is the way that it will be if this is finalized.

Mr. Speaker, I submit that this is not a political decision nor should it be. It is a religious one and a moral one that has been debated by the eminent religious leaders of our time without resolution, and I do not believe that we will ever solve the problem in a political forum.

I think it is important to consider the rights of unborn children, but I ask you also to consider the rights of millions of women and courageously vote against this bill.

Thank you very much.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Williams.

Mr. WILLIAMS. Mr. Speaker, I would like to request Mr. Mullen if he would consent to interrogation.

Mr. M. P. MULLEN. Yes, Mr. Speaker.

The SPEAKER. The gentleman, Mr. M. P. Mullen, indicates that he will stand for interrogation.

The gentleman, Mr. Williams, may proceed.

Mr. WILLIAMS. Mr. Speaker, would you agree that the thrust of this bill is to get around or to avoid the constitutional interpretation by the Supreme Court that a woman and her doctor would have a right to decide whether or not an abortion should be had within a certain period of time?

Mr. M. P. MULLEN. Yes, Mr. Speaker. The purpose of this proposal is to get around the Supreme Court decision of 1972, which prohibited the states or the Federal Government from adopting legislation which would prohibit abortions.

Mr. WILLIAMS. Thank you, Mr. Speaker.

Mr. Speaker, my next point of inquiry is, Section 1-A referred to the right of life guaranteed by the United States Constitution as a point of reference. My question is, in that portion of the Constitution, I think it also speaks to the right to life, liberty and the pursuit of happiness. Would you agree?

Mr. M. P. MULLEN. I believe you are correct, Mr. Speaker, yes.

Mr. WILLIAMS. Mr. Speaker, would you also agree that the final effect of this legislation and other state laws with regard to abortion would affect only women in regard to what they could or could not do if they became pregnant?

Mr. M. P. MULLEN. Yes. If a constitutional convention were to adopt a proposal such as we are suggesting here in this bill and it was adopted by three-quarters of the states, then the effect of that would be to permit the Federal Congress and the individual states concurrently, if they so desired, to regulate abortions in their states or to prohibit them. In other words, if you notice on the second page it says, concurrent powers. In other words, concurrent powers are given to the Federal Congress and to the states to effect by appropriate legislation the control of abortions within their states. That is the purpose of the call.

Mr. WILLIAMS. One final question, Mr. Speaker. Would you also agree that this body that will vote on this proposition in this bill and indeed the constitutional convention, if one is convened, would be made up of a vast majority of male Americans?

Mr. M. P. MULLEN. Well, Mr. Speaker, I cannot say that because if the Federal Congress decides that the delegates are going to be elected, for example, in individual congressional districts throughout the United States, a woman has just as much

right to run as a man. I assume that many of them will run. That will be up to the people in the particular districts to elect whom they choose. Whether it will be a man or a woman, I do not know. That decision has to be made by the people, if the Congress elects to go that route.

Mr. WILLIAMS. Thank you, Mr. Speaker.

Mr. Speaker, I rise to oppose the bill and I would just emphasize the remarks made by Representative Wise, and perhaps just to further indicate that the Constitution as it exists guarantees certain rights to people, some of whom are men and some of whom are women, in this country, and that Constitution interpreted already by our Supreme Court has said that when it comes to the matter of pregnancy, that is between the woman and her doctor.

This amendment seeks to do one thing, it says that it seeks to gain a higher status for the unborn child, but, at the same time, Mr. Speaker, it very directly and openly takes away some rights or a guarantee to people who happen to be women. Pursuant to the discussion we just had, there is no way in this proposition whatsoever that men who do not sustain the condition of pregnancy will ever be affected. I might suggest that, in a mild way, it sort of is presumptuous to say that we ought to take away rights, already guaranteed by the Constitution, to one segment of society that happened to be women. Moreover, in all of our bodies throughout this country, this one included, men are asked to make that decision. I would also add that the probabilities are 99 to 1 that any constitutional convention will be composed, again, of largely men. As Representative Wise had said, men, largely, run this country.

I do not think that my comments will change any votes in this House either, but I do think that this proposition is radical in nature; radical not so much from a religious point of view, which I respect highly. It seeks to give protection to unborn children; and I do not presume to evaluate that scientific or religious debate, but it does; it does say that we as men will decide that rights already guaranteed by our present Constitution interpreted by our courts according to the Constitution, that those rights should be snatched away from women, as Representative Wise said, because of a political decision to change a fundamental document and to affect only a certain segment of our society.

Having said that, Mr. Speaker, I also want to add very briefly that in a momentous decision that does just that, that takes away rights under a Constitution, we also should give some thought to the troubles that already exist with young women in our country who could not have the experience and the wisdom to avoid pregnancy. Young women by the millions, aside from older women, children, in fact, will become impregnated because they have not learned the wiles of this world, which have not only caused human distress and poverty but ruined a lot of lives. I think in that context, Mr. Speaker, we should give some pause that we seek to do something that is as radical as this.

I join Representative Wise, although being a male, in saying that a piece of legislation of this nature is discriminatory in its approach and is unreal in our deliberations in that we have no idea of what it is like to be females and impregnated. I oppose and urge the defeat of the bill.

The SPEAKER. On the question of final passage, the Chair recognizes the gentleman from Allegheny, Mr. Rhodes.

Mr. RHODES. Mr. Speaker, would the prime sponsor, Representative Mullen, yield to a very brief interrogation?

Mr. M. P. MULLEN. Yes, Mr. Speaker.

The SPEAKER. The gentleman from Philadelphia, Mr. M. P. Mullen, indicates that he will stand for interrogation.

The gentleman from Allegheny County may proceed.

Mr. RHODES. Mr. Speaker, do you feel that it is urgent that we pass HB 71 today?

Mr. M. P. MULLEN. Mr. Speaker, I have been trying to get this passed for 5 or 6 months. Last week, for example, we were going to bring it up for a vote and some members went to Mr. Irvis, just to give you an example.

Mr. RHODES. Do you believe that it is urgent to pass HB 71?

Mr. MULLEN. Yes, I believe that it is urgent. I think that it is important.

Mr. RHODES. Thank you, Mr. Speaker.

Mr. Speaker, one further question: How many states have adopted resolutions similar to HB 71?

Mr. M. P. MULLEN. The following states have adopted resolutions.

Mr. RHODES. I just want to know the number, Mr. Speaker.

Mr. M. P. MULLEN. Yes. Well, I might as well tell the members. It will save me two speeches.

Indiana, Utah, Iowa, Louisiana, Missouri, South Dakota, Rhode Island, Arkansas, New Jersey, Massachusetts, New York Senate, Michigan House, West Virginia House, Delaware House.

Mr. RHODES. Mr. Speaker, is the total number of states that have adopted it about 10?

Mr. M. P. MULLEN. Fifteen. We will be the 15th; 14th and—

Mr. RHODES. No, that is including states with one or the other House? I mean states that have finally adopted it?

Mr. M. P. MULLEN. That is correct, sir.

Mr. RHODES. About 10, Mr. Speaker.

Mr. M. P. MULLEN. Nine have adopted fully, and 4 or 5 with one House.

Mr. RHODES. Thank you, Mr. Speaker. I have no further interrogation.

Mr. Speaker, on the bill, I would like to remind the House that there are very vast constitutional questions raised here. The United States Congress is considering procedures for constitutional conventions. I think that a number of the members have raised some of these very, very ticklish and difficult constitutional questions that go beyond resolution 71.

Furthermore, Mr. Speaker, I would like to point out to the House that it takes 34 states to finally adopt resolutions similar to HB 71 in their state legislatures before the Congress is called upon to act on calling a constitutional convention.

There is no urgency before this General Assembly and before this House today that we pass HB 71. We will not move the process along any faster by our being the 11th or the 15th, depending on how you look at it from the point of view of the count.

We have time to wait and see what our colleagues in other states do in terms of this issue, and, furthermore, to wait to see

what the Congress is going to do about procedure. So as Representative Ritter has pointed out very amply, my colleague from Lehigh County, we would not be buying a pig in a poke, but we would know something about the procedures, because some of us, Mr. Speaker, have, I think, genuine concerns about the fundamental rights guaranteed in the Constitution to all United States citizens, and not to mention Pennsylvanians, that might be dangerously altered by an attempt to carry out HB 71 without clear guidelines worked out by the Congress.

**MOTION TO TABLE**

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Rhodes.

Mr. RHODES. Mr. Speaker, in light of all that and in light of the fact that, on the face of it, there is no urgent reason to pass this bill today, and there is no urgent reason, Mr. Speaker, I move that we table the bill. Thank you, Mr. Speaker.

I would like to make a formal motion that we table HB 71.

The SPEAKER. The motion—

Mr. M. P. MULLEN. Mr. Speaker, I oppose the motion.

The SPEAKER. The question is on the motion to table, placed by the gentleman from Allegheny, Mr. Rhodes. The gentleman, Mr. M. P. Mullen, opposes the motion.

The Chair recognizes the gentleman from Allegheny, Mr. Rhodes, on the motion.

Mr. RHODES. I am not as quick as some members, Mr. Speaker, so some of it left me. I just want to remind the members, those of you who oppose the motion to commit to committees I think were afraid that the bill might be burned in committee. If we table the bill, just like—

The SPEAKER. The gentleman will yield.

The motion to table is not debatable. All that the gentleman is permitted to say is that he favors or disfavors the motion.

Mr. RHODES. Well, you can always take it off the table by majority vote, Mr. Speaker. I support tabling.

On the question,

Will the House agree to the motion?

The following roll call was recorded:

**YEAS—55**

|          |            |            |            |
|----------|------------|------------|------------|
| Anderson | Greenfield | Morris     | Smith, L.  |
| Berlin   | Greenleaf  | O'Connell  | Spencer    |
| Berson   | Harper     | Oliver     | Sweet      |
| Bittle   | Hasay      | Parker     | Taylor, E. |
| Cohen    | Haskell    | Piccola    | Weidner    |
| Cole     | Hoeffel    | Pott       | Wenger     |
| Cowell   | Itkin      | Pyles      | White      |
| Davies   | Kernick    | Rappaport  | Wiggins    |
| DeVerter | Knepper    | Rhodes     | Wilt       |
| DeWeese  | Madigan    | Richardson | Yohn       |
| Dorr     | Mebus      | Scanlon    | Zearfoss   |
| Fryer    | Miller     | Scirica    | Irvis,     |
| Gamble   | Miscevich  | Seltzer    | Speaker    |
| Geesey   | Moehlmann  | Sirianni   |            |
| Gleeson  |            |            |            |

**NAYS—137**

|           |           |       |           |
|-----------|-----------|-------|-----------|
| Abraham   | Gallagher | Logue | Ryan      |
| Armstrong | Gallen    | Lynch | Salvatore |

|                |                |               |               |
|----------------|----------------|---------------|---------------|
| Arthurs        | Garzia         | Mackowski     | Scheaffer     |
| Bellomini      | Gatski         | Manmiller     | Schmitt       |
| Bennett        | Geisler        | McCall        | Schweder      |
| Bittinger      | George, C.     | McClatchy     | Shuman        |
| Borski         | George, M.     | McGinnis      | Shupnik       |
| Brandt         | Giammarco      | McIntyre      | Smith, E.     |
| Brown          | Gillette       | McLane        | Spitz         |
| Brunner        | Goebel         | Meluskey      | Stairs        |
| Burd           | Goodman        | Milanovich    | Stapleton     |
| Burns          | Gray           | Milliron      | Stewart       |
| Butera         | Grieco         | Mowery        | Stuban        |
| Caltagirone    | Halverson      | Mrkonic       | Taddonio      |
| Caputo         | Hamilton       | Mullen, M. P. | Taylor, F.    |
| Cassidy        | Hayes, D. S.   | Mullen, M. M. | Tenaglio      |
| Cessar         | Hayes, S. E.   | Musto         | Thomas        |
| Cianciulli     | Helfrick       | Novak         | Trello        |
| Cimini         | Honaman        | Noye          | Valicenti     |
| DeMedio        | Hopkins        | O'Brien, B.   | Vroon         |
| DiCarlo        | Hutchinson, A. | O'Brien, D.   | Wagner        |
| Dietz          | Hutchinson, W. | O'Keefe       | Wansacz       |
| Dininni        | Jones          | Pancoast      | Wargo         |
| Dombrowski     | Katz           | Petrarca      | Wass          |
| Donatucci      | Kelly          | Pitts         | Williams      |
| Doyle          | Klingaman      | Polite        | Wilson        |
| Duffy          | Kolter         | Pratt         | Wise          |
| Englehart      | Kowalyszyn     | Prendergast   | Wright, D.    |
| Fee            | Laughlin       | Ravenstahl    | Wright, J. L. |
| Fischer, R. R. | Lehr           | Reed          | Yahner        |
| Fisher, D. M.  | Letterman      | Renwick       | Zeller        |
| Flaherty       | Levi           | Rieger        | Zitterman     |
| Foster, A.     | Lincoln        | Ritter        | Zord          |
| Foster, W.     | Livengood      | Ruggiero      | Zwikl         |
| Freind         |                |               |               |

**NOT VOTING—8**

|        |         |           |         |
|--------|---------|-----------|---------|
| Barber | Dumas   | Manderino | Pievsky |
| Beloff | Johnson | O'Donnell | Shelton |

The question was determined in the negative and the motion was not agreed to.

On the question recurring,  
Shall the bill pass finally?

The SPEAKER. The Chair recognizes on final passage the gentleman from Delaware, Mr. Zearfoss.

Mr. ZEARFOSS. Mr. Speaker, I have a concern about this bill. I am opposed to it. I have a concern that has not been mentioned so far but it is one that has been mentioned by various segments of the opposition to the bill, and that is, the problem of the runaway convention, if a convention is in fact called.

Mr. Mullen has told us already that the language in the bill is suggestive, and the hope is that the convention will come up with some kind of an amendment that is similar to the language in the bill but that that is not mandatory and that they can do whatever they want. I would like to point to the language with respect to the limitation of the convention, subsection C, which says, the purpose of the constitutional convention shall be to only consider the above and no other business.

That language, I submit, is as meaningless as the other language in the bill, and I would like to point to the only other example in history that we have with respect to a convention and that was the first Constitutional Convention that was held in Philadelphia in 1787. That convention was convened and called, not by the states but by the Continental Congress. The Continental Congress called that convention with one limited,

specific purpose, and that was to amend the Articles of Confederation.

Now, they directed in that situation that the legislatures of the various Colonies should, through their legislatures, select the delegates to the convention, and that was done. But when the delegates got to the convention in Philadelphia, they ignored completely, as we know, the mandate of the Continental Congress with respect to limiting their functions. They drafted an entirely new document which is our Constitution.

In that Constitution or in the call rather by the Continental Congress, it was directed that ratification of the amendments to the Articles of Confederation would be by a unanimous ratification of all the 13 states, but what did the convention do? They adopted Article 7 of the Constitution, which says the ratification of the conventions of nine states shall be sufficient for the establishment of this Constitution between the states, so ratifying the same. In other words, they ignored the provision in the call that said that it would require 13 states to ratify and wrote into their document that only 9 states were needed to ratify, and they said that the ratifying states would be bound by the Constitution and the nonratifying ones would not be bound by it.

Let us look at what happens if we have the similar situation in this convention. What happens if a convention is called and decides to ignore the limitation and decides to change the Constitution entirely? Some things we may like and some things we may not like. I think the danger is there that a runaway convention could occur. What restraint do we have on the product of that convention if, as part of their convention that they rewrite, they say that 10 states may ratify their new constitution or three states may ratify their new constitution, which history tells us they can do? It has been done before. So you say in your argument in favor of this and in favor of the limitation that it would take 38 states to ratify; that is, 38 states required to ratify the amendment or the Constitution if the Constitution is not changed. But the convention can change the Constitution and specify any number it wants to provide for ratification.

I would say to all of you here that this is a very, very dangerous step that we are taking. I would like Pennsylvania to be the 34th state considering this. I wonder if your vote would be any different if we were the last state needed to call this convention. Right now we would be the 10th state if we do it. It is not very dangerous; you might not get the other 24 states needed to call the convention. But if we were the 34th state, would your vote be different? Would you be concerned that the convention might be a runaway convention and that the whole Constitution might be changed to a way that you do not like it?

Mr. Speaker, I would just conclude by saying I think we should vote "no" on HB 71 and wait for the Congress of the United States to propose an amendment to it, if the Congress is going to do that, and I think they will. I think we will have the opportunity to vote on that amendment and only that amendment. But I am saying to you it is a very dangerous step to take at this stage to vote for HB 71 just in case there are 24 other states that join us in this action.

Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from

Delaware, Mr. Doyle.

Mr. DOYLE. Mr. Speaker, in reply to the other gentleman from Delaware County and his fears of a wide-open wild convention: Let me first point out that that Convention of 1787 was addressing itself to an amendment of the Articles, not the present Constitution that that convention wrote, firstly.

Secondly, alluding again to the article in the Michigan Law Review which Senator Ervin wrote after an exhaustive study on the subject, the clear indication was that the Congress and the very petitions of the state could limit the convention. Not only that, they can cite, going back into the Federalists Papers—and I am not going to recite what they are—that Madison, as well, indicated quite clearly that it could be restrictive.

In 1861, in Lincoln's First Inaugural Address, he mentioned the fact that if he had his choice and he was urging the states to do so, that the convention method was the better of the two methods because it is more a grassroots method of amending the Constitution.

Recently, the American Bar Association, after a 2-year study, concluded the same thing, and I will read from their report: "Our two-year study of the subject has led us to conclude that a national constitutional convention can be channeled so as not to be a force of that kind but rather an orderly mechanism effecting a constitutional change when circumstances require its use. The charge of radicalism does a disservice to the ability of the states and people to act responsibly when dealing with the Constitution."

Now, quite frankly, and in essence, I think it is very clear both from constitutional authority, and from those members of Congress, and I would like to add that Congressmen Hyde has already introduced legislation to take care of the parameters of the organization and how the delegates will be elected. That has already been in the works, as it has in the past.

A while ago it was asked, I think, by Mr. Mullen, has any of these petitions been successful before? The answer to that is, yes, they have, not in and of themselves, but the success of all these states accumulating petitions goes and forces the Congress to act on something to which they have not addressed themselves to date.

While I am up I would like to say, just briefly, something on the merits. A year or 2 or 3 years ago when we faced the problem, I remember some of the comments that I made. We had a bill restricting abortions, and I mentioned the fact that there was a town or a ravine over somewhere in Europe called Babi-yar, and into that ravine went the bodies of 178,000 people who were thought to be undesirable. Six million Jews were exterminated. And the juxtaposition is not that far off to what we are doing here today in the United States in regard to abortion, and that as put by the head pediatrician of the Children's Hospital of Philadelphia, "the slide into Auschwitz." With all due respect to the gentlewoman, Mrs. Wise, her fears should be allayed because that will not happen.

What we are doing here is considering not just simply a woman's right or a man's right, but a child's right, the right to life, anyone's life. There are just as many male children born as there are female children born. No one here, no medical doctor, no theologian, no philosopher can tell you when that moment of



life is instilled into the fetus. No one can tell us that. Should we err and decide wrongly, what is the result?

This will get it off dead center as far as the Congress is concerned. If you read the pronouncements of the constitutional scholars in the past, we should have no fear whatsoever, be we the 10th state or be we the 34th state. I urge the adoption of the resolution.

Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from York, Mr. Foster.

Mr. A. C. FOSTER. Mr. Speaker, my remarks on final passage will address themselves first to a few points raised in debate.

I think it is important to realize that the problem we are addressing in this resolution is to do away with the process of abortion on demand, the indiscriminate abortion simply upon a whim. By no means are we attempting to do away with medically necessary abortions. I would like to assure the lady, Mrs. Wise, and every woman of this Commonwealth that this is not the intent of the bill. The bill does not say that this is the intent. And furthermore, I will pledge this, that any such document that would emanate from a constitutional convention I would oppose as vigorously as I support this. I implicitly believe in the right of the mother to survival, and in those cases where an abortion is medically necessary, I certainly support it. I am confident that a convention will likewise support that.

I think what we must remember is that HB 71 is not a constitutional amendment in and of itself. It is a vehicle for the formulation of an amendment and at such time as a convention considers the question, they will address themselves to the point that was brought up by the lady from Centre.

I would like to just comment for a moment on the fact that we are dealing here with human life. Something very sacred and *something that must not* be taken lightly and without just cause. There are very few instances in our society where the taking of a life is justified under the law. I think one of the problems is that we speak in such euphemisms as "ending a pregnancy" or "terminating a pregnancy." You know, that is a bloodless sort of way to describe it. It is very sanitary and anti-septic in those forms. But when you think that it ends, terminates a life, a human life that could have been you, could have been me, that at that moment of conception the arrangement of the genes makes you and me different from anyone else *who ever existed previously, my colleagues, we simply cannot* tamper with that life in that form. I would say for each and every one of us that we consider these facts very carefully and remember that we are dealing with human life and we must have some means of being assured that these lives will continue; that they will not be arbitrarily taken simply on someone's whim.

I would just like to say that there are probably some of you who have heard many people say, I am opposed to abortion personally; I do not favor abortions, but I do not think I should tell anyone else that they should not have one. You know, that might be a position that an individual could take, a citizen could take, but you and I have the responsibility to legislate on this matter and we must make decisions for everyone. I do not think

we can push this issue aside that simply.

In closing I would say for those of you who are uncertain, just remember the words of the Holy Scriptures, "Inasmuch as you have done it unto one of the least of these, my brethren, you have done it unto Me."

The SPEAKER. The Chair recognizes the gentleman from Chester, Vroon, on final passage.

Mr. VROON. Mr. Speaker, may I interrogate Mr. Mullen, please.

The SPEAKER. The gentleman from Philadelphia indicates that he will stand for interrogation. The gentleman from Chester may proceed.

Mr. VROON. Mr. Speaker, in the section designated (a), it has very narrow language in it to the effect that "With respect to the right to life guaranteed in the United States Constitution, provide that every human being subject to the jurisdiction of the United States or any state shall be deemed from the moment of fertilization to be a person and entitled to the right to life."

Mr. Speaker, is it your intent that this particular piece of legislation should clearly and narrowly designate the abolition of abortion right down to the moment of fertilization for any reason or cause whatsoever?

Mr. M. P. MULLEN. Mr. Speaker, we had to prepare a house bill and we had to come up with what we had in mind. As I stated earlier, basically the decision will be made by the constitutional delegates and then it will be up to the legislatures as to whether they want to adopt what the constitutional delegates suggest. I had to come up with something and that was what I had in mind. But as I stated earlier, the delegates are ultimately going to submit the proposition, whatever proposition it may be, to the state for consideration.

Mr. VROON. So, Mr. Speaker, am I correct in assuming that this is just broad general language to cover the broad subject of abortion and it is not intended to pinpoint causes for abortion?

Mr. M. P. MULLEN. That is correct, sir. As I stated earlier, I do not think we could do that. If we are going to have delegates to perform the function of preparing a constitutional amendment, I do not think we can delegate to them that they have to specifically do a certain thing. They may put exceptions in there; they may disregard it altogether. That is the chance we have to take, but we have no other course of action to follow.

Mr. VROON. The next question very similar to this is this: Would it be your intent in introducing this legislation to put Pennsylvania on record as favoring that type of legislation for itself which would be this narrow?

Mr. M. P. MULLEN. Well, that is my personal intent in preparing the bill. That is the way I look at it. But as I said before, I do not think all of the bills are identical in every respect. I think, as I said earlier, that the ultimate decision will have to be made by the delegates and I do not think they are bound by any particular resolution of any particular legislature. They are going to be directed by Congress, and even the Congress in its call will have to direct them in one way or another in this particular area, but the decisions will ultimately be made by the delegates.

Mr. VROON. Next question, Mr. Speaker: Would you recog-

nize the possibility that if this all went through the motions and we did have such constitutional amendment passed that it would still be possible in enacting legislation in a state like Pennsylvania that we could debate this issue and decide to call for a referendum by the people at that time?

Mr. M. P. MULLEN. If we ultimately went to the conclusion of this resolution and adopted a constitutional amendment which would provide somewhat similar language to what I have in the bill, I think that in section (b) it provides "... that Congress and the several states shall have concurrent powers to enforce such an amendment by appropriate legislation." Now I understand that to mean in this call—again I do not know what the constitutional delegates would adopt but I would think—that it would be up to the individual states, bearing in mind the constitutional convention's mandate as to what they might care to do in that particular field. I think that they would have to be bound by the Constitution, and if they adopted that constitutional amendment, they would be bound by it. That is the way I look at it. I mean there are a lot of unanswered questions. I am not going to deny that. But I am telling you that, in my opinion, I think that the delegates will have to come up with some solution to the problem as to who is going to enforce, whether it is going to be the Federal Congress or whether it is going to be the individual states, or concurrently, as we have proposed in this proposed House bill.

Mr. VROON. Thank you, Mr. Speaker.

Would you then agree with this general summary that your basic intent for this legislation is to now give the states, the separate states of the Union, the opportunity to pass, if they will, some legislation in whatever form they see fit to deal with this very troubling issue, which is truly an emotional issue, but that at that time there will be the prerogative to pass whatever specific wording and limitation which might apply in a particular state's issue?

Mr. M. P. MULLEN. No, that is not my intent. My intent is to comply with the Federal Constitution for the purpose of trying to get a constitutional amendment which will protect life from the moment of conception until the moment of death. This is what I am interested in. For example, in Pennsylvania for the last 3 years we aborted 50,000 children. We lost 50,000 of our dear loving children. You love them and I love them. This is a crime, and I want to prevent that. This is the purpose of this.

If we can go the other route, if we can get two-thirds in the Federal Congress and the United States Senate, I would be happy to go that way. I think that ultimately this is what may happen. When they see that we may get two-thirds of the states to do this, they may very well take that route. But we have to recognize we are bound by the law; we are bound by the Supreme Court's decision. In the absence of them changing their position—which they may very well do because, if you recall, it was a 7-to-2 decision—we are taking the only alternative which is left to protect the lives of our children. Because if this is allowed to continue much longer, it is not only going to be a moral issue but it is going to lead to the destruction of the United States as a world power. We aborted 1 million people for 3 years; that is 3 million people. If we continue this policy, 20 years from now we are going to have 20 million less people. How are we going to compete as a world power if we are

destroying our greatest human asset — human beings. This is what it is all about.

Mr. VROON. Mr. Speaker, I certainly applaud with the other people who applauded in your intent, but I still do maintain and I wonder if you will confirm that your intent is that way, but is the legislation effective that way? Is it not true that this legislation is so broad that it will permit legislation to be enacted in the various states which will have a variety of reasons for which an abortion can be permitted and will ban all other reasons, let us say, abortion at will.

Mr. M. P. MULLEN. No, sir. This is not legislation in and of itself. This is merely directing the State of Pennsylvania to tell the Federal Congress that we want you to act under the Constitution to help us get an amendment to protect life from the moment of conception at birth.

I do not know what is going to come out of that constitutional convention. Nobody does. But I am not saying that they have to adopt this. I am only using this vehicle to comply with the Federal Constitution to get the thing moving.

Mr. VROON. Thank you, Mr. Speaker.

Mr. Speaker, just a few remarks.

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

Mr. VROON. Mr. Speaker, this is an emotional issue, but I believe at this stage in this game we have made it too much of an emotional issue. We are not debating the merits of abortion as such right now. We are really, in essence, debating the merits of the privilege and the right of each individual state in this Union to make that decision for themselves. As it now stands we are not permitted under the Constitution to decide for ourselves whether or not we want to permit abortions in our state. Consequently, when we look at it from that broad point of view, in essence, we are not narrowing down the scope of what can and what cannot be done. We are only saying every state has the right to decide for itself.

On that basis, being a state's rider and being very much convinced that the Supreme Court erred in trying to prohibit the people of the United States to decide this all-important question, I am strongly in support of this resolution. And I am not saying thereby, Mr. Speaker, when I vote for this resolution that I agree with the total attitude taken; by voting for this resolution I am not saying that I am disregarding and ignoring the rights of women. I am not saying that I disregard and ignore the right of that little life which has begun in conception. All I am saying when I vote for this is that this is an emotional question which must best be decided at the state level in each legislature and preferably be decided by referendum within each state so that the people themselves can truly express what their attitude is, what they would like to have in our society. I think that is the most Democratic approach and I think to go beyond that today and to try to stir the emotions and say that we do not have any regard for a woman is wrong at this point. I urge the approval of this resolution but strictly on the basis as outlined.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Trello.

Mr. TRELLO. Mr. Speaker, I rise to support HB 71. Today I heard a lot of comments in regard to this movement. I have to

say that I have heard every one of those comments at a women's equal rights meeting. I must say there was only a handful of people there. But also at this meeting this same group wanted to change the wording in the Constitution where it states that "all human beings are created equal" to "all human beings are born equal." Well, the word creator is very sacred to me, because I can imagine at one time or another we were all children; in fact, I would say at one time or another we were all children and that sometime in our childhood we must have asked, Who is God? The proper answer of Who is God? is, God is the Creator of heaven and earth and all things. The word creator is absolutely very sacred to me.

Now, the right to life, in my opinion and as Mr. Mullen says, begins at conception, and we are losing 1 million people every year in this great country of ours because of abortion. I would like to close by saying this: If this becomes law, and if anybody here knows of somebody who is pregnant who wants an abortion and does not want the child, call me; I will take it.

Thank you.

PARLIAMENTARY INQUIRY

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Richardson, to speak for the second time on this issue.

Mr. RICHARDSON. Mr. Speaker, a point of parliamentary inquiry.

The SPEAKER. The gentleman may state it.

Mr. RICHARDSON. I would note that this is the first time that I have spoken on the issue. At the time I spoke, I spoke in relation to a motion that I made on the particular bill.

The SPEAKER. The Chair apologizes to the gentleman. The gentleman may proceed.

Mr. RICHARDSON. Mr. Speaker, I rise for a point of parliamentary inquiry first. I would like to know whether or not there has been any reconsideration of the constitutional question before HB 71 has really been passed?

The SPEAKER. The motion to reconsider the vote by which the House declared the Wilson Amendment unconstitutional has been sent to the Chair. The motion has not yet been submitted to the floor. It will be so submitted.

Mr. RICHARDSON. Mr. Speaker, would it be proper that it be done at this time?

The SPEAKER. Does the gentleman wish to yield the floor to Mr. Wilson so that Mr. Wilson may move for reconsideration if he does?

Mr. RICHARDSON. Yes. I think that at this time, Mr. Speaker, if it is in order, I will yield my position at this time.

RECONSIDERATION OF VOTE  
ON WILSON AMENDMENTS TO HB 71

Mr. WILSON moved that the vote by which his amendments were declared unconstitutional on this day be reconsidered.

Messrs. PYLES and COHEN seconded the motion.

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

The following roll call was recorded:

YEAS—91

|                |                |            |            |
|----------------|----------------|------------|------------|
| Anderson       | Gleeson        | Milliron   | Spencer    |
| Armstrong      | Greenfield     | Miscevich  | Stapleton  |
| Bennett        | Greenleaf      | Moehlmann  | Stewart    |
| Berlin         | Grieco         | Morris     | Stuban     |
| Berson         | Harper         | Mowery     | Sweet      |
| Bittinger      | Hasay          | O'Connell  | Taylor, E. |
| Brandt         | Hayes, D. S.   | Parker     | Wagner     |
| Brown          | Hayes, S. E.   | Piccola    | Wass       |
| Butera         | Hoefel         | Pott       | Weidner    |
| Cohen          | Honaman        | Pratt      | Wenger     |
| Cole           | Hopkins        | Pyles      | White      |
| Cowell         | Hutchinson, A. | Rappaport  | Wiggins    |
| Davies         | Itkin          | Reed       | Williams   |
| DeVerter       | Kernick        | Rhodes     | Wilson     |
| DeWeese        | Klingaman      | Richardson | Wilt       |
| Dorr           | Knepper        | Ritter     | Wise       |
| Fischer, R. R. | Levi           | Scanlon    | Wright, D. |
| Flaherty       | Madigan        | Scheaffer  | Yohn       |
| Foster, A.     | Manmiller      | Schweder   | Zearfoss   |
| Foster, W.     | McLane         | Scirica    | Zwilk      |
| Fryer          | Mebus          | Sirianni   |            |
| Garzia         | Meluskey       | Smith, E.  | Irvis,     |
| Gatski         | Miller         | Smith, L.  | Speaker    |
| Geesey         |                |            |            |

NAYS—100

|               |                |               |            |
|---------------|----------------|---------------|------------|
| Abraham       | Freind         | Lincoln       | Ravenstahl |
| Arthurs       | Gallagher      | Livengood     | Renwick    |
| Bellomini     | Gallen         | Logue         | Rieger     |
| Bittle        | Gamble         | Lynch         | Ruggiero   |
| Borski        | Geisler        | Mackowski     | Ryan       |
| Brunner       | George, C.     | McCall        | Salvatore  |
| Burd          | George, M.     | McClatchy     | Schmitt    |
| Burns         | Giammarco      | McGinnis      | Seltzer    |
| Caltagirone   | Gillette       | McIntyre      | Shuman     |
| Caputo        | Goebel         | Milanovich    | Shupnik    |
| Cassidy       | Goodman        | Mrkonic       | Spitz      |
| Cessar        | Gray           | Mullen, M. P. | Stairs     |
| Cianciulli    | Halverson      | Mullen, M. M. | Taddonio   |
| Cimini        | Hamilton       | Musto         | Taylor, F. |
| DeMedio       | Haskell        | Novak         | Tenaglio   |
| DiCarlo       | Helfrick       | Noye          | Thomas     |
| Dietz         | Hutchinson, W. | O'Brien, B.   | Trello     |
| Dininni       | Jones          | O'Brien, D.   | Valicenti  |
| Dombrowski    | Katz           | O'Keefe       | Vroon      |
| Donatucci     | Kelly          | Oliver        | Wansacz    |
| Doyle         | Kolter         | Pancoast      | Wargo      |
| Duffy         | Kowalyshyn     | Petrarca      | Yahner     |
| Engelhart     | Laughlin       | Pitts         | Zeller     |
| Fee           | Lehr           | Polite        | Zitterman  |
| Fisher, D. M. | Letterman      | Prendergast   | Zord       |

NOT VOTING—9

|        |           |           |               |
|--------|-----------|-----------|---------------|
| Barber | Johnson   | O'Donnell | Shelton       |
| Beloff | Manderino | Pievsky   | Wright, J. L. |
| Dumas  |           |           |               |

The question was determined in the negative and the motion was not agreed to.

On the question recurring,  
Shall the bill pass finally?

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Richardson.

Mr. RICHARDSON. Mr. Speaker, I rise in opposition to HB 71 and the move for the constitutional convention.

I would like to point out and note that it is certainly ironic that some of the proponents of the right to life are also the pro-

ponents of the right to death and that a number of those who had cosponsored the bill also voted to have people killed in this Commonwealth, and when I hear these gentlemen speak concerning a right to save people in this Commonwealth, millions of people, it just raises a serious question as to really where we are in 1977.

This bill, Mr. Speaker, I think very clearly to me is unconstitutional in the fact that it takes away the rights of women who certainly have a right to decide, as noted by the Supreme Court, over their own particular body. That decision should be theirs.

The other question is that it seems to be counterproductive, Mr. Speaker, and counterprogressive that a number of things that have been raised today in issue with the questions on this particular bill have not been really moved, as I see it, to deal specifically with the questions that have been raised, particularly around mitigating circumstances such as the fact that those particular women who are violently raped or those individual women or young women who run into the possibility of a threat on their particular lives are not even considered in HB 71.

I note, Mr. Speaker, that I have received somewhere in the area of close to 900 small little cards. They were postcards that were sent to maybe some of the members here in the House, and I would like to take this opportunity to read one of them: "House bill 71 is disgraceful and irresponsible and is against every principle of justice for women. A constitutional convention is dangerous beyond reason. Keep abortion safe and legal. Vote no on HB 71."

There are close to 900 of these particular small cards, postcards, which were sent by individuals to the legislators in this House, and it would seem to me that as we are considering such a very serious and emotional bill, these kinds of things should be noted for the record and also should be included in the record.

I have a small letter from one of the many organizations that have sent us letters concerning this issue, one from the New Democratic Coalition of Philadelphia, who indicate in their letter, and I will just take some segments of it:

This Bill will protect the rights of very few fetuses, but it will surely bring back the horrors of back alley abortions, it will infringe on the rights of the women who must carry these unwanted embryos, and what of the rights of the taxpayers who will support the swelling welfare rolls filled with unwanted and unloved children. Where will the people who wish to choose their method of birth control or an alternative go if this Bill passes? They will go to neighboring states as they did in the past, before Pennsylvania realized that each person has the right to choose children, not just accept them.

Mr. Speaker, it raises in my mind a very contradictory kind of mood that the House would now embark on, particularly since there are so many individuals in the House who raise the question of welfare in the State of Pennsylvania and raise the question that certain persons who are on AFDC — Aid For Dependent Children — are just being given too much, that in fact

the passing of this piece of legislation dealing with the issue that is at hand would seem to me to contradict that. The back-alley types of abortions and having those who are rich or superrich go out anyway and get abortions, irrespective of what the court says, by passing this resolution would seem to be a contradiction.

A number of letters have pointed out very clearly why it is so important for us to consider the fact that our women are being used, that women's suffrage will be amongst us once again, that the fight for that was fought many, many years ago but now is being brought back in 1977 with this type of legislation. One of the organizations, the Americans for Civil Liberties in Philadelphia, indicated that there are a number of religious groups who oppose the principles of HB 71 and the constitutional convention that would limit those abortion rights.

I just raise the question, Mr. Speaker, because I think that the issue is so very emotional that there has been a question as to whether or not there has been an amendment that has been placed before this House and whether or not that amendment itself was constitutional. And I do not know, Mr. Speaker, but I certainly believe that based on the information that has been given me and the information that we have been putting together, it would raise the question of constitutionality of this joint resolution and whether or not it should be considered now in the wake of the things that are going on.

I raise that with the members of this House. If we are concerned with our women, if we are concerned with our own children if we have daughters, an opportunity for us to consider this would be, it would seem, in the courts and their right to make that decision to find out the answers that need really to be answered. I do not think that our women should have to suffer through men and women in this House making some decisions over their bodies or their life, but it should be clearly noted that all of us grow up under some principles and all of us have some type of scruples in our own minds about where we, as individuals, should put our own principles and morals on the line.

#### CONSTITUTIONAL POINT OF ORDER

Mr. RICHARDSON. It would seem to me that with that in mind, perhaps maybe in a last wing of hope because I know that our speeches on the floor will not change a number of those individuals who have already decided to go the way that they are going but at least would raise the question as to the constitutionality of such a piece of legislation at this time which seems to me to be in some manner inhumane and against the basic principles that speak to some mitigating circumstances that involve our women, I now raise the question, Mr. Speaker, as to whether or not HB 71 is constitutional.

The SPEAKER. The gentleman from Philadelphia raises the question as to the constitutionality of HB 71. The question is on that constitutionality.

The Chair frames the question as follows: Is HB 71, PN 81, constitutional? Those members believing it to be constitutional will vote "aye." Those members believing it to be unconstitutional will vote "no."

On the question,

Will the House sustain the constitutionality of the bill?

The following roll call was recorded:

YEAS—173

|                |                |               |            |
|----------------|----------------|---------------|------------|
| Abraham        | Freind         | Livengood     | Ritter     |
| Anderson       | Gallagher      | Logue         | Ruggiero   |
| Armstrong      | Gallen         | Lynch         | Ryan       |
| Arthurs        | Gamble         | Mackowski     | Salvatore  |
| Bellomini      | Garzia         | Manmiller     | Scanlon    |
| Bennett        | Gatski         | McCall        | Scheaffer  |
| Berlin         | Geesey         | McClatchy     | Schmitt    |
| Berson         | Geisler        | McGinnis      | Schweder   |
| Bittinger      | George, C.     | McIntyre      | Scirica    |
| Bittle         | George, M.     | McLane        | Seltzer    |
| Borski         | Giammarco      | Mebus         | Shuman     |
| Brandt         | Gillette       | Meluskey      | Shupnik    |
| Brown          | Gleeson        | Milanovich    | Sirianni   |
| Brunner        | Goebel         | Miller        | Smith, E.  |
| Burd           | Goodman        | Milliron      | Smith, L.  |
| Butera         | Gray           | Miscevich     | Spitz      |
| Caltagirone    | Greenfield     | Morris        | Stairs     |
| Caputo         | Grieco         | Mowery        | Stapleton  |
| Cassidy        | Halverson      | Mrkonic       | Stewart    |
| Cessar         | Hamilton       | Mullen, M. P. | Stuban     |
| Cianciulli     | Hasay          | Mullen, M. M. | Sweet      |
| Cimini         | Haskell        | Musto         | Taddonio   |
| Cohen          | Hayes, D. S.   | Novak         | Taylor, E. |
| Cole           | Hayes, S. E.   | Noye          | Taylor, F. |
| Cowell         | Helfrick       | O'Brien, B.   | Tenaglio   |
| Davies         | Hoeffel        | O'Brien, D.   | Thomas     |
| DeMedio        | Honaman        | O'Connell     | Trello     |
| DeVerter       | Hopkins        | O'Keefe       | Valicenti  |
| DeWeese        | Hutchinson, A. | Oliver        | Vroon      |
| DiCarlo        | Hutchinson, W. | Parker        | Wagner     |
| Dietz          | Itkin          | Petrarca      | Wansacz    |
| Dininni        | Jones          | Piccola       | Wargo      |
| Dombrowski     | Katz           | Pitts         | Wass       |
| Donatucci      | Kelly          | Polite        | Wenger     |
| Dorr           | Kernick        | Pott          | Wilson     |
| Doyle          | Klingaman      | Pratt         | Wilt       |
| Duffy          | Knepper        | Prendergast   | Wright, D. |
| Englehart      | Kolter         | Pyles         | Yahner     |
| Fee            | Kowalshyn      | Rappaport     | Yohn       |
| Fischer, R. R. | Laughlin       | Ravenstahl    | Zeller     |
| Fisher, D. M.  | Letterman      | Reed          | Zitterman  |
| Flaherty       | Levi           | Renwick       | Zord       |
| Foster, A.     | Lincoln        | Rieger        | Zwinkl     |
| Foster, W.     |                |               |            |

NAYS—16

|           |            |               |          |
|-----------|------------|---------------|----------|
| Burns     | Moehlmann  | Wiggins       | Zearfoss |
| Fryer     | Pancoast   | Williams      |          |
| Greenleaf | Richardson | Wise          | Irvis,   |
| Harper    | Weidner    | Wright, J. L. | Speaker  |
| Madigan   | White      |               |          |

NOT VOTING—11

|        |           |           |         |
|--------|-----------|-----------|---------|
| Barber | Johnson   | O'Donnell | Shelton |
| Beloff | Lehr      | Pievsky   | Spencer |
| Dumas  | Manderino | Rhodes    |         |

The majority required by the constitution having voted in the affirmative, the question was determined in the affirmative and the constitutionality of the bill was sustained.

On the question recurring,  
Shall the bill pass finally?

The SPEAKER. The Chair recognizes the gentleman from

Philadelphia, Mr. Berson.

Mr. BERSON. Mr. Speaker, I will be very brief.

I think what has run like a thread throughout the discussion of this bill is the phrase, we do not know; we do not know. We do not know whether they could be a runaway convention, because we have never had one since 1787. We do not know how delegates are going to be selected. We do not know what the approval of such a constitutional convention's work product would be. We do not know. Over and over again we have heard that phrase.

I would urge the members of this House not to buy what Representative Rhodes called a pig in a poke. We ought to know. This is the Constitution of the United States that we are tampering with, and we should know before we do that what we are doing. And over and over again we hear, we do not know.

I suggest that we vote this down until we do know, and when we have answers, we can consider this in an intelligent manner.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Mebus.

Mr. MEBUS. Mr. Speaker, for those of you who have been here over the past 7 or 8 years, I do not think there is any doubt in your mind as to what my position is on this particular measure. I concluded initially that I was not going to address myself to the subject, but I felt that if I did not, the impression might exist that I maybe changed my mind. I have not.

I commend Mrs. Wise for her presentation to you, because I think she said a lot of things that needed to be said and she said them very well.

I would only add this: If this constitutional convention is called and does do what its promoters wish it to do, it will end up in creating one of the most severe pieces of class legislation that has ever been foisted on the American people. Those who have the money and feel the need of an abortion will surely get one. And many of you who may well sit here today and vote in favor of this measure, and if it comes back to us for ratification later, vote for it again, if you are confronted with a hard decision relative to your sister, your wife, your daughter, what have you, do not guarantee that you are not going to send your daughter or whatever out of the country to get an abortion. Think very clearly about it. When you are confronted with that hard decision—and it is a tough one and it is not one which you would like; I am sure it is not one which I would ever wish to be confronted with—you will look for an option, and if it is not present in the United States of America, you are going to find someplace else to go get it.

Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Lehigh, Mr. Zeller.

Mr. ZELLER. Mr. Speaker, we have heard today the remark that men will make the decisions pertaining to women. Let me remind you that that is what the voters decided. Men just happen to be in the position to act on this issue. However, my mail is 10 to 1, including the postcards that Mr. Richardson talked about that came from a central place in Lancaster, in favor of HB 71. That is my mail; I do not know what your mail is, but that is my mail.

Another point that Representative Mullen brought out, when the final vote is taken by this special body, the constitutional convention, the electors could very well elect women to represent them. That was a very good point brought out, and it very well could happen. And God bless them.

Talking about the right to life of a fetus or a child, whatever term is used, since 3 years ago we had a bill that gave extra welfare to a woman who was pregnant, and the term was used, there are now two persons, a woman and a child. But when it came to abortion, then they referred to the second party as a fetus and not a child. If you remember, we killed that move, and it was the remarks that I made on the floor of the House, I hope, that was part of that, because we brought it to the attention of the members that when it is convenient for those who want abortions, they refer to the fetus, but when it comes to extra money or what have you, they call it a child. There is a little difference there.

Many adoption agencies want HB 71 because, in other words, the more abortions we have, the better their business is at a higher price for a baby.

Another point: It is strange to continually hear this primary interest be women, and it seems that they are not being treated fairly constitutionally. They use one being raped, and we have the results of the Minneapolis and St. Paul, Minnesota, survey which involved over 400 rapes during a 5-year period and not one resulted in a pregnancy. So let us call it not rape but instead this: When these people find themselves pregnant, they holler rape, but if they are not pregnant, they just had a good time.

What right does a husband have? I am serious. We have the husband to be considered. Is he not part of the family? Do we say that here are two people, a man and his wife, who agree to have a family, and following the wife's conceiving, through the involvement or following a discussion with a friend the woman decides she should not have the baby. What happens to the right of the husband to plan his family? What right do a man and woman have to plan their family? Is the man—and I say this with respect though—only chairman of the entertainment committee and he has no say about the bringing about of a family? This is fact, Mr. Speaker, because too many people are trying to put a man in a position where he is nothing, and what it is doing is breaking down the family tie. The family in this Nation is being eroded, and if we continue the route we seem to be going, I see the continued erosion of the American family that I feel has been the stability and the backbone of America.

Let us put the man back in the family. Let us give him rights, too, along with the unborn. I am certain the woman's rights are protected since the single girl can restrain her actions and the married couple use the accepted American tradition of compromise and then accept the responsibilities of a family and protect the unborn.

But I would like to close with this: With all respect to Mr. Berson, he made the remark, "We do not know; we do not know." He emphasized this. What will happen with the investigation called HR 109? We do not know anything about that either. That is why we put a ceiling on it.

The SPEAKER. The Chair recognizes the lady from

Allegheny, Mrs. Kernick.

Mrs. KERNICK. Thank you, Mr. Speaker.

This is an emotional issue today, but I think the emotions have been placed in the wrong place. I am not up here to debate the merits of abortion. I think Mr. Berson, Mr. Ritter, and some of the other Representatives have placed it properly.

We are being asked to buy a cart with Congress furnishing the horse. But what if Congress comes up with guidelines for a constitutional convention that this House or this state does not approve of, and there are 38 states that pass similar resolutions and we are stuck with those guidelines and with that convention? It is possible that they will not limit the convention to one subject, and I would like to reiterate some of the questions raised by Mr. Ritter and add some of my own.

Does Congress have the constitutional authority to limit the subject matter? Is it open to amendment? What is the proper manner of delegate selection? Even Mr. Mullen cannot tell us; nobody in this House can tell us that, and we do not know whether Congress will adopt a selection that will suit the people of Pennsylvania. How would the internal rules of the convention be made? Who would preside? What authority would the presiding official possess? What role does the President play, or the Governor? Is there any veto over the actions of the convention? Is a vote required by the convention a simple majority, or is it two-thirds or some other figure? Are issues arising out of the constitutional convention subject to judicial review? Would the U. S. Supreme Court have power to rule on the fairness of any mechanism set up or the constitutionality of any proposals? And last of all, who has the constitutional authority to define answers to some of these questions?

Again, I want to reiterate something that Mr. Mullen has confirmed. It is possible that a convention could be taken over by extremist groups, pro-euthanasia, pro-abortion, and we could end up with something entirely different from that which the convention was called.

I have been advised that the president of the National Right to Life Committee made the following statement after she was reportedly threatened for not going this route, and this, according to their April 1977 newsletter, was her answer:

I have always tried to support any prolife action which was well-planned, done well by responsible people who knew what they were doing, had no result which could cause more harm than any possible gain and had of itself greater than a 50-50 chance of accomplishing its stated objective . . . The constitutional convention call campaign does not . . . Not under any threat, bribe or blandishment will I lead or follow the prolife movement into the constitutional convention wilderness.

The issue of a constitutional convention is one which should be put aside until guidelines have been established by Congress, and it is an issue which raises greater concern to me than any pro-life or pro-abortion proposal. I do not believe, and I hope the majority of you do not believe, that we should jeopardize our Constitution for any single issue.

Thank you.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. White.

Mr. WHITE. Mr. Speaker, first of all, to respond to my col-

league, Mr. Zeller, the way to preserve American families in this country is to teach our men and women to stop messing around and stay home and take care of business.

Mr. Speaker, I would like to know if Mr. Mullen would consent to a very, very brief interrogation.

The SPEAKER. The gentleman from Philadelphia, Mr. Mullen, indicates he will stand for interrogation. The gentleman, Mr. White, may proceed.

Mr. WHITE. Thank you, Mr. Speaker.

Mr. Speaker, in view of the purpose of HB 71 and the convention to be called provided that a certain number of states ratify this, what do you think the outcome will be in regard to murder statutes in this country if we define life as that which takes place at conception? What impact would that have if a mother then went ahead with an abortion, legal or otherwise? How does that affect the murder statutes of this country?

Mr. M. P. MULLEN. The murder statutes?

Mr. WHITE. Yes.

Mr. M. P. MULLEN. I do not understand the question. I was having a difficult time hearing you. Will you rephrase it, please?

Mr. WHITE. Okay, I will repeat it. If the constitutional convention decided to define life as being the point of conception, what then happens to the murder statutes in this country when a mother's life is either threatened and she has an abortion, legal or otherwise, or decides on her own that she will have an illegal abortion?

Mr. M. P. MULLEN. Mr. Speaker, I assume that we will follow the procedure that we followed in the past. Prior to the Supreme Court decision in 1972, each and every state had provided a penalty for illegal abortions, and I assume that if this constitutional amendment is adopted, they will do likewise. They do not characterize it as murder in the first degree or murder in the second degree or murder in the third degree. They will characterize it as abortion, and they will provide a penalty for that. I do not think that anybody who has an abortion really knows what they are doing, because when they are destroying a decent human being, they are not logical or sensible. But again, to answer your question, I think there would be a separate statute which would consider abortion, and it would not be in the murder statute.

Mr. WHITE. What impact does that have on due process, Mr. Speaker? If the taking of a life would be murder, then what would make abortion any different?

Mr. M. P. MULLEN. It would not be considered murder per se as in the Criminal Code. What would then happen, assuming that we adopted a constitutional convention mandate to prohibit abortion, is that the individual states or the Federal Congress would have to adopt a particular law. For example, in Pennsylvania we would have to insert an amendment into our Criminal Code providing a penalty for that type of crime, but it would not be murder per se, in my opinion.

Mr. WHITE. Thank you, Mr. Speaker. Mr. Speaker, I would like to comment on the bill at this point.

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

Mr. WILLIAMS. Mr. Speaker, will the gentleman, Mr. White, yield?

The SPEAKER. For what purpose does the gentleman from Philadelphia, Mr. Williams, rise?

Mr. WILLIAMS. Mr. Speaker, I wanted to ask Mr. White if he would yield on his point of murder, so that he could proceed maybe with a little bit more information.

The SPEAKER. Would the gentleman, Mr. White, yield to the gentleman, Mr. Williams?

Mr. WHITE. Yes.

Mr. WILLIAMS. —and for the purpose of asking Mr. Mullen a further point.

The SPEAKER. The gentleman, Mr. Williams, is in order and may proceed.

Mr. WILLIAMS. Mr. Speaker, if life began at fertilization, if the Constitution defined that human being as a person, is it not true that our murder statutes here and throughout this country specifically say, if you do something, if you kill a person, then that is a form of homicide? So if you follow that logic by defining a person the way that you define it in here, is it not true that as the murder statutes presently exist, that if that person is killed, that the perpetrator would be subject to the crime of homicide, clearly?

Mr. M. P. MULLEN. I doubt it very much, Mr. Speaker, because the past history of the country indicates that no state that I know of ever considered it to be murder in the sense that we consider murder in the first, second and third degree.

Mr. WILLIAMS. Mr. Speaker, the key point is that never before has a child or a fetus that has been fertilized been considered a person, and by making that definition as you make it, a person, I do not see how the homicide statutes could be avoided once you establish that that fetus is a person. And on reflection, would you not agree if once you define that fetus as a person, if that person is killed by abortion, is there any reason to suggest that it would not be clearly included under the present homicide statute?

Mr. M. P. MULLEN. Yes, there is a distinct reason, because I do not think the legislature would permit it. In other words, if a constitutional amendment was adopted which would make this a crime, then it would be up to the individual states to set off in the statute the necessary elements of the crime.

Mr. WILLIAMS. Okay. Mr. Speaker, all I am trying to get to is that Mr. White's question was, if this succeeded, would the homicide statutes not have to be changed or amended? I think that was the thrust of your question, Mr. White. Is that not true?

Mr. M. P. MULLEN. No. The homicide statutes would not have to be amended, because I do not think anyone in this House, whether they are pro- or anti-abortion, would consider an abortion to be in the realm of murder, as you call it, under the Crimes Code. And you know in the Crimes Code even murder is defined in certain degrees. You have to have meditation, deliberation, and so on.

Mr. WILLIAMS. Yes, that is true, Mr. Speaker, so I will rest my question. I just wanted to point out, Mr. Speaker, that the key factor is the definition of "person" and the fact that that would apply, in my view, throughout the homicide statutes, and as Mr. White is trying to say, indeed there would have to be some change in that statute. And I think that is the point that

you were making, is that right, Mr. White?

Thank you, very much.

The SPEAKER. The Chair returns the floor to the gentleman from Philadelphia, Mr. White.

Mr. WHITE. Mr. Speaker, I oppose HB 71 for some very basic reasons. First of all, I would really hate to see this State of Pennsylvania and, in fact, communities across this country return to the same type of back-alley type abortions and operations that so many women have been subjected to.

Secondly, Mr. Speaker, I do not know how we in this House can justify taking freedom of choice away from a majority of the members who live within the Commonwealth of Pennsylvania. I disagree with Mr. Mullen, and, even though I am not a lawyer or an attorney, I think that changes would have to be made in that homicide statute and I think the effect of that would be to affect in a very negative kind of way the very due process of law, which is one of the greatest guarantees of freedom in this Nation.

I think that the point or the posture that we, as a group of lawmakers in the Commonwealth of Pennsylvania, need to be taking would be a direction that provides and offers the quality type and adequate sex education among people, among young people in particular.

I think, secondly, that we need to review, possibly, adoption laws to encourage people to place children up for adoption. Whatever you want to call abortion, it still boils down to the taking of someone's life. However, I think that in this case it is, in fact, a matter of choice for women, and I do not find in my conscience the power to restrict the rights of those who are living in making such a decision as this and I would urge my fellow members and lady members of this House to oppose HB 71 on that basis.

The SPEAKER. The Chair recognizes the gentleman from Schuylkill, Mr. Helfrick.

Mr. HELFRICK. Mr. Speaker, the right to life is not only a moral issue but it is an issue about which we just cannot accept the debate that we have here today. I cannot sit there without saying anything at all on this issue. It is much too important. If we were to vote today for legalized abortion, I am sure we would find many green lights on that board there. If we were to vote today to legalize murder, I am sure not one of us in this House would have guts enough to vote to legalize murder.

I am 49 years old. Am I any more or less important than a child 1 month, 2 months or 6 months old? If, because I was not wanted, I was done away with, it would be murder. Is there a difference when we do away with a child who is a few months old? I do not think so. I do not think there is any decision here that we can make. It is a decision of murder, not just abortion. And I really think abortion is just spelled wrong. I think abortion should be spelled m-u-r-d-e-r.

Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Delaware, Mr. Lynch.

Mr. LYNCH. Thank you, Mr. Speaker.

I realize that this debate has gone on a long time and I am not going to prolong it unnecessarily.

There is one thing about which several allusions have been made, though, that bothers me, and that is, several speakers have talked about the prospect of a runaway convention.

I think this idea was first fostered by a report made by some law professors from the University of Pittsburgh. And with all due respect to the University of Pittsburgh and legal professors in general, I do not think by any means were they giving the real aspect of this legislation. There is no reason for us to think that we are going to have a runaway convention. I think that argument not only is groundless, but it is a red herring which is thrown into this entire issue to obscure what we are really looking for, and what we are trying to get, in view of the Supreme Court opinion, is to have the people voice for the first time through the medium of a constitutional convention whether or not they approve of the Supreme Court's decision, of nine appointed justices, not elected to office, who for the first time in the history of this country suddenly tell us that a certain standard of personal conduct is okay. But if we think about the prospect of a so-called runaway convention, we do not have to hark back to 1787, we do not have to go back to the Articles of Confederation or even to the Civil War. The most recent exposure that we have had to a constitutional convention in Pennsylvania did not occur a century ago or a half a century ago, but only in 1967, which was 10 years ago. And that constitutional convention which we had here in this chamber only 10 years ago was supposed to, and authorized, only to address itself to four sections of the Pennsylvania Constitution. Only four articles were addressed, only four articles were rewritten, and the convention discharged its business in an orderly fashion within the bounds of their authority.

I think there is no reason to suppose that with the safeguards written into this bill and the safeguards that will be written into the enabling legislation by the Congress, there is any real reason to suspect that we are going to have a runaway convention.

As was pointed out in the letter of June 20 which was distributed to everybody, one of the most blatant omissions that the law professors neglected to remind us of is that whatever is proposed by a national convention still has to go back to the state legislatures for ratification, and three-quarters of those state legislatures have to ratify. Obviously, the state, including this state, is not going to approve of anything that would destroy the Bill of Rights or destroy the Constitution.

Actually, all we are asking is to utilize the section of the Constitution to give the people of this Commonwealth and of this country their first opportunity to express their will, not the Supreme Court's will, on this very vital issue.

Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Lehigh, Mr. Ritter.

Mr. RITTER. Mr. Speaker, just briefly: In the interrogation by Mr. Vroon of Mr. Mullen, references were made to the fact that states would have the rights, if this amendment was adopted, to do certain things with their own laws, and I beg to differ with those people. As a matter of fact, if this constitutional amendment would be adopted, then every state would be obligated to pass legislation to carry out the provisions of the



United States Constitution.

I want to further point out that if three-quarters of the states are required to ratify the amendment, in effect, the 12 most popular states in this country could vote against the right-to-life amendment and be denied that opportunity because the other 39 states could say, we want to have the right to life amendment, and it would carry. In effect, the majority of the people in this country could vote against the right-to-life amendment and be denied because of the 38 states or three-fourths ratifying the amendment.

So then, Mr. Speaker, if you want states rights, it seems to me you ought to change HB 71 to so state. But unless you do that, I think that you would be denying the rights to the various states to pass legislation dealing with that matter. I would say again and I would urge again that we vote against HB 71.

The SPEAKER. The Chair recognizes the lady from Chester, Mrs. Taylor.

Mrs. TAYLOR. Thank you, Mr. Speaker.

For many months, as was pointed out by my colleague, Representative Wise, the women in this House are very much in the minority. We listen through many sessions, and I do not think we can be accused of taking the mike when we do not have something to say.

I would like to urge a "no" vote for this HB 71, because I do feel that we have fears for a runaway constitutional convention. I think they are very real.

There are also fears of girls and women that are very real. These women and girls are of all ages and come from all social and economic backgrounds. And today, even though we are small in numbers in the House—I believe just about 5 percent—all of you who have a vote know that you are voting because there are a majority of women who are in the majority in our population.

So I say that this HB 71 has many, many unanswered questions, and I just ask that today this House answers this question, should a woman not have a right to make a personal decision regarding her own life situation? I urge you to vote "no" on HB 71.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Williams.

Mr. WILLIAMS. Mr. Speaker, I will yield to Representative Harper.

The SPEAKER. The Chair recognizes the lady from Philadelphia, Mrs. Harper.

Mrs. HARPER. Thank you, Mr. Speaker.

I rise to oppose HB 71. There are too many unanswered questions about this convention, and I am sorry today that this House is not predominantly women. I am sure when we take this vote that I would see red lights up there instead of green. It is just unfortunate that we are not able to speak for ourselves on this bill.

Wealthy women have always been able to pay and have their abortions. The poor women have to try to abort themselves or to go to midwives or back-alley abortions. This is just another way to tell women what to do with their bodies. I think it should be left up to a woman and her physician. Vote down HB 71.

Thank you.

The SPEAKER. The Chair recognizes the gentleman from Delaware, Mr. Zearfoss.

Mr. ZEARFOSS. Mr. Speaker, referring briefly to the comments made by the very distinguished gentleman from Delaware, Mr. Lynch, and, I might add, the hitherto silent Mr. Lynch who saw fit today to take the floor. Mr. Lynch has referred back to the recent history of Pennsylvania and its 1968 Constitutional Convention. But you notice Mr. Lynch merely said that that convention adhered to the mandates laid down by the legislature in calling the convention. He did not say they had to; he said they did.

I am saying to you again that when the people are assembled in constitutional conventions, they have all of the power without restriction that the country has, and that means they can do whatever they want to do with that power. History has shown us in other situations that they have used the power in that fashion. I would ask all of you to vote "no" on this very, very dangerous bill.

Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Mullen.

Mr. M. P. MULLEN. Mr. Speaker, I want to thank everybody, both pro and con, for a wonderful debate and I hope you will all vote for the bill. Thank you. Let us vote.

On the question recurring,  
Shall the bill pass finally?

Agreeable to the provision of the constitution, the following roll call was recorded:

YEAS—127

|                |                |               |            |
|----------------|----------------|---------------|------------|
| Abraham        | Foster, W.     | Livengood     | Ryan       |
| Armstrong      | Freind         | Logue         | Salvatore  |
| Arthurs        | Gallagher      | Lynch         | Scanlon    |
| Bellomini      | Gallen         | Mackowski     | Scheaffer  |
| Bennett        | Garzia         | McCall        | Schmitt    |
| Bittle         | Gatski         | McClatchy     | Schweder   |
| Borski         | Geisler        | McGinnis      | Seltzer    |
| Brunner        | George, C.     | McIntyre      | Shuman     |
| Burd           | Giammarco      | McLane        | Shupnik    |
| Burns          | Gillette       | Milanovich    | Sirianni   |
| Butera         | Goebel         | Milliron      | Smith, E.  |
| Caltagirone    | Goodman        | Mowery        | Spitz      |
| Caputo         | Gray           | Mrkonic       | Stairs     |
| Cassidy        | Grieco         | Mullen, M. P. | Stapleton  |
| Cessar         | Halverson      | Mullen, M. M. | Stewart    |
| Cianciulli     | Hamilton       | Musto         | Taddonio   |
| Cimini         | Haskell        | Novak         | Taylor, F. |
| DeMedio        | Hayes, D. S.   | O'Brien, B.   | Tenaglio   |
| DiCarlo        | Hayes, S. E.   | O'Brien, D.   | Thomas     |
| Dietz          | Helfrick       | O'Keefe       | Trello     |
| Dininni        | Hopkins        | Petrarca      | Valicenti  |
| Dombrowski     | Hutchinson, W. | Pitts         | Vroon      |
| Donatucci      | Jones          | Polite        | Wagner     |
| Doyle          | Katz           | Pott          | Wansacz    |
| Duffy          | Kelly          | Pratt         | Wargo      |
| Dumas          | Klingaman      | Prendergast   | Wass       |
| Englehart      | Kolter         | Pyles         | Wenger     |
| Fee            | Kowalyszyn     | Ravenstahl    | Yahner     |
| Fischer, R. R. | Laughlin       | Reed          | Zeller     |
| Fisher, D. M.  | Lehr           | Renwick       | Zitterman  |
| Flaherty       | Letterman      | Rieger        | Zord       |
| Foster, A.     | Lincoln        | Ruggiero      |            |

NAYS—64

|            |                |            |               |
|------------|----------------|------------|---------------|
| Anderson   | Gleeson        | Miscevich  | Taylor, E.    |
| Berlin     | Greenfield     | Moehlmann  | Weidner       |
| Berson     | Greenleaf      | Morris     | White         |
| Bittinger  | Harper         | Noye       | Wiggins       |
| Brandt     | Hasay          | Oliver     | Williams      |
| Brown      | Hoeffel        | Pancoast   | Wilson        |
| Cohen      | Honaman        | Parker     | Wilt          |
| Cole       | Hutchinson, A. | Piccola    | Wise          |
| Cowell     | Itkin          | Rappaport  | Wright, D.    |
| Davies     | Kernick        | Rhodes     | Wright, J. L. |
| DeVerter   | Knepper        | Richardson | Yohn          |
| DeWeese    | Levi           | Ritter     | Zearfoss      |
| Dorr       | Madigan        | Scirica    | Zwilk         |
| Fryer      | Manmiller      | Smith, L.  |               |
| Gamble     | Mebus          | Stuban     |               |
| Geesey     | Meluskey       | Sweet      |               |
| George, M. | Miller         |            |               |

Irvis,  
Speaker

NOT VOTING—9

|         |           |           |         |
|---------|-----------|-----------|---------|
| Barber  | Manderino | O'Donnell | Shelton |
| Beloff  | O'Connell | Pievsky   | Spencer |
| Johnson |           |           |         |

The majority required by the constitution having voted in the affirmative, the question was determined in the affirmative.

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

**HB 949 TAKEN FROM TABLE FOR CALENDAR**

The SPEAKER. The Chair recognizes the gentleman from Mercer, Mr. Bennett.

Mr. BENNETT. Mr. Speaker, I move that HB 949 be taken from the table and placed upon the active calendar.

On the question,

Will the House agree to the motion?

Motion was agreed to.

**ANNOUNCEMENT**

**HEARING DATE CORRECTION**

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Williams.

Mr. WILLIAMS. Mr. Speaker, could I make a brief announcement concerning information and a correction on the members' desks before Mr. Knepper proceeds?

The SPEAKER. The gentleman, Mr. Knepper, yields the floor, and the gentleman, Mr. Williams, may make his announcement.

Mr. WILLIAMS. Thank you, Mr. Speaker.

Mr. Speaker, I just wanted to announce that there is a memo on the members' desks from me concerning a hearing on Monday, July 18, 1977, misstated the 13th. That hearing will not be held as of now. I just wanted to advise the members because many had indicated that they would be coming to the hearing.

Thank you, Mr. Speaker.

**QUESTION OF PERSONAL PRIVILEGE**

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Knepper. For what purpose does the gentleman rise?

Mr. KNEPPER. I rise to a question of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. KNEPPER. Mr. Speaker, as one of the original sponsors of the "Sunshine" law, I was rather shocked, to say the least, to find out this morning that the chairman of the Conference Committee on the budget literally threw out not only members of the media but several members of the General Assembly from the Conference Committee meeting, which traditionally in the past had been held open to the public.

I had hoped that Mr. Manderino or Mr. Pievsky might be in the House. There are several questions that I would like to ask them about that to determine whether or not this is a practice of violation of the "Sunshine" law that is going to continue or not.

Would it be appropriate to address a question or two to the Speaker in their absence?

The SPEAKER. The Chair would advise the gentleman that he may place the question. If it is within the knowledge of the Speaker to answer, the Speaker will answer.

Mr. KNEPPER. I wanted to know, first, if the Conference Committee's position has changed at all relative to the meetings being secret as opposed to open to the public?

The SPEAKER. To the knowledge of the Speaker, the Committee on Conference is subject to the same rules, same regulations, same statutes as all other committees of the House of Representatives or of the Senate. There is no change in the rule whatsoever governing a conference committee.

Mr. KNEPPER. Would I be incorrect in assuming that we have been holding our conference committees on all bills open to the public?

The SPEAKER. To the knowledge of the Speaker, committees of conference have consistently in the past been open to the public, yes.

Mr. KNEPPER. In the absence of Mr. Manderino, Mr. Speaker, is there someone on the Democratic leadership side whom I could interrogate relative to—perhaps the whip or someone—the current situation?

The SPEAKER. The Speaker would advise the gentleman, Mr. Knepper, that there would be no one on the Democratic side and no one on the Republican side who would be capable of answering the gentleman's implied question, inasmuch as the chairman of the Committee of Conference is a Senator and is in charge of the Committee of Conference meetings, and any questions would have to be addressed to him rather than to a House conferee, be he Republican or Democrat.

Mr. KNEPPER. Except, Mr. Speaker, it would seem to me that if a decision had been made in a conference committee or any committee to alter the rules or to violate the laws, that certainly this is something that should have been addressed to the members of the committee to vote on in some manner.

Quite honestly, I am just concerned about the dangerous precedent that this is establishing. We are in a budget deadlock. There are 200 members of the House who, quite frankly, some of us find out more in the newspapers and in the media than we do in the halls of the General Assembly about what has been going on with the state budget. If our own members are shut out and the media is shut out, we are not even going to be able to find that out. And yet we are going to be called

upon at some point to act on a budget. Since I have been in the House, I have voted on, if not all of the budgets, certainly all but maybe one of them. I do not like to be anti-budget, but I also like to have a little bit of knowledge of what is going on and to participate.

I just feel like I have been shut out as well as the people in this Commonwealth. Until such time as Mr. Manderino or someone else from the committee comes on the floor, I would certainly hope that the members and, hopefully, through the good offices of the Speaker, would encourage the committee to reconsider their position and perhaps for the members to exert their interest in complying with an open government law that is currently in force in this Commonwealth.

Thank you.

The SPEAKER. The Chair will try to ascertain the current position of the Committee of Conference on the issue involved and will inform the gentleman to the best of the Chair's knowledge.

### BILL REPORTED FROM COMMITTEE AND TABLED

SB 236, PN 1196 (Amended)

By Mr. BERSON

An Act to increase the number of judges of the court and providing for their appointment; to provide for two additional law judges of the court of common pleas of the second judicial district, one additional law judge of the court of common pleas of the third judicial district, one additional law judge of the court of common pleas of the sixth judicial district, one additional law judge of the court of common pleas of the seventh judicial district, one additional law judge of the court of common pleas of the ninth judicial district, one additional law judge of the court of common pleas of the tenth judicial district, one additional law judge of the court of common pleas of the fifteenth judicial district, one additional law judge of the court of common pleas of the nineteenth judicial district, one additional law judge of the court of common pleas of the twenty-third judicial district, one additional law judge of the court of common pleas of the twenty-fourth judicial district, one additional law judge of the court of common pleas of the twenty-ninth judicial district, one additional law judge of the court of common pleas of the thirty-first judicial district, two additional law judges of the court of common pleas of the thirty-second judicial district, three additional law judges of the court of common pleas of the thirty-eighth judicial district, one additional law judge of the court of common pleas of the forty-ninth judicial district and one additional law judge of the court of common pleas of the fiftieth judicial district and to provide three additional judges of the Traffic Court of Philadelphia.

Judiciary.

### BILLS AND RESOLUTIONS PASSED OVER

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

### CONDOLENCE RESOLUTION ADOPTED

The SPEAKER. The Chair recognizes the leader of the Republican Party, who offers the following condolence resolution.

Mr. BUTERA. Mr. Speaker, I would like to read it.

The SPEAKER. The Chair has had a request by Mr. Butera that he read the condolence resolution. The Chair grants that request.

Mr. BUTERA. Thank you, Mr. Speaker.

I should like to read the condolence resolution and make some very brief comments. (Reading:)

In the House of Representatives,

WHEREAS, The Honorable Eugene M. Fulmer, Director of Research for Intergovernmental Affairs for the House Republican Caucus and a former member of the Pennsylvania House of Representatives from 1959 to 1970, passed away on Thursday, July 7, 1977, at the age of 59; and

WHEREAS, Mr. Fulmer was active in public, civic and political party service as a member of the State House of Representatives, as Director of Research and other senior staff positions with the House Republican Caucus, as an instructor at Pennsylvania State University, as an Executive Director of the State College Area Chamber of Commerce, as Chairman of the Centre County Republican Committee and in several staff positions with the Pennsylvania Republican State Committee and in several Republican gubernatorial campaigns; he was a graduate of Ephrata High School and of Pennsylvania State University; he is survived by his mother and father, Lizzie and Hiram Fulmer, and by his sister, Mrs. Ethel Good; and

WHEREAS, Mr. Fulmer served the people of this Commonwealth and his constituents in Centre County with dedication and distinction and earned a reputation for hard work, competence and the courage to take public positions on controversial issues; and

WHEREAS, Mr. Fulmer developed an expertise and concern in the health care field that was respected and relied upon by government officials and health care professionals throughout the country, and which expertise was utilized to increase the quality of life of all Pennsylvanians; therefore be it

RESOLVED, That the House of Representatives of the Commonwealth of Pennsylvania observes with sadness the passing of Eugene M. Fulmer and extends its sympathy and condolences to his parents and sister; and be it further

RESOLVED, That a copy of this resolution be transmitted to Mr. and Mrs. Hiram Fulmer and to Mrs. Ethel Good.

Mr. Speaker, I feel that this legislature has lost one of its giants of the past 20 years. Eugene Fulmer was known to many of you on the other side who have been here for awhile as a kind of person that, while he was serving this caucus, really served everybody. He was a soft-spoken person, but I think his voice was very loudly heard by virtually every department on this hill when there was a particular problem that someone on this side of the aisle had with a particular department.

He genuinely loved this institution. I know that and a few of us over here do with whom Eugene would converse about this place from time to time.

He faced the situation of his impending death with the same kind of courage, once he learned that it was impending, with which he faced his life. He never feared taking a stand, and I think at times when we are all called upon to reflect upon the responsibility which we do have to take stands from time to time, we can look to the life of Eugene Fulmer with a great deal of satisfaction.

I think that it is very fitting that this House take the time which you have taken in the observation of Eugene Fulmer's life with the respect which you have shown me as I read this resolution, and that we pause for a moment and just say goodbye to our very good and dear friend.

Thank you.

The SPEAKER. This is not a privileged resolution and consequently under the rules of this House, may not be immediately adopted unless the rules be suspended.

The Chair hears no objection and the clerk will record that unanimously the House has voted to suspend its rules.

(Members stood in silence.)

The SPEAKER. The resolution is unanimously adopted.

### WELCOME

The SPEAKER pro tempore. We are pleased to welcome Mrs. Anna Tipton of Meyersdale, Pennsylvania, and her daughter, Mrs. Shirley Huff, of Harrisburg. They are the guests of Mr. Halverson.

### NO FURTHER BUSINESS

The SPEAKER. Does the majority whip have any further business?

Mr. GREENFIELD. No, Mr. Speaker, there is no further business on this side.

The SPEAKER. Does the minority leader have any further business?

Mr. RYAN. No, Mr. Speaker.

### ADJOURNMENT

Mr. MACKOWSKI moved that this House do now adjourn until Wednesday, July 13, 1977, at 9:30 a.m., e.d.t.

On the question,

Will the House agree to the motion?

Motion was agreed to, and (at 6:24 p.m., e.d.t.) the House adjourned.