

Legislative Journal

WEDNESDAY, SEPTEMBER 26, 1979

Session of 1979

163rd of the General Assembly

Vol. 1, No. 68

HOUSE OF REPRESENTATIVES

The House convened at 11 a.m., e.d.t.

THE SPEAKER (H. JACK SELTZER) IN THE CHAIR

PRAYER

THE HONORABLE MARGARET H. GEORGE, member of the House of Representatives and guest chaplain, offered the following prayer:

The poet tells us, God, that You move in mysterious ways Your wonders to perform. We ask that You will move today in Your mysterious way in this Pennsylvania House of Representatives as we grapple with the age-old problems of female, male relationships.

Guide us to pass legislation that will help the affected individuals, the husband, the wife, and the children, to emerge through the traumatic experience of separation and divorce with the will, the resources and the self-respect to resume a happy and productive life.

We need Your help. Amen.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was enunciated by members.)

JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, approval of the Journal for Tuesday, September 25, 1979, will be postponed until printed.

HOUSE BILLS INTRODUCED AND REFERRED TO COMMITTEES

No. 1746 By Messrs. GOEBEL, NOYE and PERZEL

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for registration fees for class one trucks.

Referred to Committee on Transportation.

No. 1747 By Messrs. GOEBEL, COHEN, NOYE, PERZEL and LETTERMAN

An Act amending "The Landlord and Tenant Act of 1951," approved April 6, 1951 (P. L. 69, No. 20), further providing for escrow funds.

Referred to Committee on Business and Commerce.

No. 1748 By Mr. GOEBEL

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for speeding penalties for certain classes of trucks.

Referred to Committee on Transportation.

No. 1749 By Messrs. GOEBEL, ALDEN, PERZEL and FREIND

An Act amending "The Administrative Code of 1929," approved April 9, 1929 (P. L. 177, No. 175), requiring the use of time clocks by all employes of State-owned institutions.

Referred to Committee on Labor Relations.

No. 1750 By Messrs. GOEBEL, ALDEN, NOYE, MICHLOVIC, PERZEL, PRATT, POTT and LETTERMAN

An Act providing for the establishment of inmate work camps by the Bureau of Correction.

Referred to Committee on Judiciary.

No. 1751 By Mr. GOEBEL

An Act amending the "Tax Reform Code of 1971," approved March 4, 1971 (P. L. 6, No. 2), changing provisions relating to declaration of estimated tax.

Referred to Committee on Finance.

No. 1752 By Messrs. DUFFY, SEVENTY, KNIGHT and PISTELLA

An Act authorizing the Department of General Services with the approval of the Department of Environmental Resources to grant an easement to the Springdale Boat Club to relocate a floating boat dock with six four feet by sixteen feet riverward slips in the Allegheny River in Springdale Borough, Allegheny County.

Referred to Committee on State Government.

No. 1753 By Messrs. MURPHY, DAWIDA, ITKIN, POTT, SEVENTY, RHODES and PISTELLA

An Act amending the act of June 13, 1961 (P. L. 282, No. 167), entitled "An act authorizing counties, *** to create historic districts within their geographic boundaries, ****" removing second class cities from the scope of the act.

Referred to Committee on Urban Affairs.

No. 1754 By Mr. CALTAGIRONE

An Act amending the act of January 24, 1966 (1965 P. L. 1534, No. 536), referred to as the City Rent Withholding Act, extending the act to all political subdivisions and increasing the coverage of the act to include utility services provided by municipal corporations.

Referred to Committee on Business and Commerce.

No. 1755 By Mr. CALTAGIRONE

An Act amending the "Liquor Code," approved April 12, 1951 (P. L. 90, No. 21), transferring certain powers and duties relating to enforcement from the Liquor Control Board to the Pennsylvania State Police.

Referred to Committee on Liquor Control.

No. 1756 By Messrs. GANNON, PYLES, SIEMINSKI, GRUPPO, Mrs. CLARK, Mr. FREIND, Mrs. ARTY, Mrs. DURHAM and Mr. ZORD

An Act amending the "General Appropriation Act of 1979," approved July 4, 1979 (No. 9A), providing a further appropriation for the purchase of certain social services.

Referred to Committee on Appropriations.

No. 1757 By Mr. LASHINGER

An Act amending the act of July 12, 1972 (P. L. 762, No. 180), entitled "An act relating to intergovernmental cooperation," further providing for the subjects of intergovernmental cooperation and further defining "municipality."

Referred to Committee on Local Government.

No. 1758 By Mr. LASHINGER

An Act amending the "Public School Code of 1949," approved March 10, 1949 (P. L. 30, No. 14), providing college education for certain citizens age sixty and over.

Referred to Committee on Education.

No. 1759 By Messrs. CALTAGIRONE, BROWN, COCHRAN and CAPPABIANCA

An Act amending the "Liquor Code," approved April 12, 1951 (P. L. 90, No. 21), further providing for exemptions from licensing.

Referred to Committee on Liquor Control.

No. 1760 By Messrs. CIMINI, GRIECO, ITKIN, CESSAR and GOEBEL

An Act declaring and adopting the song "Pennsylvania," music and lyrics by Gertrude Martin Rohrer, as the State song of the Commonwealth.

Referred to Committee on State Government.

No. 1761 By Messrs. SCIRICA, KUKOVICH, McVERRY, TADDONIO, HOFFFEL, COHEN, D. M. O'BRIEN, DiCARLO, BERSON, MICHLOVIC, DeMEDIO, GOEBEL, WHITE, O'DONNELL, WACHOB, DeWEESE, RHODES, LAUGHLIN, AUSTIN, STREET, DAWIDA, BROWN and CAPPABIANCA

An Act amending the "Pennsylvania Election Code," approved June 3, 1937 (P. L. 1333, No. 320), providing limited public funding of certain Statewide elections, limiting certain contributions, imposing powers and duties on the Department of State, making an appropriation and providing penalties.

Referred to Committee on State Government.

No. 1762 By Messrs. L. E. SMITH, B. F. O'BRIEN, BITTLE, KOWALYSHYN, DeVERTER, SCHWEDER, POLITE, McClATCHY, SPENCER, DORR, FREIND, CIMINI and McINTYRE

An Act relating to the rights, obligations and liabilities of landlord, tenant, managing agent; powers of local code enforcement agencies; and making repeals.

Referred to Committee on Business and Commerce.

No. 1763 By Messrs. D. M. FISHER, ZORD and TADDONIO

An Act amending "The Local Tax Enabling Act," approved December 31, 1965 (P. L. 1257, No. 511), further providing for the levying of taxes by school districts.

Referred to Committee on Finance.

No. 1764 By Messrs. D. M. FISHER and R. R. FISCHER

An Act amending the "Public School Code of 1949," approved March 10, 1949 (P. L. 30, No. 14), further providing for subpoenas and for failure to comply therewith.

Referred to Committee on Education.

No. 1765 By Messrs. D. M. FISHER, McVERRY and CIMINI

An Act amending "The Controlled Substance, Drug, Device and Cosmetic Act," approved April 14, 1972 (P. L. 233, No. 64), further providing for prohibited acts.

Referred to Committee on Judiciary.

SENATE MESSAGE

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

SB 861, PN 1088

Referred to Committee on Appropriations.

HOUSE RESOLUTION INTRODUCED AND REFERRED

No. 127 By Messrs. LAUGHLIN, IRVIS, RYAN, MANDERINO, FEE, McClATCHY, BENNETT, WILT, L. E. SMITH and ZITTERMAN

The Speaker appoint a committee of nine members, five from the majority and four from the minority to study the problem of toxic wastes being deposited into the environment with particular attention being given to the manner of industry being able to clean up the problem areas without undue financial hardship and without the loss of employment while at the same time protecting the health and safety of our citizens.

Referred to Committee on Rules.

LEAVES OF ABSENCE GRANTED

The SPEAKER. The Chair recognizes the majority whip.

Mr. S. E. HAYES. Mr. Speaker, I request leaves of absence for Messrs. HELFRICK and DININNI for today's session.

The SPEAKER. The Chair recognizes the minority leader.

Mr. IRVIS. Mr. Speaker, I have no requests for leaves of absence.

The SPEAKER. Without objection, leaves are granted.

MASTER ROLL CALL RECORDED

The SPEAKER. The members will please come to the floor. The Chair is about to take the master roll.

The following roll call was recorded:

YEAS—198

Table listing names of members who voted 'YEAS' (198 total). Includes names like Alden, Anderson, Armstrong, Arty, Austin, Barber, Belardi, Beloff, Bennett, Berson, Bittle, Borski, Bowser, Brandt, Brown, Brunner, Burd, Burns, Caltagirone, Cappabianca, Cessar, Chess, Cimini, Clark, B., Clark, R., Cochran, Cohen, Cole, Cornell, Coslett, Cowell, Cunningham, Davies, Dawida, DeMedio, DeVerter, DeWeese, DiCarlo, Dietz, Dombrowski, Donatucci, Dorr, Duffy, Dumas, Durham, Earley, Fee, Fischer, R. R., Fisher, D. M., Foster, A., Foster, W., Freind, Fryer, Gallagher, Gallen, Gamble, Gannon, Gatski, Geesey, Geist, George, C., George, M., Giammarco, Gladeck, Goebel, Goodman, Grabowski, Gray, Greenfield, Grieco, Gruppo, Halverson, Harper, Hasay, Hayes, D. S., Hayes, S. E., Hoeffel, Honaman, Hutchinson, A., Hutchinson, W., Irvis, Itkin, Johnson, E., Johnson, J., Jones, Kanuck, Kernick, Klingaman, Knepper, Knight, Kolter, Kukovich, Lashinger, Laughlin, Lehr, Letterman, Levi, Levin, Lewis, Livengood, Lynch, E. R., Lynch, F., Mackowski, Madigan, Manderino, Manmiller, McCall, McClatchy, McIntyre, McKelvey, McMonagle, McVerry, Michlovic, Micozzie, Milanovich, Miller, Moehlmann, Mowery, Mrkonic, Mullen, M. P., Murphy, Musto, Nahill, Novak, Noye, O'Brien, B., O'Brien, D., O'Donnell, Oliver, Perzel, Peterson, Petrarca, Piccola, Pievsky, Pistella, Pitts, Polite, Pott, Pratt, Pucciarelli, Punt, Pyles, Rappaport, Reed, Rhodes, Richardson, Rieger, Ritter, Rocks, Rodgers, Ryan, Salvatore, Scheaffer, Schmitt, Schweder, Scirica, Serafini, Seventy, Shadding, Shupnik, Sieminski, Sirianni, Smith, E., Smith, L., Spencer, Spitz, Stairs, Steighner, Stewart, Street, Stuban, Sweet, Swift, Taddonio, Taylor, E., Telek, Thomas, Trello, Vroon, Wachob, Wagner, Wargo, Wass, Weidner, Wenger, White, Williams, Wilson, Wilt, Wright, D., Wright, J. L., Yahner, Yohn, Zeller, Zitterman, Zord, Zwick, and Speaker.

NAYS—0

NOT VOTING—5

Table listing names of members who did not vote: Cianciulli, Diminni, Helfrick, Kowalyszyn, Taylor, F.

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

BILL REPORTED FROM COMMITTEE, CONSIDERED FIRST TIME, AND TABLED

SB 820, PN 905 (Unanimous) By Mr. GEESEY

An Act amending the act of September 27, 1961 (P. L. 1700, No. 699), entitled "Pharmacy Act," further providing for licensing of pharmacy interns.

Professional Licensure.

SPECIAL ORDER OF BUSINESS

CALENDAR BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of HB 373, PN 1069, entitled:

An Act amending the "Pennsylvania Municipal Retirement Law," approved February 1, 1974 (P. L. 34, No. 15), providing that a person receiving a retirement allowance be a member of the Pennsylvania Municipal Retirement Board and further providing for the actuarial soundness of the fund, for excess interest, for payment of administrative funds from excess interest earnings, for member's excess investment account, for joining the fund, for municipal liability, for credit for other governmental service, for contributions, for return to service and for computation of benefits.

On the question,

Will the House agree to the bill on third consideration?

Bill was agreed to.

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

The question is, shall the bill pass finally?

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

YEAS—192

Table listing names of members who voted 'YEAS' (192 total). Includes names like Alden, Anderson, Armstrong, Arty, Austin, Barber, Belardi, Beloff, Bennett, Berson, Bittle, Borski, Bowser, Brandt, Brown, Brunner, Burd, Burns, Caltagirone, Cappabianca, Cessar, Foster, W., Freind, Fryer, Gallagher, Gallen, Gamble, Gannon, Gatski, Geesey, Geist, George, C., George, M., Giammarco, Gladeck, Goebel, Goodman, Grabowski, Gray, Greenfield, Grieco, Gruppo, Livengood, Lynch, E. R., Lynch, F., Mackowski, Madigan, Manderino, Manmiller, McCall, McClatchy, McIntyre, McKelvey, McMonagle, McVerry, Michlovic, Micozzie, Milanovich, Miller, Moehlmann, Mowery, Mrkonic, Mullen, M. P., Rocks, Ryan, Salvatore, Scheaffer, Schmitt, Schweder, Scirica, Serafini, Seventy, Shadding, Shupnik, Sieminski, Sirianni, Smith, E., Smith, L., Spencer, Spitz, Stairs, Steighner, Stewart, Stuban.

Cimini	Halverson	Musto	Sweet
Clark, B.	Harper	Nahill	Swift
Clark, R.	Hasay	Novak	Taddonio
Cochran	Hayes, D. S.	Noye	Taylor, E.
Cohen	Hayes, S. E.	O'Brien, B.	Telek
Cole	Hoeffel	O'Brien, D.	Thomas
Cornell	Honaman	O'Donnell	Trello
Coslett	Hutchinson, A.	Oliver	Wachob
Cowell	Hutchinson, W.	Perzel	Wagner
Cunningham	Irvis	Peterson	Wargo
Davies	Itkin	Petrarca	Wass
Dawida	Johnson, E.	Piccola	Weidner
DeMedio	Johnson, J.	Pievsky	Wenger
DeVerter	Jones	Pistella	White
DeWeese	Kanuck	Pitts	Wilson
DiCarlo	Kernick	Polite	Wilt
Dietz	Klingaman	Pott	Wright, D.
Dombrowski	Knepper	Pratt	Wright, J. L.
Donatucci	Knight	Pucciarelli	Yahner
Dorr	Kolter	Punt	Yohn
Duffy	Kukovich	Pyles	Zeller
Dumas	Lashingier	Rappaport	Zitterman
Durham	Laughlin	Reed	Zord
Earley	Lehr	Rhodes	Zwinkl
Fee	Letterman	Richardson	
Fischer, R. R.	Levi	Rieger	Seltzer,
Fisher, D. M.	Levin	Ritter	Speaker
Foster, A.	Lewis		

NAYS—0

NOT VOTING—11

Chess	Helfrick	Rodgers	Vroon
Cianciulli	Kowalshyn	Street	Williams
Dininni	Murphy	Taylor, F.	

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.

MR. AND MRS. MELUSKEY PRESENTED

The SPEAKER. The Chair at this time would like to present to the House, Mr. and Mrs. Frank Meluskey, the mother and father of the late Representative Frank Meluskey of the 133rd district, from Bethlehem, Pennsylvania. Mr. and Mrs. Meluskey are present today for the dedication and the presentation of the Exchange Club Freedom Shrine which was presented in their son's honor. They had a memorial service in the rotunda.

Also, in the balcony, the Chair would like to recognize the officers and members of the Fountain Hill, Lehigh County Exchange Club and friends and guests of the Meluskey family, who came to the Capitol today for the dedication of the Freedom Shrine. All of these fine people are the guests of the legislators representing Northampton and Lehigh Counties.

CALENDAR BILL ON THIRD CONSIDERATION

The House resumed third consideration of **HB 640, PN 1571**, entitled:

An Act consolidating, revising and amending the divorce and annulment laws of the Commonwealth and making certain repeals.

On the question recurring,

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

Mr. CUNNINGHAM offered the following amendments:

Amend Table of Contents, page 2, by inserting between lines 26 and 27

Section 507. Bar to any alimony.

Amend Bill, page 23, by inserting between lines 9 and 10

Section 507. Bar to any alimony.

No petitioner shall be entitled to receive any award of alimony where such petitioner has entered into cohabitation with a person of the opposite sex who is not a member of the petitioner's immediate family within the degrees of consanguinity subsequent to the divorce pursuant to which alimony is being sought.

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Centre, Mr. Cunningham.

Mr. CUNNINGHAM. Mr. Speaker, my amendment is very short. The first amendment I am offering is a very simple one and it reads as follows: "No petitioner shall be entitled to receive any award of alimony where such petitioner has entered into cohabitation with a person of the opposite sex who is not a member of the petitioner's immediate family within the degrees of consanguinity subsequent to the divorce pursuant to which alimony is being sought."

Mr. Speaker, we have provided in this bill a cutoff of the right to alimony in a situation in which an economically dependent spouse who is receiving alimony remarries. The practical effect of this will be that couples who have a romantic interest in one another who might otherwise be considering marriage will be dissuaded from marriage where one of those couples is receiving alimony, because the receipt of the alimony will, of course, be terminated upon the marriage.

I believe that there is a very strong public policy argument that can be made in favor of cutting off alimony where the party who is the recipient of the alimony remarries. And I think, likewise, where you have a cohabitation arrangement that frequently will be an effort to endrun the marriage prohibition, it is just as important to cut off the right to alimony. I do not think it is equitable; I do not think it is fair to require a former spouse to continue to pay alimony where his or her former spouse has entered into a cohabitation relationship with a paramour or whatever. I would urge the adoption of this amendment. Thank you, Mr. Speaker.

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

Mr. HOEFFEL. Mr. Speaker, will Mr. Cunningham consent to interrogation?

The SPEAKER. The gentleman indicates that he will. The gentleman, Mr. Hoeffel, may proceed.

Mr. HOEFFEL. Mr. Speaker, how do you define cohabitation?

Mr. CUNNINGHAM. Mr. Speaker, cohabitation is a term of art for which there are legal definitions as a product of case law that has developed over time. Cohabitation is clearly not remaining at someone's house overnight. It is clearly not remaining at someone's house for the weekend. Cohabitation is a definition that has to be viewed in light of the facts of each individual case, and the facts are virtually limitless. The circumstances under which cohabitation could be found are almost infinitely variable, and it is important for us to make a public policy statement concerning our intent with regard to the payment of alimony under these circumstances and still give the courts enough latitude to gauge each case on its own merits and determine, based on the facts involved, where cohabitation exists. There obviously will be an intent factor here, but what we are clearly not talking about is an occasional overnight stay of one or more individuals. We are talking about a consistent pattern of conduct established over a substantial period of time with one person.

Mr. HOEFFEL. Mr. Speaker, you talk about establishing a consistent pattern of behavior. Who is going to establish that consistent pattern of behavior?

Mr. CUNNINGHAM. I am sorry, Mr. Speaker. I was unable to hear the last part of the question.

Mr. HOEFFEL. You mentioned in your remarks about establishing a consistent pattern of behavior. My question is, who is going to establish that consistent pattern of behavior?

Mr. CUNNINGHAM. The burden here will be on the party who is attempting to establish the cohabitation, which invariably will be the person who is under the obligation to pay the alimony. It will then become a question of fact and a question of law for the court to decide in terms of whether cohabitation actually exists.

Mr. HOEFFEL. Well, then the person paying alimony will have to go to the court and say, my spouse is cohabiting and I do not want to pay alimony anymore. Is that right?

Mr. CUNNINGHAM. Under the provisions of the bill as drafted, any time circumstances change either for the recipient of the alimony or for the person under the obligation to pay alimony, there can be a relitigation of the alimony issue, just as there can be a relitigation of the issue of child custody, a relitigation of the issue of visitation, a relitigation of the issue of child support. All of these obligations, all of these rights and responsibilities that are imposed by the court can be reconsidered by the court in light of a changing fact situation. So we are really not talking about anything here that is not already in the bill as drafted and really is not already current law. In my judgment, it would be inequitable to impose an obligation on either of the parties and then say, regardless of the factual changes that might occur, the obligation has to remain in place and there can be no opportunity to relitigate the issue.

Mr. HOEFFEL. Well, Mr. Speaker, you talk about changes in fact, changes in circumstances, which would mean an increase in salary, or whatever, and I agree that that is the sort of thing that a court can easily deal with. But you are including among those changes the establishment of cohabitation, and I am still not clear how that can be so readily established. You say that you clearly do not mean moving in for a weekend or moving in

for an evening, but where do you draw the line? Is a month-long cohabitation, under your moral code, sufficient to knock off alimony, or would it have to be a 6-month period? What kind of guidance would you give to the trial judges in our Commonwealth as to your meaning of cohabitation?

Mr. CUNNINGHAM. Mr. Speaker, this is not a moral issue. At least I am not addressing this as a moral issue. The courts on a daily basis in this country decide issues that are infinitely more complicated than the issue of determining where cohabitation exists or does not exist. We would not need the judicial branch of government if we were able to anticipate in the legislature every conceivable situation that might arise and enact some sort of a statute to deal with that situation. We need the court system, fairly apparently, to construe the statutes that we enact into law, and the attempt to construe these statutes is often difficult; it is often complicated; but that is what we have the courts for. That is their function.

Mr. HOEFFEL. Well, Mr. Speaker, is not the whole point of this divorce reform bill to try to simplify the divorce proceedings as much as possible and not have to depend on the courts to construe the meaning of the law?

Mr. CUNNINGHAM. That is indeed one of our objectives, but I think it is very important that we not sacrifice justice and that we not sacrifice equity on the altar of simplicity.

Mr. HOEFFEL. Thank you, Mr. Speaker. Mr. Speaker, I would like to just make a comment in opposition to this amendment. The maker of the amendment is eloquent in his comments, but it seems to me that the bottom line of this amendment would be the need for one spouse to try to demonstrate to the court that the other spouse was cohabiting—and that to me conjures up images of private detectives slinking around in the bushes and taking pictures through bedroom windows, counting the evenings that someone's car is parked in front of somebody else's house. It would seem to me that this amendment—would just unleash an awful lot of unsavory behavior on the part of somebody who wants to be relieved of the obligation of paying alimony.

I can certainly understand, Mr. Speaker, the logic behind stopping alimony payments upon remarriage, because the remarriage indicates a sharing of expenses and assets. But with a cohabitation which practically depends on whom you ask, on which you will get differences of opinion of what cohabitation is, there is no necessity for a sharing of resources or financial obligations. It seems to me this amendment merely says that if somebody cohabits that the state consider that to be an immoral act or an unjust thing to be doing, and, therefore, you lose your right to alimony. I think that is a moral judgment we should not be making. I think this amendment would simply lead to a great deal of spying on one another and unnecessary court actions, which really run contrary to the whole purpose of HB 640. So I would like to ask for a negative vote on the amendment. Thank you.

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

Mr. PICCOLA. Would the gentleman, Mr. Cunningham, yield to interrogation?

The SPEAKER. The gentleman indicates he will stand for interrogation. The gentleman, Mr. Piccola, may proceed.

Mr. PICCOLA. Mr. Speaker, is it the intent of this amendment that when the petitioner is no longer entitled to alimony because of the circumstances of cohabitation that that alimony ceases forever and permanently, regardless of whether the cohabitation would cease some time in the future?

Mr. CUNNINGHAM. Mr. Speaker, just as a remarriage would cut off the right to alimony irretrievably, a subsequent cohabitation would cut off the alimony irretrievably as well.

Mr. PICCOLA. Thank you, Mr. Speaker. That ends my interrogation. I would like to make a remark on the amendment. I oppose the amendment for this reason. The recent cases coming from California and other parts of the country indicate that cohabitation affords an individual no protective right to support after that cohabitation ceases, whereas a subsequent marriage does afford and will afford certain rights of support under the proposed legislation. It seems to me that by cutting off permanently the alimony upon a situation of cohabitation, we are increasing the likelihood that the cohabitation may cease some time in the future and that person will have no visible means of support from either their former spouse or from the person with whom they were cohabiting. Then it becomes much more likely that we are going to have a person who is going to become dependent upon the public welfare system of the Commonwealth, and for that reason alone I would oppose the amendment.

I tend to agree with the remarks of Mr. Hoeffel. I believe that it is going to become very difficult for the courts to define what cohabitation means under various circumstances. It is going to create a lot of confusion for the courts, probably more confusion than they have right now. For those reasons, I would oppose the amendment.

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

Mr. ZELLER. Mr. Speaker, would Mr. Cunningham consent to another interrogation?

The SPEAKER. The gentleman, Mr. Cunningham, indicates that he will stand for interrogation. The gentleman, Mr. Zeller, may proceed.

Mr. ZELLER. Mr. Speaker, that is what bothered me yesterday all through the whole debate about alimony. And in reading page 19, under section 501, line 19, and on page 20, line 8—which was called to my attention also—on line 19, page 19, it says, "The retirement or other benefits of the parties." And on page 20, "The relative needs of the parties."

Now, do you believe that that is taken care of adequately in here without your amendment? I want to hear whether in section 501 that will take care of it? I am very concerned as you are on that subject. That is why I was relating to section 501 yesterday rather than to section 507.

Mr. CUNNINGHAM. Mr. Speaker, I do not believe that these particular provisions directly address the issue we are trying to get at here; that issue is that if we believe it is just and it is equitable to cut off a right to alimony where the recipient of that alimony remarries, then I think it is only reasonable that

we treat a subsequent cohabitation in exactly the same way, because otherwise we are going to be encouraging couples to circumvent this marriage prohibition by simply moving in with one another. We are going to end up with economically independent former spouses continuing to have to pay alimony to two parties who are, for all practical purposes, married, despite the fact that they are living together without benefit of marriage.

Mr. ZELLER. I want to mention, in completion of this question, that one of my decisions yesterday was that I felt it should have been amended in section 501 to spell it out, definitely spell it out, so that in the courts there would be no question about it. Because I believe this is rather vague in regard to directing the court as to what is meant by cohabitation and what you are trying to get at. So with that, I do support your amendment, but I am just wondering if you are not in the wrong section.

Mr. CUNNINGHAM. Mr. Speaker, I think the gentleman's point is well taken in the sense that the amendment could have been inserted at the location that he is suggesting, but I think it is just as appropriate to insert it where I intend to insert it. I think it is kind of six of one and a half dozen of the other. I appreciate the gentleman's suggestion nonetheless.

Mr. ZELLER. I wanted to correct the stenographers. It was my mistake. Instead of section 607, it was section 507. So thank you very much.

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

Mr. LASHINGER. Mr. Speaker, would the gentleman, Mr. Cunningham, consent to a brief interrogation?

The SPEAKER. The gentleman indicates that he will. The gentleman, Mr. Lashinger, may proceed.

Mr. LASHINGER. Mr. Speaker, like Mr. Hoeffel, one of the previous speakers, said, I can understand the intent or the rationale of the amendment the way that it is currently drafted. I am not sure, so possibly for the record I will pose the question to you: Are you talking about cohabitation following the filing of the complaint? Cohabitation prior to the filing of the complaint would not be used as a bar to alimony.

Mr. CUNNINGHAM. Mr. Speaker, it is the intent of this amendment to address the issue of cohabitation after the filing of the complaint. We are not here talking about cohabitation prior to the filing of the complaint.

Mr. LASHINGER. I think that is important, Mr. Speaker, for the record. That is not my understanding in reading the amendment, but if that is the intent, I would urge support of the amendment.

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

Mr. W. D. HUTCHINSON. Would the gentleman, Mr. Cunningham, consent to a further interrogation?

The SPEAKER. The gentleman indicates that he will. The gentleman, Mr. Hutchinson, may proceed.

Mr. W. D. HUTCHINSON. Now in line with what Mr. Lashinger asked in the last series of questions, this applies only subsequent not to the filing of the complaint, indeed, but subse-

quent to the granting of the decree? Your language is, "subsequent to the divorce pursuant to which alimony is being sought."

Mr. CUNNINGHAM. Mr. Speaker, that is not correct in terms of my intention because it is my intention that where cohabitation exists at the time the award in alimony is being sought, that the cohabitation would act as a bar to the granting of that award. Further, that where the award in alimony is granted and subsequent cohabitation occurs, that that subsequent cohabitation would cut off irretrievably any right to alimony.

Mr. W. D. HUTCHINSON. Well, I do not think it says that. It says, "subsequent to the divorce", and that would seem to me subsequent to the divorce that takes place only upon the granting of a decree, the entry of an order of divorce.

Be that as it may, whether it occurs after the complaint is filed or whether it occurs after the divorce decree is granted, under the rest of the language of the bill, let me pose a hypothetical to you. Suppose that a spouse enters into an illicit relationship while he or she is still married and they persist in that illicit relationship for a period of time and cohabit. Let us further suppose that as a result of that cohabitation, the spouse who has entered into the illicit relationship decides that they want a unilateral divorce, and so they absent themselves from the other party and live with that other party and they then decide to file for divorce. And when they file for divorce they cease the cohabitation. Under your amendment, would not that person be entitled to alimony if they were not cohabiting at the time they file?

Mr. CUNNINGHAM. Mr. Speaker, the gentleman's point, I am sure, is well taken. The hypothetical was quite long and I am not sure that I was able to trace it through all of the factual changes that were expressed there.

I will say that it is the intent of the amendment where, at the time alimony is being sought, if there is cohabitation, that that cohabitation will act as a bar to the granting of an alimony award. Where cohabitation occurred subsequent to the award, that that subsequent cohabitation would likewise act as a bar to the extent that there may be an ambiguity, and I am not prepared to concede that there is an ambiguity in the language of the amendment. I think that my very, I hope, clear expression of legislative intent would cure that.

Mr. W. D. HUTCHINSON. All right, a couple of comments.

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

Mr. W. D. HUTCHINSON. I too understand what the gentleman is trying to do. He is trying to reach at a deep-seated emotional problem, and this bill is fraught with it. But I think that what you are really doing here is that you are either for unilateral divorce or you are against it.

Whether or not we pass a bill that provides for unilateral divorce—and I propose to vote for this bill, but whether or not we pass a bill that provides for unilateral divorce—we, I think, do want to do some things to encourage a stable marital relation. And I just think that it is ridiculous to have a provision in the statute that says while the people are still married, before they

have gone through the conciliation, when there is still all of this terrible problem, when there is a hope of preserving that marriage, that one spouse can cohabit with another and it will not have an effect whatsoever on the right to alimony. But then after the relation has been legally determined to be dead, finished, all over, and it is done, then the alimony can be cut off later, while it could not be cut off, even though that person was living with somebody else while the marriage was still in existence.

That seems to me to be inconsistent and I think it is the kind of thing that causes laws to be laughed at. I can understand people who do not feel that we should grant unilateral divorce, and they put their votes up. But if we are going to have it, I do not think we should have this section in here. It seems to me that the problem should then solely be, what are the relative means of the party, their needs in this situation, and in that case a court can certainly take into account, if someone is cohabiting, the fact that the person with whom they are cohabiting is supplying shelter, perhaps supplying food or whatever arrangement they have, and reduce the decree. And I think that is the way we should approach it; not take the false theory away before the marriage, but then impose a kind of moral judgment and a false theory after the marriage. I oppose the amendment.

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

Mr. KUKOVICH. Mr. Speaker, I would urge opposition to this amendment. I think I understand what the author is driving at, but I have a few problems with it, apart from the more frivolous ones. It seems to encourage incestuous relationships and it is discriminatory against heterosexuals.

I would suggest to you that before voting, people read that carefully, but the important thing about this amendment is that once again people are trying to impose morality on others without consideration to the economic issues.

If you want to talk about morality when you are talking about grounds for a divorce, that is one thing. When you are talking about alimony, you are talking about equity financially between the two parties.

If an individual is cohabiting with someone and they are receiving money, obviously they should not be entitled to alimony. It was alluded to earlier that paragraph 10 and paragraph 13 on page 20 would more than compensate for that and a spouse would not be able to receive alimony if they were living with someone else and receiving money income from that individual.

I would suggest that this does not go to the heart of that issue at all, but once again it is just trying to impose another's morality on someone else and I would suggest defeat of this amendment.

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

Mr. DAVIES. Mr. Speaker, I would request Mr. Cunningham to stand for just a few hypotheticals again.

The SPEAKER. The gentleman, Mr. Cunningham, indicates that he will, and the gentleman, Mr. Davies, may proceed.

Mr. DAVIES. Mr. Speaker, what about the matter of an illicit relationship established some time in the marriage and where it would be with the same sex as opposed to where you discriminate with the opposite sex? This would not address itself to that?

Mr. CUNNINGHAM. Mr. Speaker, this, despite the remarks of the previous speaker and what has been inferentially suggested here, has nothing to do with a moral judgment. This amendment is not being offered with an eye toward expressing any moral values.

We have suggested that where we have a subsequent marriage that for a variety of reasons, among which are the obvious economic mutual reliance that the two parties are trusting in one another when they remarry, it is not justifiable to continue to require the payments of alimony. There arises an irrebuttable presumption that the economic need is cured and that now the new economic interdependence has been established, or economic dependence relationship has been established, that should, as a matter of public policy, free the previous individual who is under an alimony obligation. And all I am saying is, without regard to the advisability of unilateral divorce, it makes no difference what any of our views are in regards to the advisability of unilateral divorce or in regards to our feelings morally on the appropriateness of cohabitation.

If we are going to treat subsequent marriage as a bar to continued alimony eligibility, then it is only fair, it is only reasonable and it is only equitable that we view cohabitation in that same light.

Getting into a situation in which we are examining the nature of every cohabitation relationship is something that I do feel represents an unwarranted intrusion into the private lives of the people involved. I think that we would get into a very serious definitional problem. I think we would get into a very serious enforcement problem. And I think it is reasonable to assume that in most situations in which a man is sharing an apartment with another man or a woman is sharing an apartment with another woman, their motivation is more economic than amorous. I think that is a reasonable assumption. It is the assumption that I am making. And despite Mr. Kukovich's inference, I think very clearly that in the overwhelming majority of the instances in which a brother and a brother are living together or two sisters or a brother and sister or whatever, the motivation is more familial; it is more economic than it is amorous. And we could sit here all day and hypothetical this issue to death. I think the issue is very, very simple. I think it is very clear, and in the interest of not consuming an inordinate amount of time with hypotheticals, I would encourage consideration of the amendment on its merits and not against the background of hypotheticals that are rather farfetched.

Mr. DAVIES. I must pursue it once more. What about my moving in on my grand aunt? This is once removed. And I am going to move in with her. That would be prohibited under this provision? In other words, if someone wanted to make the interpretation relative to the alimony, it could be cut off there? Or if there was a foster child involved and the agency saw fit to continue that, and it was a male foster child moving with a mother, you would have the same thing. So that I find that

although it is very clear with your intent, and I would feel very comfortable perhaps if you were making those decisions, I could see where this thing is fraught with loopholes and I am sure that maybe your intent does not quite come up to the letter of the law.

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

Mr. McVERRY. Mr. Speaker, taking for granted that it is the public policy of Pennsylvania and this legislature to preserve marriage and the sanctity of the family, I believe it would be a serious problem with respect to the statement of Pennsylvania public policy if we failed to pass this amendment, because in fact, if we failed to pass this amendment, the public policy of Pennsylvania would be indirectly stated as sanctioning or approving illicit or meretricious relationships. That is to say that people living together without the benefit of marriage yet having the benefit of a former marriage in the nature of support. There may be some problems as far as definitions of cohabitation are concerned or the membership's understanding of what cohabitation is. However, cohabitation has a well recognized meaning in the law as defined by the courts and it does deal with the maintenance of a common household over a period of time.

I do not believe that the passage of this amendment would encourage a sinister private detective snooping about to determine whether or not a common household is being maintained. Frankly, that is not a difficult thing to prove. If people are living openly and together in a common fashion and common household, it is not a difficult thing to prove, and that should not be a matter of tremendous concern to the membership in their determination of whether to vote for this amendment or not.

I think the major consideration that people should think of in casting their votes on this amendment is, do you want the public policy of Pennsylvania to be reflected as sanctioning unmarried persons living together yet being supported and/or financed by the remnants of a former marriage? And if our public policy and philosophy is to preserve the sanctity of marriage, then I urge you to pass this amendment because you will be flying in the face of that age-old public policy to not do so.

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

Mr. ZELLER. Mr. Speaker, getting back to the point that we talked about yesterday on alimony—and I respect the legal interpretations today—we, as lay people—and I say that as a layman and not in the terms of some of the minds that might make that. But what I am getting at is very clear language. When an individual decides—and I think this is what Mr. Cunningham is getting at—and once they have filed, to cohabit with someone else of the opposite sex for reasons that I do not think have to be explained, it is quite evident what he is getting at, and all of these other adjectives and questions are just clouding the issue. And that is what bothered me yesterday, meaning that if a woman who is working—and I will put it that way so that we do not ruffle the feathers of some of the NOW — National Organization of Women — or ERA — Equal Rights Amendment —

groups. Say a woman who is working—and has a husband who is not and he is staying at home doing the cooking and so forth, and all of a sudden, say, for instance, he decides that he likes the one nextdoor or something else and cohabits and she files and he continues to cohabit, then what he is trying to say here is that she does not have to pay him alimony. That is about as plain as I think I can make it and that is what he is saying, not the clouded issue that has been put here today.

That is why I asked the question about 501. I do not believe that line 19 explains it on page 19. I do not believe that line 8 on page 20 explains it, and that is what I feel that Mr. Cunningham is getting at. And as far as what my good friend, Mr. Hutchinson, said, that while they are married and these things are happening there could be a lot of things happening while they are married that could cause someone to want a divorce. It could be the fact that he hangs at a local bar too long or something. I do not know, but there they are just hypothetically bringing up things that actually cloud the issue. And that is why I feel that unilateral divorce necessitates 501 alimony or 507, and that is one of the reasons why, unless that alimony thing is cleared, I am going to have to go along with the Rocks amendment, which I hope comes back up again.

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

Mr. E. G. JOHNSON. Mr. Speaker, if a remarriage terminates the alimony for the recipient spouse—and the bill provides that—it certainly seems logical and proper that cohabitation should also terminate the alimony for the recipient spouse. To me this seems clear, fair, and reasonable. I would urge an affirmative vote for this amendment.

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

The following roll call was recorded:

YEAS—131

Alden	Foster, W.	Madigan	Schweder
Anderson	Freind	McClatchy	Serafini
Armstrong	Gallen	McIntyre	Seventy
Arty	Gannon	McMonagle	Shadding
Austin	Geesey	McVerry	Shupnik
Belardi	Geist	Michlovic	Sieminski
Beloff	Giammarco	Micozzie	Smith, E.
Bennett	Gladeck	Milanovich	Smith, L.
Bittle	Goebel	Miller	Spitz
Borski	Goodman	Moehlmann	Stairs
Bowser	Grabowski	Mowery	Stuban
Brandt	Gray	Mrkonic	Swift
Brown	Grieco	Mullen, M. P.	Taddonio
Burd	Gruppo	Murphy	Taylor, E.
Burns	Halverson	Musto	Trello
Caltagirone	Hasay	Nahill	Vroon
Cessar	Hayes, D. S.	Novak	Wargo
Cimini	Hayes, S. E.	Noye	Wass
Cochran	Honaman	O'Brien, B.	Weidner
Cole	Itkin	O'Brien, D.	Wenger
Coslett	Johnson, E.	Peterson	White
Cunningham	Kanuck	Pitts	Williams
Dawida	Kernick	Polite	Wilson
DeMedio	Klingaman	Pott	Wilt
Dietz	Knepper	Pucciarelli	Wright, D.
Dombrowski	Knight	Punt	Yahner
Dorr	Lashinger	Pyles	Yohn

Duffy	Lehr	Reed	Zeller
Durham	Levi	Rocks	Zord
Earley	Levin	Ryan	Zwinkl
Fee	Lynch, E. R.	Salvatore	
Fischer, R. R.	Lynch, F.	Scheaffer	Seltzer,
Fisher, D. M.	Mackowski	Schmitt	Speaker
Foster, A.			

NAYS—59

Barber	Gallagher	Laughlin	Rappaport
Berson	Gamble	Letterman	Rhodes
Brunner	Gatski	Lewis	Ritter
Cappabianca	George, C.	Livengood	Scirica
Chess	George, M.	Manderino	Sirianni
Clark, B.	Greenfield	Manmiller	Spencer
Clark, R.	Harper	McCall	Steighner
Cohen	Hoefel	McKelvey	Stewart
Cornell	Hutchinson, A.	O'Donnell	Sweet
Cowell	Hutchinson, W.	Oliver	Telek
Davies	Irvis	Perzel	Thomas
DeVertter	Johnson, J.	Petrarca	Wachob
DeWeese	Jones	Piccola	Wagner
DiCarlo	Kolter	Pievsky	Zitterman
Fryer	Kukovich	Pistella	

NOT VOTING—13

Cianciulli	Helfrick	Richardson	Street
Dininni	Kowalyshyn	Rieger	Taylor, F.
Donatucci	Pratt	Rodgers	Wright, J. L.
Dumas			

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

RECONSIDERATION OF VOTE ON
ROCKS AMENDMENT TO HB 640

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

Mr. ROCKS. I move that the vote by which amendment A2256 to HB 640, PN 1571, was defeated on the 25th day of September 1979, be reconsidered.

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

Mr. MULLEN. I second the motion.

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

The following roll call was recorded:

YEAS—179

Alden	Fisher, D. M.	Mackowski	Salvatore
Anderson	Foster, A.	Madigan	Schmitt
Armstrong	Foster, W.	Manderino	Schweder
Arty	Freind	Manmiller	Scirica
Austin	Fryer	McCall	Serafini
Barber	Gallagher	McClatchy	Seventy
Belardi	Gallen	McIntyre	Shadding
Beloff	Gamble	McKelvey	Shupnik
Bennett	Gannon	McMonagle	Sieminski
Berson	Gatski	McVerry	Sirianni
Bittle	Geesey	Micozzie	Smith, E.
Borski	Geist	Milanovich	Smith, L.
Bowser	George, C.	Miller	Spencer
Brandt	Gladeck	Moehlmann	Spitz
Brown	Goebel	Mowery	Stairs
Brunner	Gray	Mrkonic	Steighner
Burd	Greenfield	Mullen, M. P.	Stewart
Burns	Grieco	Murphy	Stuban

Caltagirone	Gruppo	Musto	Swift
Cappabianca	Halverson	Nahill	Taddonio
Cessar	Hasay	Novak	Taylor, E.
Chess	Hayes, D. S.	Noye	Telek
Cimini	Hayes, S. E.	O'Brien, B.	Thomas
Clark, B.	Hoeffel	O'Brien, D.	Trello
Clark, R.	Honaman	O'Donnell	Vroon
Cochran	Hutchinson, A.	Oliver	Wagner
Cohen	Hutchinson, W.	Perzel	Wargo
Cole	Irvis	Peterson	Wass
Cornell	Johnson, E.	Petrarca	Weidner
Coslett	Johnson, J.	Piccola	Wenger
Cunningham	Jones	Pievsky	White
Davies	Kanuck	Pistella	Williams
Dawida	Klingaman	Pitts	Wilson
DeMedio	Knepper	Polite	Wilt
DeVerter	Knight	Pott	Wright, D.
DiCarlo	Kolter	Pucciarelli	Wright, J. L.
Dietz	Lashinger	Punt	Yahner
Dombrowski	Laughlin	Pyles	Yohn
Donatucci	Lehr	Rappaport	Zeller
Dorr	Letterman	Reed	Zitterman
Duffy	Levi	Rhodes	Zord
Dumas	Lewis	Richardson	Zwikl
Durham	Livengood	Ritter	
Earley	Lynch, E. R.	Rocks	Seltzer,
Fee	Lynch, F.	Ryan	Speaker
Fischer, R. R.			

NAYS—13

Cowell	Harper	Kukovich	Scheaffer
DeWeese	Itkin	Levin	Sweet
George, M.	Kernick	Michlovic	Wachob
Grabowski			

NOT VOTING—11

Cianciulli	Goodman	Pratt	Street
Dininni	Helfrick	Rieger	Taylor, F.
Giammarco	Kowalshyn	Rodgers	

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

On the question recurring,

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

Mr. ROCKS reoffered the following amendments:

Amend Sec. 201, page 6, lines 24 and 25 by striking out "and;" in line 24 and all of line 25 and inserting where an affidavit is filed by each of the parties

Amend Sec. 201, page 6, line 30 by removing the semicolon after "divorce" and inserting a period

Amend Sec. 201, page 7, lines 1 through 7 by striking out all of said lines

On the question,

Will the House agree to the amendments?

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

Mr. ROCKS. Mr. Speaker, I know there was much debate on this amendment yesterday. I would like to just summarize a couple of points, and in reconsidering the vote on unilateral no-fault divorce, I would urge the assembly to consider the following points: Whether intended or not, when unilateral no-fault divorce is the policy of a state, no marriage, as I believe was stated yesterday, has any legal permanence. No spouse has any right guaranteed by law except the right to a divorce. Thus, Pennsylvania will move from a promarriage and profamily

policy to a prodivorce policy. Whether or not this affects the divorce rate directly, it is our belief that it is bad policy. Granted, there are many forces undermining marriage and family life in this society today, and granted that the law itself is the only one of these by what it teaches, it is still bad policy to endorse divorce with no limitation whatsoever. A fact that surfaced here yesterday, that 44 other states have some form of unilateral no-fault divorce, all in force for a period of less than 10 years, does not in our mind confirm its essential soundness as public policy.

Mr. Speaker, I would ask for some order in the chamber. I know the latitude that was given to us yesterday in this debate, but I believe it is a very important question that we face.

The SPEAKER. The gentleman may proceed.

Mr. ROCKS. Reports on the impact on the lives of spouses and children are mixed, but one thing appears to be certain — unilateral no-fault divorce benefits only those spouses who are affluent enough, independent, and can benefit from property division or alimony, for the independent spouse who wants a divorce without grounds and is freed from the responsibilities of marriage. But it always hurts dependent spouses in the middle- and lower-economic strata who have committed no serious marital fault and are deserted by their spouses with state approval and no meaningful financial protection.

A final point: A reform law without unilateral no-fault divorce will help at least 80 percent of those involved in marital dissolutions who now must contrive to establish one guilty and one innocent party, and so far as the other 20 percent are concerned, unilateral no-fault divorce will hurt many more than it will help, and those who are hurt are those who are most vulnerable, the financially dependent, those who have given themselves entirely to home and family and are least able to survive financially on their own.

Once again I thank you for the amount of time that was given to this debate yesterday, and we urge you today, vote for this amendment, eliminate unilateral no-fault divorce from HB 640. Thank you, Mr. Speaker.

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

Mr. WILLIAMS. Mr. Speaker, I rise to support the amendment to eliminate unilateral divorce. Mr. Speaker, I think Mr. Rocks is so right, the state ought to have a policy with regard to families. We have a policy that goes to support, maintain, and unify families. In this country today there are 2 million marriages, 1 million divorces. One of every two families is broken up. In addition thereto, Mr. Speaker, we have several families going through social trauma, the impact of which happens to our progeny, our children, and our kids. There is so much fragmentation in our nation today, Mr. Speaker, that there is no excuse that other states are doing it to make a makeweight argument for us to advance the breakup of families. Pennsylvania has the opportunity to say "no." Pennsylvania has the opportunity to pause and say, we should do more to bring families together; that we should not legislate to make it easier and promote the breakup of families.

Mr. Speaker, it is my opinion that young people have insufficient counseling, and we know that other people have insuffi-

cient support from our state and our agencies, and, therefore, we have a massive breakup of families anyway even under the laws that we have. But, Mr. Speaker, I think it is our obligation to correct those supports and do more to help young people make it in the world, young men and young women, and people who have achieved habits because they live on a trip and in a fast society and to not allow them to struggle with the fundamental unit of this country, the fundamental unit throughout the world, and that is the family. We should do everything we possibly can to improve that unit, to create growth instead of creating an aperture—no, a chasm—through which people will have an easy excuse to go.

That is not only for young people; it is also true for a lot of people who are elderly and who do not have that guidance and support, and so you go away a year and you automatically have a divorce. And this world is a very wily world, let us face it. The appeal on the outside presses on us on t.v.; it rushes at us from every direction, and we all have our weaknesses and we all have our temptations, and, Mr. Speaker, I think that we, if we can, should promote what our spiritual training teaches us, and that is merely to hang in there and to struggle with something positive and something good. I think there is nothing more solid and more good than the families of this country, than the families of our neighborhoods, and we need to give them a chance, and I think this unilateral provision is just one step to imitate, to imitate a direction of a fast world, to imitate a direction of a lot of people who can afford that, to imitate a direction of those who privately would benefit by that. Well, their own values are up to them, but the hardworking people of this country, the hardworking people of this country cannot afford that trip. The hardworking people of this country are asking those of us in a position to act to restore some values, restore some values so that we can with our people bring them together. Mr. Speaker, I think that this is what this provision is all about. It is an attack on the fundamental unit of this country, and we need to think hard and long before we do anything to invade those values before we do anything to increase the trip that I do not think we can afford as a people.

The SPEAKER. The Chair recognizes the lady from Cambria, Mrs. Clark.

Mrs. CLARK. Mr. Speaker, I want to speak and stand in support of this amendment.

Society is looking toward the family as a key to solving many of today's pressing social problems, and the authors of this bill speak of the family as a basic unit of society and of the protection and the preservation of the family as of paramount importance. This all means that stable marriage is essential for a healthy society, but the unilateral divorce clause undermines the right to resist divorce. It eliminates, from the start of a marriage, the whole idea of permanence in marriage.

The unilateral provision weakens the meaning of commitment by offering easy divorce. If the unilateral clause remains as a part of this divorce reform bill, it will have a serious impact on the lives of many. A spouse will be able to desert a marriage for the slightest frivolous and most senseless reasons.

If we are really concerned about keeping marriage a perma-

nent arrangement where possible for as many people as possible, then the unilateral divorce clause should be deleted from this because it does not reform the divorce law, but rather it encourages a divorce mentality which is a threat to family stability right from the start of the relationship. I ask you to support this amendment.

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

Mr. McVERRY. Mr. Speaker, laws do not and cannot keep people together. Laws cannot and do not keep marriages together. People keep people together and people keep marriages together, and our forcing people who, one or the other, no longer want to be together to be so, is, in fact, a deterioration of the basic family unit. It is what tears the heart out of a family today when there is marital discord that is without resolution.

Under the current status of our law, married spouses are not required to live together. Therefore, they can legally live separate and apart so that separation is not illegal; it is legal because nothing requires spouses to live together. Therefore, when one disgruntled spouse leaves a marriage relationship, what is the other spouse left with? I tell you that the other spouse is left with, besides dissatisfaction, possibly, or relief, possibly, the other spouse is entitled to the right to support, and that is it — the right to support and the right to his or her own independent property; no marital property; his or her independent property, and that is all in the world that that spouse is entitled to and/or is left with.

To keep the other spouse from terminating that marriage relationship seems rather incongruous to me when, under this law, the spouse remaining would not only have the right to support following the termination of the marriage, but would have the right to equitable distribution of the property; not just property which is in his or her own name, but any and all property which has been acquired from the date of the marriage on no matter how it is titled or where it is held.

So I submit to you, at the risk of being indelicate, that the statement that this law provides to a spouse only the guarantee of a divorce is blatantly inaccurate, because although this law does provide that guarantee of a divorce after a 1-year separation, cooling-off period, during which that person can be mandatorily subject to counseling so that he or she can recognize the errors of their ways, this law not only provides alimony subsequent to a divorce, which has never been the law in the history of this Commonwealth, and, therefore, the economic security of support of the dependent spouse is guaranteed ad infinitum, but it also provides the actual disposition of property, the breadth of which has never been contemplated by this legislature before, for the protection of the remaining family unit and spouse who possibly did not care for the divorce.

I submit to you that this recognition of this law is not in fact an encouragement of the breakdown of the moral fabric of our society or the breakdown of a family, but rather the recognition of a social reality and the granting of the economic security that a dependent spouse has so woefully sought through the centuries that this decrepit divorce law under which we now operate has been in existence, and I urge you, Mr. Speaker, to

defeat this amendment as you did yesterday, only more soundly, so that we can get into the 20th century with our law and proceed from now.

The SPEAKER. The Chair recognizes the gentleman from Fayette, Mr. DeWeese.

Mr. DeWEESE. Mr. Speaker, in 1856 the British Parliament took a giant step forward and eliminated the ecclesiastical law or the cannon law for misconsiderations of divorce.

It was a drastic change in that time for those people in merry England, and now we, in Pennsylvania, have the opportunity to accept a drastic change in our Divorce Code, a drastic change which, when you come to think about it, is not quite so drastic.

In the very early morning of the Roman Empire, centuries before the commencement of decay and decadence in the years of Augustus, no-fault divorce was a reality in Rome. Seven witnesses saw the bride and groom or the unhappy couple sign a piece of paper, and then they sent heralds into the countryside and announced their divorce. I do not think it is necessarily a new idea.

We all know that many other states have these statutes, and we are told that that is not a very good argument, but I think that I do have a good argument and I think that the best way for me to encapsulate my argument is to quote the great Irish playwright, Oscar Wilde. He said that the one charm of marriage is that it makes a life of deception absolutely necessary for both parties. Now whether you agree or disagree with this impassioned Irishman, I think you have to realize that the divorce codes of the Commonwealth of Pennsylvania are riddled with deception and it is time for a new day in Pennsylvania. I urge defeat of the Rocks amendment. Thank you.

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

Mr. ZELLER. Mr. Speaker, I was quite moved by the former speaker, not of what he said but the way he said it. It has not snowed me in any way, except that I still respect him and his right to speak.

In his quotes and the same crowd, it appears to me, that are pushing for defeat of the Rocks amendment and quoting back to the biblical days in regard to the granting of divorces are the same group that votes for abortions, and they did not allow them back in those days. So they are just not consistent. And then when they talk about Oscar Wilde, if I remember correctly, and I want to be quoted right, this guy was a little odd. So I do not know, Bill, but when you start quoting people, start using some people whom I can have some respect for.

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

Mr. WHITE. Thank you, Mr. Speaker.

Mr. Speaker, I rise to oppose the amendment. I have listened to a number of our colleagues discuss the present situation as regards to the instability, quote, unquote, of the institution of marriage.

I would suggest, Mr. Speaker, that the instability of a marriage is not determined by law. It is determined by the commitment that two people make to one another from the outset.

I do not believe that we need to continue to make excuses for the failings of individuals, nor do I accept that we should pass this amendment on the basis or the fact that we are, in fact, eroding the basis of a marriage and the stability of a family, and that, by some miracle, by not passing a unilateral divorce provision, that we are going to be enhancing the institution of marriage. I believe that that is a fallacy. I believe that even in the case of individuals who are caught up in the stress and turmoil of the separation and potential divorces by not having a unilateral position, we do not, in fact, change very much in the Commonwealth of Pennsylvania.

We will still continue to run people out of our Commonwealth and into other states to seek the same relief. We will continue to force people to find fault with one another, and I think that that is wrong.

The family structure changes, Mr. Speaker, because times change, and I would urge that this House would vote to defeat this amendment so that we can bring Philadelphia out of the Dark Ages and into the 20th century. We thank you.

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

Mr. MURPHY. Yes, Mr. Speaker. Having listened to the debate for 2 days, it seems to me that there are three very compelling arguments as to why we have to support Mr. Rocks' amendment. The first is that in our law and our society we view contracts as very important. A contract between two corporations is upheld by our law and it becomes very difficult for one corporation to break that contract. It seems to me it should be no less in a marriage contract between two people who sign basically on the dotted line a contract for life, and it seems that it should be very difficult to break that contract, and one party should not have the permission to unilaterally dispose of that contract.

Secondly, our society has established a relationship between a man and a woman in many forms of contracts, pension programs, medical benefits. Social security establishes a relationship between a man and a wife so that a wife will receive benefits if the husband passes away. If the husband retires, the wife also receives pension benefits. If you eliminate that relationship between a husband and a wife and you permit that relationship to be eliminated unilaterally, it seems to me the laws in many areas are then invalid, and the wife will suffer economically because of the way our present laws are written. And, third, for some people there are very strong religious beliefs that forbid divorce, and in this particular case when there is a divorce, the wife or the husband would be forbidden to practice in the church any longer, and I think that is something you have to take into account. If one spouse is devout to a certain religion and the other spouse makes a decision to divorce that person, it could well be that that would disallow that person from practicing in their church any further. It seems to me that is a usurpation of authority and responsibility by one person unilaterally that should not be permitted in our society.

Finally, I think you have to view this in the context of history, and we have said history is changing and we have to bring the laws up to date. I am not so sure that that rush to progress

is a good idea. Very often we have read where states have passed laws and we have followed suit. The no-fault automobile insurance is something we will be discussing, where we followed suit a number of years ago because many states in this country had no-fault automobile insurance and we thought it was a good idea, and now many of those states are rescinding their no-fault automobile insurance laws. I am not so sure that because you argue that West Virginia and Maryland and Ohio have no-fault divorce, we should also. There is no assurance that 3 years from now they will not also rescind those laws because they will realize it was a bad idea.

I urge the support of this amendment because I believe that it is with the times to encourage the strong family unit in this state and we do not want to further destroy the idea of the permanence of that relationship. Thank you.

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

Mr. McKELVEY. I appreciated the remarks of the gentleman, Mr. DeWeese. I would like to remind the gentleman that the structure of Roman law that he quoted was under Republican rule at the time. Things, no-fault divorce changed to Imperial Rome, and the divorce procedure was handled in a much different situation.

I would like to discuss the Rocks amendment in the sense of the rights of the individual. Whenever the legislature passes an act, it comes under the purview of the courts to interpret that act when there is a disagreement. Whenever the court has ruled on the law, it is always concerned with the rights of the individual. I think that the Rocks amendment addresses itself to the rights of the individual. If the individual in that partnership desires to object, the Rocks amendment gives them the opportunity to offer that objection. I also feel that it gives the State of Pennsylvania, the Commonwealth, an opportunity to draw the line on morality in the family a little further from the wall than the current House bill offers. It is an important vote, and I hope that the members think about it before they vote. It is the rights of the individual, it is the right of morality of society in Pennsylvania, and I know you will think about it. Thank you, Mr. Speaker.

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

Mr. RITTER. Mr. Speaker, I urge defeat of the amendment also. I think what has concerned me over the years is that we seem to have it so easy to get married and we make it very difficult to get divorced, and perhaps we ought to make it the other way around and make it a little bit more difficult to get married. We talk about a lifetime contract. There are young people today getting married who have not any idea what that lifetime contract or commitment really is. So we ought to recognize that if we are not going to make it more difficult to get married, we ought to recognize that there are some times when adults simply cannot and do not get along.

When we talk about the family unit and the importance of keeping it together, I submit to you that I do not think it is a very healthy family unit when the parents cannot and do not get along, and the children grow up in that environment where

their parents do not speak to each other, or, if they do, it is through the kids, tell your father to do this or tell your mother to do that, and if that one spouse who does not want the divorce says, I do not care what you do or what happens, I am simply not going to give you a divorce, and there are children involved, it seems to me that this Commonwealth ought to take recognition of that fact. That is not necessarily a healthy environment for children. How much better would it be if that spouse could get a divorce, find another mate, raise those children in a home environment where there was some love and caring and some communication, rather than to make that family stay together as a unit because we say that that is the best thing for this Commonwealth. I do not think it is.

I think we ought to defeat the Rocks amendment. We ought to get on with the bill, which I think does, for the first time, things that should have been done in this Commonwealth for a long time, and that is the recognition that adults do not always get along, and you can pass all the laws you want to, you are not going to make them get along. It is the old story, you can lead a horse to water but you cannot make him drink, and you can say to two people, we are going to make you stay married for the rest of your natural lives, but that does not mean there is going to be harmony and love and affection in that marriage. I think we should defeat the Rocks amendment and then get on with the bill.

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

Mr. SCIRICA. I will try not to take too much time. I think it is important for all of us to realize that Pennsylvania has the distinction of having the worst Divorce Code in the entire nation. It has the most unfair law and it offers the least protection to an economically dependent spouse.

I just want to make three points before we vote this bill. The first is that this is not a retreat from a promarriage position. For the first time we will have in our law a mandatory conciliation procedure so that if one spouse desires counseling, they will be able to get it. Statements that have been made to the effect that this will increase the incidence of divorce are simply not true. The great rise in divorce in this country occurred between 1967 and 1972, when it rose approximately 60 percent. The first no-fault divorce law went into effect in California in 1970, and most of the others were not enacted until after 1972. I am afraid that little that we can do here today, with the exception of the conciliation provisions, are going to do anything to save marriages, but we have an obligation to make the law more fair and we have an obligation to protect where possible the economically dependent spouse.

Mr. Speaker, this bill does not provide for divorce on demand. You just cannot walk into a courthouse and get a divorce. You cannot walk away from a marriage. It specifies that the parties must live separate and apart for a period of 1 year and that the party who does not consent has the option to get court-ordered counseling. Yesterday Mr. Wagner told you that we have unilateral divorce right now in Pennsylvania. We have it under the old fault grounds. You do not need consent to get a divorce in this state if you can prove the fault grounds, and anybody who

knows anything about a contested divorce will tell you that it leaves scars that rarely, if ever, heal.

My third and final point is that for the first time this bill does provide economic protections. It enables parties who cannot agree on an economic settlement to have recourse to the courts and have them decide matters of alimony and property distribution and child support in one consolidated action instead of the multiplicity of actions that people have to endure right now. It is illogical to argue that the economic protections for the dependent spouse are not adequate under the unilateral grounds but are adequate under the traditional fault grounds, because the fact is that economic provisions of this bill apply across the board, no matter what the grounds for divorce.

Mr. Speaker, I cannot support a bill that holds out the promise of equity and economic protection for the dependent spouse but then says to get it you have to run the gauntlet of a protracted, expensive and bitterly contested divorce. I ask for the defeat of this amendment.

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

Mr. MULLEN. Mr. Speaker, I will only be brief.

First of all, in answer to Mr. DeWeese when he said that this is not a drastic change in the law, I think it is not only a drastic change in the law, but it is a drastic change in public policy in Pennsylvania. It has always been the law and it is the law today in Pennsylvania that we try to protect the sanctity of marriage. The way we protect the sanctity of marriage is that we encourage people to get married and we do everything to try and keep them married. When they reach a point where they feel they can no longer live together and a divorce is necessary, we even provide the procedure for divorce; and we do provide the procedures, even today under existing law, to provide for the economic benefit of the wife.

So what we are doing now is, we are changing that two ways. We are saying we are no longer going to have as a public policy of the state the policy that you are not guaranteed a divorce. We are going to say, you are guaranteed a divorce, if this amendment is not deleted. That means that any person who contemplates marriage knows that they do not have to worry as to what will happen as they do today, because they will automatically get a divorce. If they get married today, they do not know that they are going to be able to get a divorce if things do not work out. I think that is a bad change in public policy and that is one major reason why we ought to support Mr. Rocks' amendment because it will delete that provision.

Now under existing law today, a wife and family who are seeking support from the husband are entitled to get support, under the law today, and the husband has the right to file for divorce. But it is important to know that if he files for the divorce and the wife contests—and it works the other way, I am just going to use this instance because this is where you have most of your problems—that man is entitled to divorce if he can show that the wife in fact was not a good wife. Most of the divorces today, as I said yesterday, are granted under the grounds of indignities to the person, and indignities to the person is an accumulation of grievances added together over a

period of time which makes life burdensome and intolerable. That husband, under the law today, has a right to get a divorce.

What we are doing here now, if we retain this provision in the bill, is telling that husband, you can be a no good s.o.b. and do anything in the world that may be detrimental to public morals, may be detrimental to his own family and his spouse, and we are still going to give you the divorce. This is wrong.

I think all of us have an obligation to try and maintain the sanctity of marriage and to encourage marriages to stay together. Certainly the conciliatory provisions which we have in the bill are of great importance. I do not think that it is going to change that many people who are seeking divorces from not seeking them, but I think it is going to help.

So I certainly strongly urge everyone to support the Rocks amendment and then we are in pretty good shape. I do not think we ought to change the public policy of the state or the law in that particular respect. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Franklin, Mr. Punt.

Mr. PUNT. Mr. Speaker, I cannot help but recall Mr. DeWeese's comments to the House which has been informed that was made under Republican rule. I would like to share another comment. "The greatest pleasure in life is variety in life." That came from Mickey Rooney and Elizabeth Taylor, and they are both Democrats.

Mr. Speaker, yesterday and today I have listened to both arguments. I think excellent points have been brought out from both sides. I have had conversations and discussions all morning this morning. Something which I think we need to address is of the well being, the environment, the surroundings of hostility and animosity, perhaps hatred within the home which would affect those children.

Yesterday I voted to oppose Mr. Rocks' amendment. I am of the opinion that I do not think that government should establish moral attitudes and positions for the people of this state or this country. I think those moral attitudes should be determined by the individuals' religious and moral convictions.

Marriage is a holy sanctimony. Having never been married, having never had the opportunity to be a father—but I am taking applications—I feel that we have no right to determine moral beliefs or policies. I feel that Mr. Rocks' amendment is doing just that. We all at one time or another will answer to these supreme beings, whatever your religion is, if you have one. We will all answer for our actions on this planet. I think that individual should have that choice.

The laws which have been governing divorce in Pennsylvania are archaic. With that attitude and implant in mind, I would encourage the membership of this House not in dictating moral beliefs, moral sanctities, but leave that individual makeup to that choice, and I shall support those efforts. I would hope and request that this House vote against the Rocks' amendment.

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

Mr. FREIND. Let me say at the outset that I am not personally involved with either this amendment or this bill because my

wife has assured me that she will not divorce me at present since I am not worth enough. Since the courage we have shown in voting on pay raises, if I may remain in the legislature for awhile, I am safe. So I am not personally affected.

I would like to make a couple of comments on my friend, Mr. DeWeese. One of the individuals he quoted on marriage was, I believe, Oscar Wilde. I will submit that while I enjoyed a lot of Mr. Wilde's works, he is not the very best authority to speak on that institution since, to put it kindly, were he alive today, he would strongly have supported the Governor's resolution several months ago about gay rights.

Mr. Punt injected a partisan consideration here about Rome. I would just like to carry that a little bit further. You know what happened to the Roman Empire with Hannibal; he trampled it and he used elephants, Mr. Speaker.

Okay, enough humor, you are right.

The gentleman from Lebanon, Mr. Moehlmann, suggested that you either have 102 Catholics or we do not, so why do we not vote the thing? I would like a show of bingo cards, please. I think we have already beat the philosophical issue to death.

But on a serious note: My concern and my support for this amendment is about the women in my parent's generation. Let us take a hypothetical case. You have a couple who are in their mid 50's. The wife, by her own choosing, has decided to spend her life as a wife and a homemaker. She has not developed a career; she has not developed a profession. If this bill is passed without this amendment, what can happen is that the husband can leave for 12 months and that is the ballgame. He gets a divorce. Now there is an alimony provision. Let us say that he is an average-, low-, or middle-income wage earner who makes \$200 to \$210 a week. The very best that woman can expect to get is a small property settlement, because there is not much property but maybe a third of what he makes, \$70 a week, possibly. Now how can she live on \$70 a week?

The irony of this bill is that the provisions with respect to the mutual divorce are 10 or 15 years overdue. I agree with the bill as far as it goes there. Right now the present law is an incentive to perjury.

With respect to the unilateral divorce, it is about 10 or 15 years too early. In 10 to 15 years, people in our generation, the women, most of them, will have developed careers and professions. Therefore they will not be left stranded.

Right now, unless we adopt this amendment, we are going to work devastation on those women in that particular age bracket who have given their lives to raising their family and being a wife and taking care of the home. Even with the passage of this amendment, we would have an improvement and we have taken a quantum leap forward. I hope we pass the amendment and then pass the bill. Thank you, Mr. Speaker.

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

Mr. KUKOVICH. I hesitated to rise today because I spoke at length yesterday on this issue. I did not want to reiterate myself, and I will not, but I was a little upset by some of the debate today, and I am not going to go into the statistics and facts that I quoted yesterday that shows that this will have no discernible impact on the divorce rates. I will not go into the fact

that if this goes through, it will in essence do more damage economically to spouses, especially middle-aged women.

I am concerned about the fact that once again we are imposing our moral judgments on the individuals of this Commonwealth. Whom do we think we are in this body that we feel we can protect the sanctity of marriage? It is really a joke. I think it is about time we start facing reality, get our heads out of the sand and bring Pennsylvania back into the 20th century.

Just one more thing: I would submit to you that those people, such as myself, who have seen the kind of emotional suffering that goes on in these matters, would urge defeat of this amendment. I would suggest that a vote for the Rocks amendments is a vote for a continuation of such human suffering. Please vote against this amendment.

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

Mr. GAMBLE. I rise to urge a "no" vote also on the Rocks amendment. We have heard the arguments about the Roman Empire, the arguments about the legal contract aspects, the arguments about the religious aspects, when I think the real argument is love. It is something that has not been mentioned in this argument of 2 days. When love flourishes, marriage results. When it diminishes, one of the partners should be able to end the relationship. Marriage was not meant to be a form of mental anguish or torture, and that is what has resulted in our present antiquated divorce law.

I will leave you with a few words of wisdom: Love usually results in marriage, whether you are rich or whether you are poor, but when love goes out the window, one should be allowed to go out the door. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Rocks, for the second time.

Mr. ROCKS. Mr. Speaker, I did not intend to come to the microphone again, but I feel that it is very important to answer the last three points that have been raised, when the amendment that is before us is referred to as a moral policy, a moral question that should not be before this chamber, I would say that if that is the case, then I would assume that those three speakers would also be voting against HB 640, because it is the bill itself that addresses the matter of marriage and divorce in the Commonwealth of Pennsylvania.

I and other speakers, I believe, voted reasonably and very rationally and have explained that we stand in support of the very important reform provisions that are contained within HB 640, the provisions of alimony, equitable property settlement, conciliation, as we amended the law yesterday, and mutual consent no-fault divorce. But the singular aspect of this bill, unilateral no-fault divorce, does in fact change the law of this Commonwealth, the public policy of Pennsylvania, so that it is a prodivorce policy and not a promarriage and not a profamily policy.

It is finally my belief that the moral argument is before us in the bill itself, and certainly it is contained in my amendment. Those policies are a matter of civil law. They are not going to go away today or tomorrow. Hopefully, we will address them now and, hopefully, we will adopt the amendment that takes unilat-

eral no-fault divorce out of this bill and allows us to reasonably proceed with the necessary reform in Pennsylvania. Thank you.

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

Mr. WILLIAMS. Mr. Speaker, I just wanted to be responsive, very briefly, on the argument against the Rocks amendment. A lot of people have talked about you cannot legislate morality. I just want to say we legislate marriage and we also, therefore, I guess, take the right to legislate the rules by which that should go or divorces should go. And so what is wrong with making the provisions about marriage and divorce? I do not think it has anything to do with legislation of morality. If marriage did not exist, divorce would not be a question. Marriage exists, it is legislated and all of that, and divorce becomes a question. It is said that we cannot legislate morality. I just wonder if some of you guys who are not yet married really know something about the problem. First of all, we go into this and children are thought of. There is a fundamental responsibility to children. The husband and wife are never perfect, but the more we promote, the more we make it easy for people to avoid responsibility, to avoid communication, to avoid the interchange, then what we do really is we take away a vested thought and a vested right that started from the beginning with regard to children. Children have a right to expect that their parents will try to make a go of it, and if the state says, well, look, you know, you can just go ahead for a year, I guarantee you that many wives are going to say, well, if you do not do it my way, I am going to leave, and the husbands are going to say the same thing, independent of anything else.

I was married for 25 years. I am still married. I am separated for about 7 of those years, and I am not saying that my wife and I did not have good solid reasons, and we had difficulties, but it gave us both time to think over those 7 years, and I have not found a woman like her, and I learned that in 7 years. I am not saying we are going to make a go of it, but I tell you that this one person, who thought I knew it all, thought about that, and what is wrong with the state saying okay, human beings are imperfect, and we are going to say, okay, you think about it.

And I tell you that there are a lot of guys, and some guys here, and a lot of guys I know when they go out on the town or wherever, there are a lot of irresistible people of the opposite sex and some very moral-living man for 20 or 30 years succumbs, and it happens vice versa, until a year or so after he has moved out he has learned that he caved in to those weaknesses, that he caved in to those weaknesses against the interests of his children and his family, and some of those people rethink it and get it back together even stronger, and that is a very significant part of this area. There are also other people who have other weaknesses and other reasons who will not have the opportunity to rethink. That is not morality; that is common sense and we in this society allow too much thinking and too much rethinking.

Indeed, everybody talks about counseling, but we do not really work at it. I am saying that we say, okay, go away for a year. It is absolutely foolhardy to think that people do not get along and therefore cannot make it. I have been a lawyer for more than 20 years. I have handled any number of domestic re-

lations cases and I counseled, and I am here to tell you I have seen other lawyers, too, bring people who did not think back together. That happens. They were inescapably on another treadmill. That is not morality; that is common sense. And I say to you that we have not even given thought about the impact on whether you are poor or whether you are rich or where you are in this society. Look, let us face it, those who have more will just take and do it, and those who have less and have more reason to get that family together will not do it. That is not morality; that is common sense. And I say to those who propose a modern, liberal let-us-take-this-out-of-the-Dark-Ages concept, they have not either been around long enough and looked deep into the crevices of how people struggle to live, who have not seen children who are torn apart at the thought of parents separating. That has happened, and they struggle silently, and we are abdicating our responsibility with their right to hope that mom and pop can get it together. And I will tell you, I told you a little bit about my personal situation. I did not mean to do it, but my comments are based on being there, that my three children, mostly adults today, watched that all along, and they are together with mom and pop today, even though we are apart, because they saw us struggle with some human problems, and they saw us apart, rethinking it, and they saw us say nice things about each other, and the divorce, whether it comes or not, is irrelevant, but 1 year after that, I think that would have harmed their healthy growth, and, Mr. Speaker, that is not morality.

So for those of you, all, who use that cold word, let us not legislate morality, you are giving us an extreme diversion on basic common sense. Thank you.

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

Mr. BERSON. I do not want to give any speech on morality. I would like to talk a little common sense. I have practiced law in this field to some extent and I think I am familiar with what is occurring today. I would hope that the House would bear in mind what the practical considerations are.

We can debate divorce in the abstract, its merits and its demerits if Pennsylvania were located at the North Pole. But we are not. We are one of 50 states; 44 of those states have adopted some form of unilateral no-fault divorce. The states that surround Pennsylvania — Ohio, West Virginia, Delaware, New Jersey — all have some form of unilateral no-fault divorce today.

What is happening—and since the woman is usually the dependent spouse, I will use that as an example. What is happening today—is that men are having the best of all worlds in Pennsylvania.

In the Philadelphia area, they are taking the subway and riding to Jersey, establishing residency, getting their unilateral no-fault divorce. The wife gets an award of alimony. The men move back to Pennsylvania.

The Pennsylvania Supreme Court has said alimony is against public policy in Pennsylvania and, therefore, the award cannot be enforced as alimony. The wife has an option. She can go back to New Jersey, reduce the award, the judgment, bring the judgment back to Pennsylvania and sue him on it. That is technical-

ly, legally feasible but practically is almost no option at all.

Now, we have, by an archaic, backward divorce law, created that kind of bonanza for husbands in this state. Unless we provide a mechanism similar to those that exist in the surrounding states, we are going to perpetuate this. Similarly, there is no provision in the current law for a division of marital property. Again, for a wife deserted by a husband with assets, that provision is a two-edged sword. She might want to move for a divorce and compel the husband to divide his assets equitably with her. It is not all one way.

We can bring Pennsylvania into the 20th century. We can solve what is a real deep social problem. We can force people to stop evading court orders rendered in other states by not passing Mr. Rocks' amendment. I would urge you to vote "no" on it.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—99

Alden	Gallen	McKelvey	Shadding
Armstrong	Gannon	McMonagle	Shupnik
Arty	Gatski	Micozzie	Sieminski
Austin	Geist	Milanovich	Sirianni
Belardi	George, C.	Mrkonic	Smith, E.
Borski	Giammarco	Mullen, M. P.	Spitz
Brunner	Goodman	Murphy	Stairs
Caltagirone	Gray	Musto	Steighner
Cappabianca	Grieco	Novak	Stewart
Cessar	Gruppo	O'Brien, B.	Stuban
Cimini	Hasay	O'Brien, D.	Taddonio
Clark, R.	Hayes, D. S.	Perzel	Taylor, E.
Cole	Hayes, S. E.	Peterson	Telek
Coslett	Johnson, E.	Petrarca	Trello
Cunningham	Jones	Pitts	Vroon
Dawida	Klingaman	Pott	Wargo
DeMedio	Knight	Pucciarelli	Wass
Dietz	Laughlin	Pyles	Wenger
Dombrowski	Levi	Reed	Williams
Duffy	Lynch, E. R.	Richardson	Wright, J. L.
Dumas	Lynch, F.	Rocks	Yahner
Fee	Mackowski	Salvatore	Zeller
Fischer, R. R.	McCall	Schmitt	Zitterman
Foster, A.	McClatchy	Serafini	Zord
Freind	McIntyre	Seventy	

NAYS—89

Anderson	Foster, W.	Lashinger	Rhodes
Barber	Fryer	Lehr	Ritter
Bennett	Gallagher	Letterman	Ryan
Berson	Gamble	Levin	Scheaffer
Bittle	Geesey	Lewis	Schweder
Bowser	George, M.	Livengood	Scirica
Brandt	Gladeck	Madigan	Spencer
Brown	Goebel	Manderino	Sweet
Burd	Grabowski	Manmiller	Swift
Chess	Greenfield	McVerry	Thomas
Clark, B.	Halverson	Michlovic	Wachob
Cochran	Harper	Miller	Wagner
Cohen	Hoeffel	Moehlmann	Weidner
Cornell	Honaman	Mowery	White
Cowell	Hutchinson, A.	Nahill	Wilson
Davies	Hutchinson, W.	Noye	Wilt
DeVerter	Irvis	O'Donnell	Wright, D.
DeWeese	Itkin	Oliver	Yohn
DiCarlo	Kanuck	Piccola	Zwilk
Dorr	Kernick	Pievsky	

Durham	Knepper	Pistella	Seltzer,
Earley	Kolter	Punt	Speaker
Fisher, D. M.	Kukovich	Rappaport	

NOT VOTING—15

Beloff	Donatucci	Polite	Smith, L.
Burns	Helfrick	Pratt	Street
Cianciulli	Johnson, J.	Rieger	Taylor, F.
Dininni	Kowalyshyn	Rodgers	

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

REQUEST FOR RECESS

The SPEAKER. It is the suggestion of the Chair that this would be an appropriate time to break for lunch and so the Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, I would ask that the House be declared in recess for a period of 1 hour. That is until 20 minutes after 2.

I would hope that the first roll call is run prior to 2:30.

Pardon me, Mr. Speaker. I see no need for a caucus but rather would hope that we will come back on the floor at 2:20 and stay with this bill until we have concluded it.

The SPEAKER. The Chair recognizes the minority leader.

Mr. IRVIS. There will be no caucus on the Democratic party's part. We will be ready to return to the floor at 2:20.

The SPEAKER. Without objection, this House will stand in recess until 2:20 p.m. The Chair hears none.

AFTER RECESS

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

HB 640 PASSED OVER TEMPORARILY

The SPEAKER. Without objection, HB 640 will be passed over temporarily. The Chair hears none.

CALENDER BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 211, PN 227**, entitled:

An Act amending the act of June 1, 1956 (P. L. 1959, No. 657), entitled, as amended, "An act fixing the salaries and compensation of the Chief Justice and Judges of the Supreme Court," further providing for reports of the Commonwealth Compensation Commission.

On the question,

Will the House agree to the bill on third consideration?

Mr. ALDEN offered the following amendments:

Amend Title, page 1, line 1, by striking out "Amending" and inserting Repealing

Amend Title, page 1, line 11, by removing the comma after "acts" and inserting a period

Amend Title, page 1, lines 11 and 12, by striking out "further providing for" in line 11 and all of line 12

Amend Sec. 1, page 1, line 15, by striking out "Subsection (b) of section 14.2," and inserting The

Amend Sec. 1, page 1, lines 17 and 18, by striking out "added June 29, 1976 (P. L. 452, No. 111), is" in line 17, all of line 18,

and inserting is repealed.

Amend Bill, page 1, lines 19 through 23; page 2, lines 1 through 30; page 3, lines 1 through 10, by striking out all of said lines on said pages

Amend Sec. 2, page 3, line 11, by striking out "immediately." and inserting in 30 days.

On the question,

Will the House agree to the amendments?

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

Mr. ALDEN. Mr. Speaker, my amendment today would simply do what I think some of us have been trying to do since the opening day of this session, and that is, to abolish the Pennsylvania Compensation Commission.

I think this is an important amendment, one that will prove beneficial to all the taxpayers of the Commonwealth and to the members of the General Assembly.

By mandating and disposing of our own pay raises, I think we will be held in higher esteem in this Commonwealth than we have been in the last several years.

The taxpayers of this state deserve accountability from their elected officials. I do not think it is very accountable or responsible that our current law provides for pay raises to go into effect automatically upon the Compensation Commission's recommendation.

As lawmakers, we must not abdicate our responsibility to the public on this issue. There should be no hiding behind the Compensation Commission's report or a compensation commission. Those who believe in a pay-raise proposal should have to stand up and be counted. I urge all members today to support this amendment.

The SPEAKER. The Chair recognizes the lady from Allegheny, Mrs. Kernick.

Mrs. KERNICK. Mr. Speaker, I agree with what I think Mr. Alden is trying to do, but his amendment was circulated, I believe, last March or April, and he did not clarify that this amendment is to abolish the Compensation Commission. And if what I say is not true, I wish he would clarify it.

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

Mr. ALDEN. This amendment would abolish the commission.

Mrs. KERNICK. I support the amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—183

Alden	Fryer	Lynch, E. R.	Salvatore
Anderson	Gallagher	Lynch, F.	Scheaffer
Arty	Gallen	Mackowski	Schmitt
Austin	Gamble	Madigan	Schweder
Belardi	Gannon	Manderino	Scirica
Bennett	Gatski	Manmiller	Serafini
Berson	Geesey	McCall	Shadding
Bittle	Geist	McClatchy	Shupnik
Borski	George, C.	McIntyre	Sieminski
Bowser	George, M.	McKelvey	Sirianni
Brandt	Giammarco	McMonagle	Smith, E.

Brown	Gladeck	McVerry	Smith, L.
Brunner	Goebel	Michlovic	Spencer
Burd	Goodman	Micozzie	Spitz
Burns	Grabowski	Milanovich	Stairs
Caltagirone	Gray	Miller	Steighner
Cappabianca	Greenfield	Moehlmann	Stewart
Cessar	Grieco	Mowery	Stuban
Chess	Gruppo	Mrkonic	Sweet
Cimini	Halverson	Mullen, M. P.	Swift
Clark, B.	Harper	Murphy	Taddonio
Clark, R.	Hasay	Musto	Taylor, E.
Cochran	Hayes, D. S.	Nahill	Telek
Cohen	Hayes, S. E.	Novak	Thomas
Cole	Honaman	Noye	Trello
Cornell	Hutchinson, A.	O'Brien, B.	Vroon
Coslett	Hutchinson, W.	O'Brien, D.	Wachob
Cowell	Irvis	O'Donnell	Wagner
Cunningham	Itkin	Oliver	Wargo
Davies	Johnson, E.	Perzel	Wass
Dawida	Johnson, J.	Peterson	Weidner
DeMedio	Jones	Petrarca	Wenger
DeVerte	Kanuck	Piccola	White
DeWeese	Kernick	Pievsky	Williams
DiCarlo	Klingaman	Pistella	Wilson
Dietz	Knepper	Pitts	Wilt
Dombrowski	Knight	Polite	Wright, D.
Dorr	Kolter	Pott	Wright, J. L.
Duffy	Kukovich	Pucciarelli	Yahner
Durham	Lashinger	Punt	Yohn
Earley	Laughlin	Pyles	Zeller
Fee	Lehr	Rappaport	Zitterman
Fischer, R. R.	Letterman	Rhodes	Zord
Fisher, D. M.	Levi	Richardson	
Foster, A.	Levin	Rieger	Seltzer,
Foster, W.	Livengood	Rocks	Speaker
Freind			

NAYS—4

Hoeffel	Lewis	Ritter	Ryan
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NOT VOTING—16

Armstrong	Dininni	Kowalyszyn	Seventy
Barber	Donatucci	Pratt	Street
Beloff	Dumas	Reed	Taylor, F.
Cianciulli	Helfrick	Rodgers	Zwikl

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

REMARKS ON VOTE

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

Mr. ZWIKL. Mr. Speaker, I was out of my seat on the Alden amendments to HB 211. I would like the record to reflect an affirmative vote.

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

The Chair recognizes the gentleman from Centre, Mr. Letterman.

Mr. LETTERMAN. I am sorry I overlooked this bill. Could I have a hold put on this until next week? I want to include legislators in this.

Do I have time to have an amendment drawn?

Hold it just a minute, please.

Take my hold away.

On the question,

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

Bill as amended was agreed to.

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

The question is, shall the bill pass finally?

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

YEAS—187

Alden	Fryer	Lynch, F.	Salvatore
Anderson	Gallagher	Mackowski	Scheaffer
Armstrong	Gallen	Madigan	Schmitt
Arty	Gamble	Manderino	Schweder
Austin	Gannon	Manmiller	Scirica
Barber	Gatski	McCall	Serafini
Belardi	Geesey	McClatchy	Seventy
Bennett	Geist	McIntyre	Shadding
Berson	George, C.	McKelvey	Shupnik
Bittle	George, M.	McMonagle	Sieminski
Borski	Giammarco	McVerry	Sirianni
Bowser	Gladeck	Michlovic	Smith, E.
Brandt	Goebel	Micozzie	Smith, L.
Brown	Goodman	Milanovich	Spencer
Brunner	Grabowski	Miller	Spitz
Burns	Gray	Moehlmann	Stairs
Caltagirone	Greenfield	Mowery	Steighner
Cappabianca	Grieco	Mrkonic	Stewart
Cessar	Gruppo	Mullen, M. P.	Stuban
Chess	Halverson	Murphy	Sweet
Cimini	Harper	Musto	Swift
Clark, B.	Hasay	Nahill	Taddonio
Clark, R.	Hayes, D. S.	Novak	Taylor, E.
Cochran	Hayes, S. E.	Noye	Telek
Cohen	Honaman	O'Brien, B.	Thomas
Cole	Hutchinson, W.	O'Brien, D.	Trello
Cornell	Irvis	O'Donnell	Vroon
Coslett	Itkin	Oliver	Wachob
Cowell	Johnson, E.	Perzel	Wagner
Cunningham	Johnson, J.	Peterson	Wargo
Davies	Jones	Petrarca	Wass
Dawida	Kanuck	Piccola	Wenger
DeMedio	Kernick	Pievsky	White
DeVertter	Klingaman	Pistella	Williams
DeWeese	Knepper	Pitts	Wilson
DiCarlo	Knight	Polite	Wilt
Dietz	Kolter	Pott	Wright, D.
Dombrowski	Kukovich	Pucciarelli	Wright, J. L.
Dorr	Lashinger	Punt	Yahner
Duffy	Laughlin	Pyles	Yohn
Durham	Lehr	Rappaport	Zeller
Earley	Letterman	Reed	Zitterman
Fee	Levi	Rhodes	Zord
Fischer, R. R.	Levin	Richardson	Zwilk
Fisher, D. M.	Lewis	Rieger	
Foster, A.	Livengood	Rocks	Seltzer,
Foster, W.	Lynch, E. R.	Ryan	Speaker
Freind			

NAYS—3

Hoeffel	Ritter	Weidner
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NOT VOTING—13

Beloff	Donatucci	Hutchinson, A.	Rodgers
Burd	Dumas	Kowalshyn	Street

Cianciulli Helfrick Pratt Taylor, F.
Dininni

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.

The House proceeded to third consideration of **HB 367, PN 389**, entitled:

An Act amending "The Game Law", approved June 3, 1937 (P. L. 1225, No. 316), repealing the bonding requirements of deputy game protectors.

On the question,

Will the House agree to the bill on third consideration?

Mr. GOEBEL offered the following amendments:

Amend Title, page 1, line 5, by removing the period after "protectors" and inserting , and providing for the taking of one bear during a person's lifetime.

Amend Sec. 1, page 1, line 9, by inserting after "amended" and the act is amended by adding a section.

Amend Bill, page 2, by inserting between lines 13 and 14 Section 501.1. (a) A person may, in accordance with this act, kill only one bear in his lifetime.

(b) The hunting, killing or taking of any bear by a person who, after the effective date of this section has already killed one bear, shall be unlawful and shall be punishable as provided in section 506.

On the question,

Will the House agree to the amendments?

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

Mr. D. S. HAYES. Mr. Speaker, this amendment, was this discussed in caucus? The "picture" amendment, was it discussed in caucus?

The SPEAKER. It is the Chair's understanding that the amendment has been discussed.

The Chair recognizes the gentleman from Allegheny, Mr. Goebel.

Mr. GOEBEL. Mr. Speaker, I think we are going to address the amendment that deals with one bear and one man. I think that this is a problem that we must tackle, and that is why I am offering it as an amendment. We have this year coming up a bear season for the first time in many years. The bear population should be pretty good this year. They probably may take 400 bears, 300 bears, maybe 500.

The Game Commission would like to see a bear license. That is a separate issue altogether. I think to help the hunting of bear, I have these two amendments to ensure that we have a continued good bear hunting. I have hunted bear almost every season since 1958, and this amendment would say that in effect a person could kill one bear in his lifetime, and I think most hunters are satisfied with this.

There was a newspaper sports editor from the eastern part of the state who writes for an eastern paper and a western paper. He discussed this issue in one of his columns. He surveyed the

hunters, and they sent in their results. In this particular one, 65 percent of the hunters surveyed agree with this, that they would be satisfied to get one bear in their lifetime. I myself would be. I have never got to shoot at a bear yet. This at least ensures, you know, that those 500 or 600 who get a bear will not hunt bear anymore.

So I think everybody understands the amendment and I think everybody is probably prepared to vote on it one way or another. I think if you vote for this, you are voting for what the majority of the hunters want, whether you hunt or not. I think you are voting then to help stabilize the bear hunting in Pennsylvania by voting for this amendment. I thank you for your time, Mr. Speaker. That is all I have at this time on this one.

The SPEAKER. The Chair recognizes the gentleman from Perry, Mr. Noye.

Mr. NOYE. Mr. Speaker, we have discussed this matter previously, not on this particular bill but on another bill at an earlier time, and a lot of the members are asking, you know, where is the federation on this? The federation has taken a negative position on this, but the Game Commission is in support of it.

You know it is an individual decision that each member is going to have to make as to what they support. There is really, to my knowledge, no real strong feeling in opposition to it, but on the record the federation has taken a position, at least at this particular time, in opposing it at least until we address the issue of a bear license in the Commonwealth.

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, I am speaking as an individual, not as the majority leader. I have never been bear hunting. I do not expect I ever will go bear hunting. My own interest, however, is seeking the elusive, long-nosed blue marlin, and I suspect that there are far fewer blue marlin caught off of the eastern seaboard—that is that area where I happen to fish—than there are bears shot in Pennsylvania. And I think that if I were fortunate enough to catch a blue marlin and someone said, now your fishing days are over, I would be very unhappy. And I have to think that if Mr. Goebel were lucky enough to shoot a bear, he would be very unhappy to be told that he no longer could go into the woods and continue his quest or his hunt for immortality by getting a second bear. I just think it is wrong.

I understand what Mr. Goebel is saying that you know, a couple of guys should not go out and preempt all the bears in the woods after you have had yours. But you know sometimes you get the bear and sometimes the bear gets you. And I just think it is wrong and I am against it. The only equation I can draw is that I would be very, very unhappy if, having caught a blue marlin, someone said, you are never allowed to again fish for blue marlin, and I would think the same thing is true of bear hunters or anyone else who is hunting or fishing for a unique prey.

I am amazed that Mr. Goebel has been unsuccessful in his quest for the bear, because I should think he has been into the bear's den a number of times and could probably sneak right up on him.

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

Mr. RAPPAPORT. Mr. Speaker, would the gentleman, Mr. Goebel, consent to an interrogation?

The SPEAKER. The gentleman indicates that he will. The gentleman, Mr. Rappaport, may proceed.

Mr. RAPPAPORT. Mr. Speaker, this amendment is of vital interest to my district, and therefore I want to clean up a few problems. It is a criminal act, Mr. Speaker, if my good friend from Mercer, Mr. Bennett, would invite me to go hunting—and he lives right on the Ohio line—and I am standing in Pennsylvania and shoot a bear that is in Ohio? Would that count against my quota?

Mr. GOEBEL. I think you would have to have an Ohio license to shoot a bear in Ohio, so I think that would not apply in this case.

Mr. RAPPAPORT. Mr. Speaker, is the gentleman telling me that if I am standing in Pennsylvania, I have to have an Ohio license to hunt?

Mr. GOEBEL. Well, you cannot very well hunt bear in Ohio from Pennsylvania. It is pretty rough. Normally you hunt Pennsylvania bears in Pennsylvania.

Mr. RAPPAPORT. Why not?

Mr. GOEBEL. There are no bears in Ohio. Simple as that.

Mr. RAPPAPORT. Mr. Speaker, I am informed by one of my colleagues that perhaps the gentleman mistook a sign that said, bear left, and, being a Republican, he assumed there were therefore no bears. But there are bears in New York State. I have seen them there. We have a long border with the State of New York. What would happen if I am standing in one our northern tier counties and I see a bear across the New York State line? Would that count against my quota, if I was fortunate enough to shoot it?

Mr. GOEBEL. If you have a hunting license from Pennsylvania and you are hunting in the bear season and you are hunting in Pennsylvania, I think—now I do not know this—from my hunting experience for you to shoot across the New York line and shoot a bear over there, it would be definitely a criminal act, without a license also from New York. Now if you had both licenses, a New York license and a Pennsylvania, and they both were in concurrent season, you might be okay, but I think that would be definitely an illegal act.

Mr. RAPPAPORT. Mr. Speaker, I thank the gentleman, and I understand his concern that the State of New York would want to protect its bears. How about if it were a Pennsylvania bear that had wandered across the line into New York?

Mr. GOEBEL. Well, you could only shoot it when it got back across the line, so you are going to have to mark it off somehow.

Mr. RAPPAPORT. Mr. Speaker, I thank the gentleman and will inform my constituents who are vitally interested in this issue.

The SPEAKER. The Chair recognizes the gentleman from Centre, Mr. Letterman.

Mr. LETTERMAN. Mr. Speaker, we have been dealing with the bear situation in Pennsylvania for approximately 4 years

now, and as a man who shot a bear when I was 14 years old, I can tell you now that I still have the desire to hunt and to shoot another one, because that was the biggest thrill I have ever had in my life, with a few exceptions.

You know, it takes a very skillful hunter to really be able to go out before season, know where a bear is, know what his habits are. You have to do this by going out almost by the week, every week, to check and see if that bear is still in that same area. You have to really know what kind of brush to look for and what kind of woods that this bear will live in, and I can tell you this: I will bet that there are not 15 people in the State of Pennsylvania who have killed more than one bear. I think that this is just another way for the Game Commission to get around this Game Committee in the House of Representatives because we are not willing to do what they want to do, and I think this is one of their ways that they come out and they put all kinds of laws out. Now they have said that we cannot hunt bear until December 17, on a Monday. I would like to know how many people can get off work on a Monday, on December 17, and go hunting. There are going to be very few people who will be able to do that.

We have more bear right now and there are more bear being seen and doing damage in the Commonwealth right now than there have been for the last 25 years.

I think we should let this alone. I think we should try it at the new season that they have established, and then we can go from there and see what it is really going to do, but I think that this is a survey that I read from a man that does not even tell me how many people he talked to. It does not tell me where these people were from. They might have all been from within the city of Pittsburgh—I do not know—or maybe the inner city of Philadelphia like Sam Rappaport, who cannot even find a SEPTA bus, but I would just ask that you help and defeat this amendment. Thank you.

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

Mr. ZELLER. Mr. Speaker, if Bill Renwick were here, and I am sure that Ted Stuban can tell you and Mr. Noye and Mr. Smith over here and others, I do not know of anyone outside of myself who has been involved, such as our good friend who just spoke, in this bear program in the Poconos as I have.

Five years ago Penn State, through the Department of the Interior, brought in a young man by the name of Gary Alt. The young man is a specialist in the control and, what I should call, the professional surveying and scientific surveying of bears. As a matter of fact, almost every state in the Union that has bears has been after this young man.

After the 3-year program was up 2 years ago, Gary Alt was going to leave Pennsylvania because Michigan and Maine had given him quite an offer. A committee was set up, and I went to Mr. Renwick, and he assigned, because of the area and also the interest, the tremendous interest he had, Mr. Ted Stuban here who chaired the committee, and we went into that Pocono region with a committee and Mr. Smith and Mr. Noye and others who were with us, and we looked into this situation. As a matter of fact, I had been working with Gary for 5 years on the

bear program, and that is one of the reasons why after hunting bears most of my life, I have quit hunting them, because I felt it was not fair because I know exactly that there would be no problem in getting a bear. I know where they are, I know their habits, and I know there would be no problem. I do not think it is fair. It is not really hunting anymore. Mr. Gray back here, an outstanding hunter from Philadelphia, knows what I am talking about.

I want to mention this, Mr. Speaker, if you will allow me. What we do—for the benefit of these members, to show you the controlling of the population of bear in Pennsylvania—in effect, we have to watch the commission, true, but what they did was they hired Gary. They brought him in to take care of the bear program in Pennsylvania, thanks to Ted and many others who worked with us. What we do is we trap the bear, place a collar around his neck with a transmitter, and we have a plane and we monitor them, monitor all their habits — feeding, breeding habits, all of it, traveling habits. There is a tattoo under their lip that stays with them for a lifetime. If we are able to trap them again, we know their habits.

Some of these bears have been hit on the roads. We take them and open them up and find out their eating habits, all kinds of things, and also check out their waste. We weigh them. There is an orange tag put on their ear to have people not shoot that bear that is being, in other words, monitored.

To get into the real meat of the program, I do not think it is our job here to tell a father who shot a bear that he cannot go hunting with his son anymore, because now his son has not shot a bear and that is that father-son concept and friends who want to go hunting, and now I shot a bear and I cannot go out anymore and I am no longer going to run with my son or my friends.

I do not think this is a good concept. Leave it up to the professionals. We are not. Leave it up to these people, and if we find that the Game Commission is abusing that privilege, then we can step in. But I believe, just like the Senator up north who tried to take and put the Game Commission into the General Fund last session and we killed that on this floor, I think by that same token we have to watch it continuously and let the Game Commission run this show. They are the professionals with their people in the field, but if we find that they are abusing a privilege, then we step in. But I agree with my good friend over there who spoke, the minority chairman of the Game and Fisheries Committee, that we must leave this alone, and for that reason we should vote this down, with all respect to my good friend, Ron.

Mr. Speaker, I do not believe that right now there is a necessity for doing this, because this is the first year the season is being opened, and as a matter of fact, everybody is wondering where they can get a bear permit. So let me thank you for letting me have some latitude on this, and I appreciate your listening.

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

Mr. DAVIES. Mr. Speaker, I just wanted to ask the maker of the amendment if he would stand for a question of interro-

gation.

The SPEAKER. The gentleman indicates that he will. Mr. Davies may proceed.

Mr. DAVIES. Mr. Speaker, what is the average or what would be the statistics, for example, since you started, since 1958, as to how many hunters you would eliminate by this over that interim, and what are the percentages or what is the ratio of chance of that hunter getting a second bear? In other words, what is the actual percentage of people who have tagged a second bear in their lifetime, and when you reflect it on that number of hunters, what would it mean as far as the propagation and the management of the species?

Mr. GOEBEL. Mr. Speaker, I cannot answer your questions in the detail that I think you would like. I would say that you are going to eliminate 300, 400, 500, maybe 600 hunters every bear season. I do not have statistics on how many double up on bears, but some hunters have an uncanny luck. Some are like my good friend from Snow Shoe over there who gets out into the woods every weekend. He lives right up there.

We hunters from Pittsburgh and Philadelphia enjoy it just as much as everybody else, and I think we are the bulk of the hunters. When we get from Allegheny County to Philadelphia County, we have a lot of people who just get out there once in a while. We do not have time to probably do the necessary work to get a bear every season. I cannot answer that question, but I know this: If we do not start doing something about our bear problem and our bear population, we are going to be like the State of Ohio. They are going to say Pennsylvania does not have any bears.

We enjoy bear hunting in Pennsylvania because the Game Commission has seen fit to regulate it well, but the time has come when the pressure is really almost unbearable, when you have a lot of hunters out there, and we have got to start doing something to restrict bear hunting. I would hate to see a bear license, because then it is probably going to be on a quota basis; it is going to be a lottery basis. I may never get to hunt bear again. If we do not start doing something now—and this is a small way that we start restricting — you get a bear; that is good enough; you got yours; now go deer hunting or go fox hunting.

But I cannot tell you, Mr. Speaker, exactly what they are on this, but it is going to help the pressure of hunting on the bear herd that we have. I can assure you that.

Mr. DAVIES. Mr. Speaker, if I may make a comment, there seems to be an inconsistency in the gentleman's statistics on this. While he is saying that he eliminates the three or four maybe really true hunters from the opportunity of getting out and doing something that they have enjoyed all their lives, he is doing nothing about the new hunters coming on the scene. So actually what he is doing is going to delimit some of those who have actually made it somewhat of a life's dream and who enjoy that particular aspect of the sport, and he is doing nothing to discourage another 1,000 new licensees or 2,000 new licensees from coming afield. Therefore, Mr. Speaker, I would be opposed to the amendment. Thank you.

The SPEAKER. The Chair recognizes the gentleman from

Chester, Mr. Smith.

Mr. E. H. SMITH. Mr. Speaker, I am sure we are all aware that this last week or so most of the fall shows on television have been introduced and have had their first showing, and as you all are also aware, there is some guy named Nielsen or some other organization that ties a rating onto these shows. I believe one of our favorite shows, "All in the Family," is rated about 16th, and it goes from there down to number 1, and I believe that number 1 is a family show entitled "Eight is Enough."

Mr. Speaker, I believe if Mr. Nielsen were here in this House this afternoon observing the show that we are putting on about the bear hunting, I am sure that would be number 1 on the Nielsen ratings. I strictly am a Walton family man myself.

The SPEAKER. The Chair recognizes the gentleman from Centre, Mr. Letterman.

Mr. LETTERMAN. You know, Mr. Speaker, I would just like to make a few points. One of the facts that eliminates a lot of hunters from hunting bear in Pennsylvania each year is because they get a condition that could be physical or they could become too old to hunt bear. A bear is not an animal that you hunt by standing against a tree and hope it runs by you. You had better be ready to travel—have gun, will travel—and if you do not have it, you are not going to get it, unless you are awfully lucky. And all I can say to you is, you had better be in real good shape when you go out there traveling around that mountain after one of those bears, and there are just not that many bear hunters in this state willing to go out and get in a group of 25 men and really go after them, and that is the real way to get them. So if you want to hunt bear, Mr. Speaker, and get one, you get yourself 24 other guys and come up and I will show you how it is done.

The SPEAKER. The Chair recognizes the gentleman from Perry, Mr. Noye.

Mr. NOYE. Mr. Speaker, I do not want to belabor the point, but our research staff just called and told me that this question was advertised by the Game Commission, I believe it was, in the Pennsylvania Bulletin, and they advertised for comments. The result of that was that they received so many negative responses to their proposal that their memorandum recommended that the issue not be put before the commission because of the controversial nature and the overwhelming response in opposition at the time they did this, and this was, I think, 2 to 3 years ago. So that is just an update on the information available.

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

Mr. GOEBEL. Just to sum up then on some of the remarks. I think that what Mr. Noye just said, an overwhelming negative, in other words, everyone who ever got a bear must have called in then. I do not know. We are only affecting a very small number of hunters with this. You got to remember that. We are not affecting a majority of the hunters. A very small percentage, not even one percent, is all we are affecting, and that only is from now on. That is not retroactive 20 years ago. Mr. Letterman still is going to be able to hunt bear, and he probably is

never going to get another one in his life. Who knows? To say then you hunt a bear, you get one, and then you cannot hunt with your son. This is not true. You know the great sport of hunting is not just enjoyment of pulling that trigger and killing the animal; it is in the stalking; it is in the trailing; it is in the tracking; and you can go out with your son, and you can leave your rifle at the camp, and you can go with him and stand right by his side while he is actually doing the shooting, and I think any true sportsman and father of a son is going to have as much enjoyment in taking his son out and showing him where the trails are and helping him kill a bear without actually having a gun in his hands.

So, gentlemen, I would certainly ask for—and I think that most hunters are going to agree with you—an affirmative vote on this.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—3

Goebel Pott Wright, J. L.

NAYS—187

Alden	Freind	Lynch, F.	Salvatore
Anderson	Fryer	Mackowski	Scheaffer
Armstrong	Gallagher	Madigan	Schmitt
Arty	Gallen	Manderino	Schweder
Austin	Gamble	Manmiller	Scirica
Barber	Gannon	McCall	Serafini
Belardi	Gatski	McClatchy	Seventy
Bennett	Geesey	McIntyre	Shadding
Berson	George, C.	McKelvey	Shupnik
Bittle	George, M.	McMonagle	Sieminski
Borski	Giammarco	McVerry	Sirianni
Bowser	Gladeck	Michlovic	Smith, E.
Brandt	Goodman	Micozzie	Smith, L.
Brown	Grabowski	Milanovich	Spencer
Brunner	Gray	Miller	Spitz
Burd	Grieco	Moehlmann	Stairs
Burns	Gruppo	Mowery	Steighner
Caltagirone	Halverson	Mrkonic	Stewart
Cappabianca	Harper	Mullen, M. P.	Stuban
Cessar	Hasay	Murphy	Sweet
Chess	Hayes, D. S.	Musto	Swift
Cimini	Hayes, S. E.	Nahill	Taddonio
Clark, B.	Hoefel	Novak	Taylor, E.
Clark, R.	Honaman	Noye	Telek
Cochran	Hutchinson, A.	O'Brien, B.	Thomas
Cohen	Hutchinson, W.	O'Brien, D.	Trello
Cole	Irvis	O'Donnell	Vroon
Cornell	Itkin	Oliver	Wachob
Coslett	Johnson, E.	Perzel	Wagner
Cowell	Johnson, J.	Peterson	Wargo
Cunningham	Jones	Petrarca	Wass
Davies	Kanuck	Piccola	Weidner
Dawida	Kernick	Pievsky	Wenger
DeMedio	Klingaman	Pistella	White
DeVerter	Knepper	Pitts	Williams
DeWeese	Knight	Polite	Wilson
DiCarlo	Kolter	Pucciarelli	Wilt
Dietz	Kukovich	Punt	Wright, D.
Dombrowski	Lashinger	Pyles	Yahner
Dorr	Laughlin	Rappaport	Yohn
Duffy	Lehr	Reed	Zeller
Durham	Letterman	Rhodes	Zitterman

Earley	Levi	Richardson	Zord
Fee	Levin	Rieger	Zwikl
Fischer, R. R.	Lewis	Ritter	
Fisher, D. M.	Livengood	Rocks	Seltzer,
Foster, A.	Lynch, E. R.	Ryan	Speaker
Foster, W.			

NOT VOTING—13

Beloff	Dumas	Helfrick	Rodgers
Cianciulli	Geist	Kowalshyn	Street
Dininni	Greenfield	Pratt	Taylor, F.
Donatucci			

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

On the question recurring,

Will the House agree to the bill on third consideration?

Mr. GOEBEL offered the following amendments:

Amend Title, page 1, line 5, by removing the period after "protectors" and inserting , further providing for nonresident hunting licenses and making editorial changes.

Amend Sec. 2, page 2, line 14, by striking out all of said line and inserting.

Section 2. Section 303 of the act, amended October 4, 1978 (P. L. 1004, No. 213), is amended to read:

Section 303. Nonresident Hunting License Fees.—(a) Every nonresident of this Commonwealth, upon application made, in writing, to any agent authorized to issue such licenses, or to the commission, unless any such person has been disqualified for a license in the manner hereinafter specified, or is a resident of a state which does not issue like licenses to residents of this Commonwealth, and upon payment to said agent or commission of [fifty dollars and fifty cents (\$50.50) for the license year beginning in 1979 and sixty dollars and fifty cents (\$60.50) for the license year beginning in 1980 and each year thereafter] sixty dollars and fifty cents (\$60.50) for a nonresident deer license or thirty dollars (\$30.00) for a nonresident small game license (including turkey) shall be entitled to the license herein designated as a Nonresident Hunter's License and a tag with the type and number of the license thereon, which shall entitle the holder to hunt for [all] those wild birds and wild animals [which may legally be hunted in this Commonwealth] as provided for herein, until the close of the license year. [Other licenses valid for use by nonresidents shall be as follows:]

(b) A nonresident of the Commonwealth shall not be entitled to a license to hunt for bear.

[Nonresident trapper's license which shall be issued only upon application to the Commission in Harrisburg and which shall be effective for the same period as hunters' licenses shall entitle the holder to take through the use of traps or deadfalls only wild birds and wild animals which may legally be trapped in this Commonwealth, except beavers, three hundred fifty dollars (\$350). Nothing in this clause shall be construed to prohibit the holder of a nonresident trapper's license from using a side-arm or a rifle not larger than a .22 rimfire caliber to kill legally caught birds and animals.]

Section 3. This act shall take effect immediately and shall apply to the 1980-1981 license year and thereafter.

On the question,

Will the House agree to the amendments?

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

Mr. GOEBEL. Was there someone who wanted to pose a question?

The SPEAKER. The Chair would suggest that the gentleman explain his amendments first and then the Chair will recognize Mr. Gamble.

Mr. GOEBEL. I want to thank you all for your support on that last amendment, and I want to say, you know, the day is going to come here and you are going to be facing yourself with a bear license, and then you are going to have the bear hunters giving you the phone calls, and you cannot do anything about the problem now, but Goebel will say, I told you so, and then you are going to hear some griping when they get a bear license, when Mr. Letterman and Mr. Noye come around with a bear license supporting it.

Okay now, if you really want to restrict bear hunting, that last one was a wee little thing you could do. This is a biggie. Did you ever get on route 80 that weekend of deer season and all you see are these Ohio license plates? They are all going deer hunting in our state, enjoying the benefits that we have done here and our good Game Commission, and our deer control and our bear season, they are coming over here and they are enjoying it, and I do not think they should. I think every person in Pennsylvania ought to get a bear before we admit one person from Ohio over here to hunt bear, and that is what this amendment will do. It issues two licenses. What this will do will make two out-of-state licenses, one for deer, and that will cost them 60 bucks. Right now it costs them \$50. The other license is going to cost them \$30, and that will entitle them to hunt turkey and any other small game they want to hunt. It does not entitle them to hunt bear.

I think we had a discussion. Everything I said on the other one will apply to this one, except that this one will really do something, and if you do not want to restrict these out-of-staters from coming in, then let them come on in, and I do not care, but at least we have tried.

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

Mr. GAMBLE. Will Mr. Goebel stand for a one-question interrogation?

The SPEAKER. The gentleman indicates that he will. The gentleman, Mr. Gamble, may proceed.

Mr. GAMBLE. Mr. Speaker, I know the members of the House thoroughly enjoy your drawings and your cartoons, and a few of us were talking and we are wondering if you would seriously consider just sending the cartoons and drawings and forgetting your amendments each week?

Mr. GOEBEL. In other words, you just want me to send out some cartoons every week or something? Well, I was considering that. I think if the gentleman, Mr. Gamble, would save these and put them in a book, some day they are going to be worth a lot of money.

The SPEAKER. The Chair recognizes Mr. Gamble.

Mr. GAMBLE. Mr. Speaker, I do rise to oppose the amendment. I believe it will only bring retaliatory action from other states and I urge that we give this the same treatment as we gave the last one.

The SPEAKER. The Chair recognizes the gentleman from

Centre, Mr. Letterman.

Mr. LETTERMAN. Mr. Speaker, we are considering this, and I have an amendment prepared for another piece of legislation that will put a bear license on only nonresidents. But we cannot eliminate bear hunting by nonresidents entirely. If we do that, Wyoming, Colorado, and every place else will say, do not come here and try our elk, our mule deer, our other bear, or anything else, and this is really bad legislation. I do not think it is constitutional, in the first place, for us to discontinue the hunting of any person in the United States, or any place else, as long as they are willing to pay the fee in this state.

I might also add that this brings in an awful lot of money, Mr. Speaker. When you see all those cars coming, that is a good sign for us in the tourist business. You know I always opposed that thought that we would only think about the tourists when we were considering raising the nonresident hunting license. I think we have come a little bit in the direction I would like to see us come. I think the license has been going up \$10 each year for the last 2 years. I do not think it is fast enough. We are not keeping up, and I agree with you on that, but I will also tell you that there are amendments prepared and bills ready to go that will raise nonresident hunting licenses after this year.

I would ask that everybody oppose this piece of legislation that Mr. Goebel has put out. I am sure that he has gotten opinions from a lot of hunters who really do not want nonresidents to hunt in this state at all, but I do not think it is constitutional, for one thing, and I do not believe that we would be very happy when we went to other states, because they would certainly keep us from coming there. Thank you.

The SPEAKER. The Chair recognizes the gentleman from Jefferson, Mr. Smith.

Mr. L. E. SMITH. Mr. Speaker, this is a serious amendment, and I would hope that the members would defeat it. First of all, when those out-of-state hunters start coming into Pennsylvania, I think they will be coming starting this Saturday when archery season opens, and they will be coming continually throughout the whole hunting season, and, as Mr. Letterman pointed out, this would have a very serious impact on tourism in Pennsylvania.

The next thing is that those out-of-state hunters really do not create the hunting pressure that you might think they would, because most of them do not go off the road anyway; they are all road hunters, and they really do not create the kind of pressure that you might think from the number of licenses that are sold.

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

Mr. GOEBEL. I have to respond to this. I was not going to say any more about this, but this is so much hogwash I cannot take much of it.

These guys come from Ohio. They bring their own beer. They bring their own bullets. They bring their own food. They have their little Broncos all packed in with all of their supplies. They go to their little camps and they do not spend many dollars in Pennsylvania as you might think they do, but I want to tell you

what all we are talking about is taking off them in the bear season. They can still come here and hunt deer and turkey in the bow-and-arrow season and all of that. All we are restricting them from is 1 day. How serious of an impact is that going to have on the economy of Pennsylvania? It is going to have this much right here, as big as this little hole in my hand.

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

Mr. WILT. Mr. Speaker, I think Mr. Goebel will be hard pressed to substantiate the statement that he just made.

Before deer season, when most of the hunters come and where the population in our counties, our northern tier counties, have the influx, these people stay, and what you are talking about is that that influx is not for the day as Mr. Goebel stated but for the better part of a week, because if they come for bear, then they stay through and hunt deer.

I live in a county that is adjacent to the Ohio line and I know that they stop and buy their nonresident license there. I know that they buy hunting supplies and food, et cetera, et cetera, to say nothing of their beer. I just do not think that he totally recognizes the full impact of the statement he has made or the ramifications of cutting off the Ohio hunters.

The other thing that we fail to recognize, or I have not heard mentioned so far, is that an awful lot of these hunters are also property owners in Pennsylvania. They own properties. They own camps. They own homes, second homes, and they do spend a number of weekends and weeks in Pennsylvania. Saying that they are not legal residents I would find it hard-pressed, even though I am as disgruntled with their hunting habits on occasion as anybody since they stomp down the fences on my farm sometime, but to take an action this drastic I think would be totally wrong.

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

The following roll call was recorded:

YEAS—11

Cohen	Goebel	Pott	Telek
Fischer, R. R.	Mrkonic	Serafini	Zord
Fisher, D. M.	Perzel	Taddonio	

NAYS—178

Alden	Gallagher	Livengood	Ryan
Anderson	Gallen	Lynch, E. R.	Salvatore
Armstrong	Gamble	Lynch, F.	Scheaffer
Arty	Gannon	Mackowski	Schmitt
Austin	Gatski	Madigan	Schweder
Belardi	Geesey	Manderino	Scirica
Bennett	Geist	Manmiller	Seventy
Berson	George, C.	McCall	Shadding
Bittle	George, M.	McIntyre	Shupnik
Borski	Giammarco	McKelvey	Sieminski
Bowser	Gladeck	McMonagle	Sirianni
Brandt	Goodman	McVerry	Smith, E.
Brown	Grabowski	Michlovic	Smith, L.
Brunner	Gray	Micozzie	Spencer
Burd	Greenfield	Milanovich	Spitz
Burns	Grieco	Miller	Stairs
Caltagirone	Gruppo	Moehlmann	Steighner
Cappabianca	Halverson	Mowery	Stewart

Chess	Harper	Mullen, M. P.	Stuban
Cimini	Hasay	Murphy	Sweet
Clark, B.	Hayes, D. S.	Musto	Swift
Clark, R.	Hayes, S. E.	Nahill	Taylor, E.
Cochran	Hoeffel	Novak	Thomas
Cole	Honaman	Noye	Trello
Cornell	Hutchinson, A.	O'Brien, B.	Vroon
Coslett	Hutchinson, W.	O'Brien, D.	Wachob
Cowell	Irvic	O'Donnell	Wagner
Cunningham	Itkin	Oliver	Wargo
Davies	Johnson, E.	Peterson	Wass
Dawida	Johnson, J.	Petrarca	Weidner
DeMedio	Jones	Piccola	Wenger
DeVerter	Kanuck	Pievsky	White
DeWeese	Kernick	Pistella	Williams
DiCarlo	Klingaman	Pitts	Wilson
Dietz	Knepper	Polite	Wilt
Dombrowski	Knight	Pucciarelli	Wright, D.
Dorr	Kolter	Punt	Wright, J. L.
Duffy	Kukovich	Pyles	Yahner
Durham	Lashinger	Rappaport	Yohn
Earley	Laughlin	Reed	Zeller
Fee	Lehr	Rhodes	Zitterman
Foster, A.	Letterman	Richardson	Zwinkl
Foster, W.	Levi	Rieger	
Freind	Levin	Ritter	Seltzer,
Fryer	Lewis	Rocks	Speaker

NOT VOTING—14

Barber	Dininni	Kowalyshyn	Rodgers
Beloff	Donatucci	McClatchy	Street
Cessar	Dumas	Pratt	Taylor, F.
Cianciulli	Helfrick		

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

On the question recurring,
Will the House agree to the bill on third consideration?
Bill was agreed to

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

The question is, shall the bill pass finally?

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

YEAS—187

Alden	Gallagher	Mackowski	Scheaffer
Anderson	Gallen	Madigan	Schmitt
Armstrong	Gamble	Manderino	Schweder
Arty	Gatski	Manmiller	Scirica
Austin	Geesey	McCall	Serafini
Belardi	Geist	McClatchy	Seventy
Bennett	George, C.	McIntyre	Shadding
Berson	George, M.	McKelvey	Shupnik
Bittle	Giammarco	McMonagle	Sieminski
Borski	Gladeck	McVerry	Sirianni
Bowser	Goebel	Michlovic	Smith, E.
Brandt	Goodman	Micozzie	Smith, L.
Brown	Grabowski	Milanovich	Spencer
Brunner	Gray	Miller	Spitz
Burd	Greenfield	Moehlmann	Stairs
Burns	Grieco	Mowery	Steighner
Caltagirone	Gruppo	Mrkonic	Stewart
Cappabianca	Halverson	Mullen, M. P.	Stuban
Clark, B.	Harper	Murphy	Sweet
Clark, R.	Hasay	Musto	Swift
	Hayes, D. S.	Nahill	Taddonio
	Hayes, S. E.	Novak	Taylor, E.

Cochran	Honaman	Noye	Telek
Cohen	Hutchinson, A.	O'Brien, B.	Thomas
Cole	Hutchinson, W.	O'Brien, D.	Trello
Cornell	Irvis	Oliver	Vroon
Coslett	Itkin	Perzel	Wachob
Cowell	Johnson, F.	Peterson	Wagner
Cunningham	Johnson, J.	Petrarca	Wargo
Davies	Jones	Piccola	Wass
Dawida	Kanuck	Pievsky	Weidner
DeMedio	Kernick	Pistella	Wenger
DeVerter	Klingaman	Pitts	White
DeWeese	Knepper	Polite	Williams
DiCarlo	Knight	Pott	Wilson
Dietz	Kolter	Pucciarelli	Wilt
Dombrowski	Kukovich	Punt	Wright, D.
Dorr	Lashinger	Pyles	Wright, J. L.
Duffy	Laughlin	Rappaport	Yahner
Durham	Lehr	Reed	Yohn
Earley	Letterman	Rhodes	Zeller
Fee	Levi	Richardson	Zitterman
Fischer, R. R.	Levin	Rieger	Zord
Fisher, D. M.	Lewis	Ritter	Zwikl
Foster, A.	Livengood	Rocks	
Foster, W.	Lynch, E. R.	Ryan	Seltzer,
Freind	Lynch, F.	Salvatore	Speaker
Fryer			

NAYS—4

Cessar	Gannon	Hoeffel	O'Donnell
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NOT VOTING—12

Barber	Dininni	Helfrick	Rodgers
Beloff	Donatucci	Kowalyszyn	Street
Cianciulli	Dumas	Pratt	Taylor, F.

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.

The House resumed third consideration of **HB 640, PN 1571**, entitled:

An Act consolidating, revising and amending the divorce and annulment laws of the Commonwealth and making certain repeals.

On the question recurring,

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

Mr. CUNNINGHAM offered the following amendments:

Amend Sec. 501, page 19, by inserting between lines 3 and 4 (a) Alimony shall be awarded only to provide a temporary economic cushion that will facilitate the reasonably expeditious transition from spousal economic dependence to individual economic independence.

Amend Sec. 501, page 19, line 4, by striking out "(a)" and inserting (b)

Amend Sec. 501, page 19, line 11, by striking out "(b)" and inserting (c)

Amend Sec. 501, page 20, line 9, by striking out "(c)" and inserting (d)

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from

Centre, Mr. Cunningham.

Mr. CUNNINGHAM. Mr. Speaker, this amendment again is very brief. It is a very simple statement of policy and it reads, "Alimony shall be awarded only to provide a temporary economic cushion that will facilitate the reasonably expeditious transition from spousal economic dependence to individual economic independence."

Mr. Speaker, I offer this amendment because I think that it is very important for us to emphasize that in this Commonwealth, first of all, we believe that economic support, economic protection for the dependent spouse is very important, but we realize as well that this economic support and protection should be provided as a rehabilitative measure that is designed to help this dependent spouse work himself or herself into a position of economic independence. We do not want to create the system of alimony that has ensued in various other states around this country, that actually encourage the preservation of a condition of dependence by doing absolutely nothing to encourage the dependent spouse to work toward independence.

This amendment is a policy statement that I am seeking to insert in the policy area of the alimony section of this bill to make it very clear that what we are talking about here, except in situations where long-term alimony is absolutely necessary, that we are only talking about a temporary cushion, a transitional kind of thing, and not some vested right that goes on in perpetuity and encourages a dependent spouse to languish forever in some condition of dependence if that spouse has the ability to work toward independence. It is a simple policy statement, Mr. Speaker.

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

Mr. LAUGHLIN. Mr. Speaker, would the gentleman please stand for a moment of interrogation?

The SPEAKER. The gentleman indicates that he will, and the gentleman, Mr. Laughlin, may proceed.

Mr. LAUGHLIN. Mr. Speaker, in reading over your amendment, I see the word "temporary." Would you kindly define what your definition of "temporary" is for the benefit of the House?

Mr. CUNNINGHAM. I will repeat what I said in my initial remarks as regards to "temporary." Except where long-term provision of alimony is required by the circumstances of a spouse who finds himself or herself unable to achieve a condition of economic independence, the "temporary" means that we are talking about alimony that will be provided during that transitional period after the marriage of a spouse has been terminated when the period of economic uncertainty and economic disability are likely to be the greatest.

What we want to avoid in this Commonwealth, I believe, is a situation in which we have an alimony provision that encourages former spouses to remain at home and watch daytime soap operas or do whatever and succumb to the very real problem that we see after divorces, and that is a kind of a feeling of inertia, a kind of a feeling of helplessness, especially for a spouse who has been out of the work force for some time, and I think what we want to make clear here is that among people

who are able to go forward and work toward economic independence, they have an obligation to do that. So we are talking about alimony that is rehabilitative; that encourages a spouse to work toward a condition of economic independence as soon as that spouse is able to do that.

Mr. LAUGHLIN. Thank you, Mr. Speaker.

Mr. Speaker, just a few remarks, please.

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

Mr. LAUGHLIN. Mr. Speaker, it would appear that the gentleman has thought out his proposition very thoroughly in his explanation, but what I do not think that he has taken into consideration is the fact that once a lawyer or an opposing lawyer would get a hold of his particular amendment once adopted into law it would not be treated in the manner in which he described on the floor of this House, but we would be giving the lawyers another opportunity to be spending a considerable amount of time in court at the expense of those who are involved in the types of situations that are described in this legislation.

I do not believe that "temporary" means exactly what the gentleman said and, for that reason, I would ask for the members to vote down the amendment.

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

Mr. SCIRICA. I oppose this amendment because it does not adequately protect a woman of middle age or even a woman of elder years in the award of alimony.

I think this amendment would be fine if we were only considering dependent spouses, primarily women, who are younger and have no children, but the fact is that for women over the age of 50 it may be extremely difficult, if not impossible, for them to get the education or the training to establish an appropriate employment which is going to give them financial independence.

I am not unmindful, however, that Mr. Cunningham has not struck an issue that needs to be addressed, and we have prepared an amendment which is not yet down that would, in effect, create a presumption that alimony would be rehabilitative except for reasons of age or infirmity or some other disability that would, in a legitimate way, prevent any woman or any dependent spouse from earning a living to take care of herself. I think this amendment goes too far and I would ask that the amendment be defeated and that we consider the other amendment that will be offered later on.

The SPEAKER. The Chair recognizes the lady from Cambria, Mrs. Clark.

Mrs. CLARK. Mr. Speaker, I, too, feel that this will be a very unfair amendment especially for the older woman who has given maybe 20 or 25 years to a good marriage where her main work was being a good homemaker and taking care of the home and the children and doing all of that kind of thing. Maybe she left a good profession to be married and she gave that up when she became married, so now she goes back to work or she is forced to go back to work. She does not fit into that same profession anymore because she has not been able to keep up in

that field and there are many other people fresh out of school and out of programs who would fit into that. She would have to take, maybe, a very demeaning job and something far lower on the economic scale, and, therefore, I think that it would be very unfair to her to put her into such a position.

The SPEAKER. The Chair recognizes the gentleman from Centre, Mr. Cunningham.

Mr. CUNNINGHAM. Mr. Speaker, normally I would wait until everybody has had the opportunity to express their views on this amendment before I cut in and make some observations, but a trend is developing here that is obviously the product of a misunderstanding that I want to correct.

My amendment does nothing more than to state as a matter of policy that we do not want alimony to continue any longer than is necessary to provide that for that transitional period. It is very very important that we provide economic protection for women who are older and find themselves unable to get back into the work force as a function of their age. It is important that we provide protection for women who find themselves, as a result of infirmity, unable to get back into the work force in some meaningful way. It is very important that we protect women, who are, in court, awarded custody of three school-age children, from having to be forced back into the work force when they are not able to do that.

You are reading infinitely more into this amendment than is the intent of the offerer, and I am saying that it is the legislative intent of this amendment—and as I say this it becomes part of the record, and the courts are bound to construe it in light of what I am saying and I am saying—that "temporary" means no longer than is necessary to provide for the economic protection of a spouse who legitimately requires that protection.

I have, in fact, turned away requests that I introduce an amendment that would have imposed a 5-year statutory limit on the duration of alimony for the very reason that I think that it is arbitrary, it is unnecessarily arbitrary, to say that in every case alimony would be inappropriate for a longer period than 5 years.

This is simply a policy statement designed to emphasize that alimony is a rehabilitative kind of thing, designed to help people to work from a condition of dependence to a condition of independence, where they are able to do that; and the bill makes it very clear that where they are not able to do that, alimony will continue to provide for their economic need. So all I am doing is saying that, yes, there is a right to alimony, but there is also a responsibility to work toward a condition of economic independence where a former spouse is able to do that.

The SPEAKER. The Chair recognizes the lady from Montgomery, Mrs. Lewis.

Mrs. LEWIS. Mr. Speaker, I speak in opposition to this amendment. I think that there are a lot of women out there who have been married for many years who, if by circumstances a divorce does take place, have no idea how to go about getting a job and are totally scared to death of the job market and employment.

I grant you that the effort should be made, but I think it is made only when they feel comfortable doing it and want to do it. I am talking about an age group anywhere from maybe 40 to 55. It is not easy. It sounds simple the way you put it.

Furthermore, I do not want to see that mandated, that we have to get out and get a job. So for this reason I would oppose this amendment.

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

Mr. PISTELLA. I rise to speak against the Cunningham amendment to HB 640, basing it on two particular sets of circumstances.

First of all, there exists in HB 640 two particular clauses of provision, the first of which is in the case of alimony. It is determined upon the ability to pay and need. What in essence this means is if a spouse, if he or she, cannot afford to pay alimony and circumstances prevailing indicate that it might not be necessary in certain economic cases. The other side of the coin holds true also. If a spouse shows that he or she does not need economic support through alimony, the chances are very good that the court will grant the petitioner the opportunity to refuse alimony payments or force him not to necessitate the payment of alimony.

There also exists in this another clause, which is a change-of-circumstances clause. Should a spouse have a set of circumstances surrounding their existence where there would be a need for alimony in the future or should there be a need not to receive alimony, then the responsibility would lie on the court indicating that a change has taken place and a necessary adjustment to be made.

Unfortunately, Mr. Cunningham's amendment creates a loophole and that loophole is that he sets down that he is trying to strive for economic independence to individual economic independence. Unfortunately, in the Commonwealth of Pennsylvania there are not any social programs established by this state that would permit displaced homemakers to achieve some form of economic independence. The net result would be a possible overburdening of the Federal programs that exist in the Commonwealth of Pennsylvania.

AMENDMENTS WITHDRAWN

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

Mr. CUNNINGHAM. Mr. Speaker, if the gentleman would indulge me for just a moment, the prime sponsor of HB 640 has just approached me with the amendment to which he alluded a few moments ago. I have had a chance to review it. It does exactly what I have sought to do through the amendment currently under discussion and through the amendment that I was just about to offer after we disposed of this one. As a consequence of which I would like to withdraw my amendment and join the gentleman, Mr. Scirica, in the offering of an alternative amendment that I think addresses the problem in a way that satisfies Mr. Scirica's intent and I think it will be mutually agreeable to all.

The SPEAKER. Does the gentleman, Mr. Cunningham, have a further set of amendments to offer?

Mr. CUNNINGHAM. Mr. Speaker, I do not.

On the question recurring,

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

Mr. D. M. FISHER offered the following amendment:

Amend Sec. 304, page 13, line 9, by striking out "CHILD AND SPOUSAL SUPPORT."

On the question,

Will the House agree to the amendment?

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

Mr. D. M. FISHER. Section 304 of the bill provides that a master may be appointed to hear testimony on certain issues that will be involved in this new law when and if it is passed in either the form it is now or in the other form that it originally started out in. There are exceptions and actually the exceptions almost delete all of the applicable areas where masters could be appointed.

One particular area in the big counties, such as in Allegheny County where I believe we could help the judiciary by reducing the immense work load in the family division and in turn a hold off request for additional judicial manpower is by allowing the courts, if they so desire, to appoint masters to hear issues involving child and spousal support.

That is what this amendment would do. It is a discretionary amendment for each county, but basically I think it is an amendment that can be a great cost-saver down the line for the metropolitan counties that have the extensive work load. I urge your support for the amendment. Thank you.

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

Mr. ALDEN. Will the maker of the amendment stand for interrogation?

The SPEAKER. The gentleman indicates that he will.

Mr. ALDEN. Mr. Speaker, this amendment would require no more than they could just take evidence, I presume?

Mr. D. M. FISHER. The amendment would allow the issues of child and spousal support to be included within section 304.

The master would take evidence, return the record or the transcript, together with the report and recommendation.

Mr. ALDEN. They would make no rulings or anything like that?

Mr. D. M. FISHER. The court would have to make the final ruling.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—169

Alden	Foster, W.	Lynch, F.	Scheaffer
Armstrong	Freind	Mackowski	Schmitt
Arty	Gallagher	Madigan	Schweder

Austin	Gamble	Manderino	Scirica
Belardi	Gannon	Manmiller	Serafini
Bennett	Geesey	McCall	Seventy
Berson	Geist	McClatchy	Shadding
Bittle	George, C.	McIntyre	Shupnik
Borski	George, M.	McKelvey	Sieminski
Bowser	Gladeck	McMonagle	Sirianni
Brandt	Goebel	McVerry	Smith, E.
Brown	Goodman	Michlovic	Smith, L.
Brunner	Grabowski	Micozzie	Spencer
Burd	Gray	Milanovich	Spitz
Burns	Greenfield	Miller	Stairs
Caltagirone	Grieco	Moehlmann	Stewart
Cappabianca	Gruppo	Mullen, M. P.	Stuban
Cessar	Halverson	Murphy	Swift
Chess	Harper	Musto	Taddonio
Cimini	Hasay	Nahill	Taylor, E.
Clark, R.	Hayes, D. S.	Novak	Thomas
Cochran	Hayes, S. E.	O'Brien, D.	Trello
Cohen	Hoeffel	Oliver	Wachob
Cole	Honaman	Perzel	Wagner
Cornell	Hutchinson, W.	Peterson	Wargo
Coslett	Irvis	Petrarca	Wass
Cowell	Itkin	Piccola	Weidner
Cunningham	Johnson, E.	Pievsky	Wenger
Davies	Jones	Pistella	Williams
Dawida	Kanuck	Pitts	Wilson
DeMedio	Kernick	Polite	Wilt
DeVerter	Klingaman	Pott	Wright, D.
DeWeese	Knepper	Pucciarelli	Wright, J. L.
DiCarlo	Knight	Punt	Yahner
Dietz	Kolter	Pyles	Yohn
Dombrowski	Kukovich	Reed	Zeller
Duffy	Lashinger	Rhodes	Zitterman
Durham	Laughlin	Richardson	Zord
Earley	Lehr	Rieger	Zwikel
Fee	Letterman	Ritter	
Fischer, R. R.	Levi	Rocks	Seltzer,
Fisher, D. M.	Lewis	Ryan	Speaker
Foster, A.	Lynch, F. R.	Salvatore	

NAYS—16

Anderson	Gallen	Mowery	O'Donnell
Clark, B.	Gatski	Mrkonic	Steighner
Dorr	Levin	Noye	Sweet
Fryer	Livengood	O'Brien, B.	Telek

NOT VOTING—18

Barber	Dumas	Kowalshyn	Street
Beloff	Giammarco	Pratt	Taylor, F.
Cianciulli	Helfrick	Rappaport	Vroon
Dininni	Hutchinson, A.	Rodgers	White
Donatucci	Johnson, J.		

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

On the question recurring,

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

Mr. O'DONNELL offered the following amendments:

Amend Sec. 401, page 15, lines 27 through 30; page 16, line 1, by striking out all of said lines on said pages and inserting

(9) The economic circumstances of each party at the time the division of property is to become effective.

Amend Sec. 401, page 16, by inserting between lines 27 and 28

(h) The court may award to one, each, or both of the parties

the right to live in the family home for reasonable periods of time.

Amend Sec. 401, page 16, line 28, by striking out "(h)" and inserting (i)

Amend Sec. 401, page 17, line 3, by striking out "(i)" and inserting (j)

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. O'Donnell.

Mr. O'DONNELL. The bill as it presently stands says that the court in dividing the property may consider the desirability of awarding the family home to the spouse who has custody of the children. First of all, I think that is placed in the wrong section of the bill. And, second, it creates, in my mind, a presumption that the family home, which is usually the single biggest asset in the marital property and sometimes the only asset, would automatically be awarded in favor of the spouse who has custody of the children.

I am changing that to take that out and instead empower the court to award the use or the right to live in the family home for reasonable periods of time to either spouse.

So in dividing the property when you get down to the household, the court instead of being faced with the need to say, you get the house or you get the house, would then be in a position to adjust according to the circumstances of the parties.

If one of the parties were extremely sick, for instance, the court might say, until you recover, you will live in the house. Or one of the parties may have custody of the children who would reach 18 years old in, say, 4 years, and the court may say instead of forcing both parties to sell the House and divide the proceeds, let us give the court the power to say, all right, you may live in the house for 4 years, at which time the property will then be divided.

I think it is a necessary bit of flexibility for the court in making these kind of property divisions.

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

Mr. SCIRICA. Would Mr. O'Donnell stand for interrogation?

Mr. O'DONNELL. Yes.

Mr. SCIRICA. Mr. Speaker, could you kindly explain again the section that you are deleting here and what you are substituting in its place?

Mr. O'DONNELL. Okay. I am deleting that section which under the bill gives the court as one of the standards for the awarding of property the desirability of, I think it is, subsection 9, page 15.

When you look on the bottom of page 15 of the bill, that is part of (d), (d) talks about the court shall distribute the marital property and shall consider the following criteria.

Now, when you get down to criteria number 9, it says: "The economic circumstances of each party at the time the division of property is to become effective, including the desirability of awarding the family home . . ."

All right, I am taking out "awarding the family home," in effect and just leaving "the right to live therein".

Mr. SCIRICA. All right, I just want to be clear about this.

You are leaving in—it is not really a presumption, but you are leaving in—the language that says the court may award the right to live therein to the spouse who may have custody of minor children?

Mr. O'DONNELL. So we are absolutely clear, the discussion of the award of the right to live in the family home is being taken out of that section altogether in subsection (9). And when you get to the powers of the court on the following page down at the bottom, subsection (h), I am putting back in the power of the court to award the right to live in the family home to either party. So the net effect is that the court would not be specifically granted the right to award the family home with the presumption that it goes to the spouse who has the children but instead would have the ability to award the right to live in the family home and to either spouse.

Mr. SCIRICA. All right. So what you have done is you have left with the court the ability to either award in fee or to give the right to live in the family home to either spouse and you have taken away entirely the presumption that it goes only to the spouse with whom the minor children may live?

Mr. O'DONNELL. Exactly.

Mr. SCIRICA. Can you give me the reason for the amendment?

Mr. O'DONNELL. Pardon me?

Mr. SCIRICA. Can you give me the reason for the amendment?

Mr. O'DONNELL. Yes. I do not think presumption is warranted. I think it is something the court should consider and I think will consider; that is to say there is a whole variety of circumstances which could create the need to use that family home.

One example certainly is the need to raise the minor children in the same home. In other words, psychologists have always indicated that the least disruption for the children, the better off they are going to be. So if the whole family has been living in the family home, it might be very useful for the children to continue to live there until they reach adulthood.

Fine. Why not create a presumption then? Simply because there are other circumstances which might be equally compelling for the court, such as the sickness of one of the parties, such as a participation or kind of membership in the community. There is a whole variety of circumstances that the court might want to consider.

I do not think we should select one of those circumstances as being so overwhelmingly important that we create a presumption.

Mr. SCIRICA. I might agree with you with respect to awarding the family home in fee to one party simply because the children may live with that individual. I think it is fair to create a presumption that the court should look to awarding the right to live therein for a reasonable period of time to the spouse who has the children with him or her. For that reason, I would oppose the amendment.

Mr. O'DONNELL. Just in response to that inquiry: How do you cope with the circumstance where the party who does not have custody is very sickly?

Mr. SCIRICA. I think you do it, Mr. Speaker, because the

directive to the court in the bill says that they shall equitably divide the property in such proportions as the court deems just after considering all relevant factors including. That presumption would just be one of several things that the court would consider in its determination.

Mr. O'DONNELL. Well, your response indicates that the court has the general power under the other provisions to be able to consider each item that I would bring up hypothetically.

I would suggest to you that the court also has the power, as you well know, to consider custody of the children in awarding the use of the family home. There is nothing so overwhelmingly compelling about that that the spouse who has the custody of the children should be entitled to that presumption.

Yes, it should be considered by the court, and I think you would agree that it could be considered by the court even under the other provisions of the bill.

Mr. SCIRICA. I would certainly agree that the court could consider it. I think by highlighting it in the bill, we make sure that the court would consider that circumstance. Therefore, I still have trouble with the amendment.

Mr. O'DONNELL. I think we can agree to disagree. I think it is important.

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

Mr. BERSON. Mr. Speaker, I think Mr. O'Donnell is so persuasive he has got Mr. Scirica calling this a presumption.

As I read the bill as it is presently written, there is no presumption in the bill regarding the award of the family home. It simply is one factor to be considered. It is not an award of the family home. It is the desirability of awarding the family home or the right to live therein for a reasonable period to the party with whom any children of the marriage will live.

I think that is a reasonable factor for a court to consider. It is not a presumption that the court should, finding that fact, make that award, but it is a factor that we think a court should consider, obviously being dictated by the best interests of the children. I do not see anything wrong with that.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. O'Donnell.

Mr. O'DONNELL. Mr. Speaker, I am willing to concede that I may have and perhaps even Mr. Scirica, overstated the case with the use of the word "presumption." Maybe that is too strong a word to use.

But it seems to me that if the property is substantial and anything ever goes up on appeal, they are going to look down those criteria, and every judge formulating his opinion to justify his or her decision in the case is going to have to write an opinion on appeal that is going to reflect the criteria we set out in this bill.

Now certainly it does not rise to the level of a presumption such as we have in the criminal law, and perhaps that is a slight misuse of the term. But what it does is it sets that in as an important standard for the court, as important and on a parallel level with the economic circumstances of the party. I think that is clearly not warranted.

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

Mr. McVERRY. Mr. Speaker, would Mr. O'Donnell submit to a brief interrogation, please?

The SPEAKER. The gentleman indicates that he will, and Mr. McVerry may proceed.

Mr. McVERRY. Mr. Speaker, in the wording of your subsection (h), you say the court may award to one, each, or both of the parties the right to live in the family home for reasonable periods of time. Do you contemplate the possibility by that language that the marital parties may, after a divorce, be occupying the premises simultaneously?

Mr. O'DONNELL. I did not anticipate it at the time I wrote it. I think the language admits of that possibility.

Mr. McVERRY. But that certainly is not your intention, is it?

Mr. O'DONNELL. No.

Mr. McVERRY. Mr. Speaker, if I may make a brief remark.

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

Mr. McVERRY. I agree with Mr. O'Donnell and I support the adoption of the amendment which he has submitted. I think that a very relevant consideration that a court should take into account at the time of awarding marital property is the custody of the children and with whom they will reside.

I do not think, however, that custody should be determinative or ever overly persuasive as to whether a custodial parent should have the actual award in fee of the real estate, of the jointly owned real estate. Custody alone should not create a presumption or should not be an overwhelming desirability factor as to the award of that house, but rather the granting to that custodial parent of the right to live in that house until such time as those children have reached their maturity, at which time the court can reconsider the disposition of that particular piece of real estate. And if, at that point in time, there are overwhelming factors that weigh in favor of one spouse or the other, the court can then make such an award. However, there is no reason for the court to determine at the time of the marital breakup—nor do I think it advisable to grant the court the power—to award the home to the wife or the custodial parent simply because that person has custody.

The person can have the power or the right to reside on those premises so long as he or she retains custody of the children. At the time that custody is terminated or the children reach their maturity, the court can then make an ultimate disposition of that property be it all to one or be it in equal percentages to either.

I think that Mr. O'Donnell's amendment is well taken and that by inserting in subsection (h), that the court may award to the parties the right to live on the premises for a reasonable period of time accomplishes that, and we will then have a court making a determination at some later time as to the ultimate award of that marital domicile. I would urge the adoption of Mr. O'Donnell's amendment.

On the question recurring.

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—96

Alden	Duffy	Lehr	Scheaffer
Anderson	Dumas	Letterman	Schmitt
Armstrong	Fisher, D. M.	Livengood	Serafini
Arty	Foster, W.	Lynch, F.	Seventy
Austin	Gamble	Mackowski	Sieminski
Belardi	Gannon	McClatchy	Spitz
Bennett	Geesey	McMonagle	Stairs
Bowser	Geist	McVerry	Steighner
Brandt	George, M.	Michlovic	Stewart
Brown	Goebel	Micozzie	Swift
Burns	Grabowski	Miller	Taylor, E.
Caltagirone	Grieco	Mowery	Wachob
Cessar	Gruppo	Murphy	Wass
Chess	Halverson	Musto	Weidner
Cimini	Hasay	O'Donnell	Wenger
Clark, B.	Hayes, D. S.	Peterson	Wilson
Cochran	Hayes, S. E.	Pistella	Wilt
Cohen	Hoeffel	Pitts	Wright, D.
Coslett	Hutchinson, A.	Pyles	Wright, J. L.
Cowell	Itkin	Rappaport	Zeller
Dawida	Kanuck	Reed	Zitterman
DeWeese	Klingaman	Rocks	
DiCarlo	Kukovich	Ryan	Seltzer,
Dietz	Lashinger	Salvatore	Speaker
Dorr	Laughlin		

NAYS—92

Barber	Gallen	Manderino	Rieger
Berson	Gatski	Manmiller	Ritter
Bittle	George, C.	McCall	Scirica
Borski	Giammarco	McIntyre	Shadding
Brunner	Gladeck	McKelvey	Shupnik
Burd	Goodman	Milanovich	Sirianni
Cappabianca	Gray	Mrkonic	Smith, E.
Clark, R.	Greenfield	Mullen, M. P.	Smith, L.
Cole	Harper	Nahill	Spencer
Cornell	Honaman	Novak	Stuban
Cunningham	Hutchinson, W.	Noye	Sweet
Davies	Irviss	O'Brien, B.	Taddonio
DeMedio	Johnson, E.	O'Brien, D.	Telek
DeVerter	Jones	Oliver	Thomas
Dombrowski	Kernick	Perzel	Trello
Durham	Knepper	Petrarca	Vroon
Earley	Knight	Piccola	Wagner
Fee	Kolter	Pievsky	Wargo
Fischer, R. R.	Levi	Polite	White
Foster, A.	Levin	Pott	Yahner
Freind	Lewis	Pucciarelli	Yohn
Fryer	Lynch, E. R.	Punt	Zord
Gallagher	Madigan	Rhodes	Zwilk

NOT VOTING—15

Beloff	Helfrick	Pratt	Street
Cianciulli	Johnson, J.	Richardson	Taylor, F.
Dininni	Kowalshyn	Rodgers	Williams
Donatucci	Moehlmann	Schweder	

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

On the question recurring,

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

Mr. O'DONNELL offered the following amendments:

Amend Sec. 501, page 19, lines 13 and 14, by striking out “, without regard to marital misconduct,”

Amend Sec. 501, page 20, by inserting between lines 8 and 9 (14) The marital misconduct of either of the parties during

the marriage; however, the marital misconduct of either of the parties during separation subsequent to the filing of a divorce complaint shall not be considered by the court in its determinations relative to alimony.

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. O'Donnell.

Mr. O'DONNELL. Mr. Speaker, I appreciate the patience of the House in working their way through all of the lawyers' amendments. So I want to notify you ahead of time that that is not what this one is. So you ought to take a look at it. It is A3061.

What it does is it inserts marital misconduct as a consideration for the court in awarding alimony. Somebody in our caucus characterized this as the if-you-want-to-play, you-have-got-to-pay amendment.

What it basically does is run counter somewhat to the philosophy of the bill which is to take all considerations of right and wrong out of family law. I feel that right and wrong is a relevant consideration in family law. But it is not so important that you are going to permit it in the proceeding over the custody for the children because that right and wrong is eventually going to wind up hurting the children.

I also do not think it is so important that you ought to permit the parties to use it — who is right, who is wrong, who behaved badly and what they did—and to bring that out in a court proceeding. I do not think that is so important that you should let the parties tear at each other in a contested divorce proceeding.

But once you get to the issue of alimony, you are only talking about bucks. The children are no longer a consideration. You are past that stage. The emotional trauma of the parties is over. You essentially have got the divorce in hand. You are now talking about dividing the bucks. It seems to me at that point, there is no compelling reason to keep the issue of who behaved badly and why out of the proceedings. So this reinserts marital misconduct as one of the standards for the court in considering alimony, how much and how long.

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

Mr. SCIRICA. This is one of the controversial provisions of the bill, but unlike other amendments that were offered or may be offered, it will not affect divorce reform. It will not seriously alter the effect of this bill. It simply is an expression of public policy in this state as to whether or not we will allow marital misconduct to be considered in the award of alimony.

In many cases, it is a closed question. I think you should be aware that eight states expressly preclude the consideration of marital misconduct; 17 have no expressed language, and 20 expressly permit the consideration of it.

In those states that do not have expressed language, in most of them, the courts under their decisions have permitted some consideration of misconduct.

I think we have to presume that if misconduct is going to be considered, in certain cases it will bar the granting of alimony; in other cases it will substantially reduce the award of alimony;

and in some cases it may increase the award by penalizing the husband into paying more than perhaps he ought to be entitled to pay. The standards that are developed in this bill attempt to avoid those questions by saying that alimony shall be awarded only if the spouse seeking it does not have enough property to support him- or herself or is unable to support him- or herself through appropriate employment, and then it gives all the standards. The reason for excluding marital misconduct is to move away from a lot of the rancor and bitterness that presently exists in our divorce system.

I think we can be certain that if the amendment goes in, it will, in fact, be used, and no matter what grounds we adopt for the granting of the divorce, whether they be fault or no-fault or whatever, when it comes to the economic considerations, any marital misconduct will be dragged up and perhaps will be fought over even more fiercely than has been in the past because it is dollars and cents that are involved.

I think Mr. O'Donnell is correct in saying that there are going to be some problems if we exclude all consideration of marital misconduct. But on balance I think we will have a fairer law if the court does not consider that but instead considers the question of the need and ability to pay both parties.

The SPEAKER. The Chair recognizes the gentleman from Centre, Mr. Cunningham.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman, Mr. O'Donnell, consent to a brief interrogation, please?

The SPEAKER. The gentleman indicates that he will. The gentleman may proceed.

Mr. CUNNINGHAM. Mr. Speaker, I would like to ask two questions, the first of which is: Does the misconduct provision relate only to the conduct of the parties prior to the granting of the divorce?

Mr. O'DONNELL. Yes. The only misconduct that could be considered would be misconduct that occurred during the marriage but before the filing of the divorce complaint. So under the bill there are waiting periods depending upon whether unilateral is in or out. But you have a period of separation during which the parties are technically married but they have separated under the bill awaiting their divorce.

So what I do not want to do is promote some kind of spying or that kind of business while the parties are separated after they have already decided to go for the divorce. In other words, the law is setting up a separation period in which we are saying it is okay for you to live apart.

So my amendment would permit the consideration of marital misconduct that occurred during the marriage but before the filing of the divorce complaint only.

Mr. CUNNINGHAM. My second question is: If I am married and file for a divorce and the divorce is granted and there is a decree in alimony award sought and my wife is guilty of some marital misconduct, I assume that her ability to get alimony would be negatively influenced by that marital misconduct.

Now, if I were guilty of marital misconduct, would my alimony liability increase as a result of that marital misconduct, or is it that the wife's marital misconduct would decrease her ability to either get an award or decrease the size of

the award only?

Mr. O'DONNELL. I think it would be relevant to both the payer and the payee.

Mr. CUNNINGHAM. So am I given to correctly understand then that if the husband were guilty of marital misconduct, his obligation to pay alimony could actually go up far beyond the actual economic need of the wife and maybe without regard to his only economic ability to meet that need?

Mr. O'DONNELL. No. One of the reasons the bill is constructed the way it is is to enable the kind of balancing that is obviously going to be required.

If this amendment began instead of (14), (1) and there was no (2), then misconduct would be the standard and could well result in the kind of circumstance which you described, which I think would be terrible. But the purpose of listing all of them without an attempt to say, first you do (1) and then you do (2), but the listing of all of these standards and presenting them to the court and saying, consider all of them, weigh them into the balance, the function of constructing the bill in that way is to give the court the opportunity to avoid just the kind of result that you are hypothesizing.

Mr. CUNNINGHAM. Without belaboring that issue, Mr. Speaker, then if the relative needs of the former wife and the relative ability of the former husband to meet those needs will still be taken into consideration, you are saying nonetheless that marital misconduct on the part of the husband could increase his liability beyond what it would have been had there been no marital misconduct?

Mr. O'DONNELL. Yes.

Mr. CUNNINGHAM. Thank you, Mr. Speaker.

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

Mr. McVERRY. Mr. Speaker, as a result of the action that this body took earlier today, HB 640 can no longer be characterized as no-fault divorce. It is not no-fault divorce. It is in fact divorce reform, if it passes in some fashion that we are heading toward. And it is divorce reform that is warranted and necessary, but it is not no-fault divorce. Do not mistake that mutual consent constitutes no-fault, because it does not. However, in situations where there is mutual consent to be divorced, the alimony provision of this bill will never come into play. The reason for that is that persons to a divorce action will not mutually consent unless they have between themselves resolved the issue of alimony and the issue of property division. It will be very much like the uncontested divorces that are handled throughout the counties of the Commonwealth today. So under mutual consent you will be kidding yourself if you think the court will be awarding alimony or property division, because if the parties do not work out a property settlement between them as to alimony and property division, there will be no mutuality of consent, because unless both parties are satisfied with what they are getting, they are not going to consent. Therefore, they are not going to put into the hands of a third party the determination of their property rights and/or alimony. Hence, no-fault vis-a-vis award of alimony is not to be considered, really, for all intents and purposes.

So now go one step beyond that and eliminate the consideration of mutual consent as to the award of alimony, and what do you have? You have a fault concept of divorce statute which we now have in Pennsylvania. Therefore, in order for either party to secure a divorce, they must establish that they are, number one, the innocent and injured spouse, and, number two, that their spouse has engaged in conduct that constitutes either a willful and malicious desertion, adultery, cruel and barbarous treatment, bigamous marriage, sentenced for a crime with imprisonment of 2 years, or indignities to the person. Each of those six grounds is fault, Mr. Speaker. Fault must in fact be established, so therefore we are right back where we are today as far as the proof of fault.

Now I support Mr. O'Donnell's amendment that such marital misconduct should be considered in the award of alimony, and we are really not dragging up any new dirt. We are not litigating any new problems. We are not sneaking around getting sinister evidence, because all of that has to be done in order to qualify for a divorce under the six grounds of this statute with which we will primarily be dealing, because we will have no dealings with property division or alimony when there is mutual consent. That will be agreed to between the parties, or there will never be any mutual consent.

Therefore, if we are going to have to drag out the family wash in order for either party to get a divorce under the first six grounds established in this statute, then there is no reason why that same court cannot consider that same family wash along with the other 10 or 11 criteria with respect to the relative needs and abilities of the parties in order to determine alimony. Therefore, I heartily support Mr. O'Donnell's amendment and urge that you pass it, because it at least adds some consistency to what we are doing in this legislation.

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

Mr. LEVIN. Well, you gentlemen have just heard a very enlightening discussion. The problem is, you reached exactly the opposite conclusion than I did. Everything he told you was absolutely correct. However, let us just restate it. In order to get a divorce under the bill as it is now constituted without the unilateral provision, you must prove that you are an innocent and injured spouse. The court has therefore made a determination that you are not guilty of marital misconduct. To add this provision into the alimony is to make it redundant, to make it totally meaningless, and to add something that adds nothing to the bill and has no purpose being there. Therefore, I ask you to not add an inconsistency which is of no value.

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

Mr. DAWIDA. Would Mr. O'Donnell consent to a one-question interrogation?

The SPEAKER. The gentleman indicates that he will, and the gentleman, Mr. Dawida, may proceed.

Mr. DAWIDA. Mr. Speaker, I should not be bringing out my own family linen here, but I have a serious question. If my wife takes up smoking, does that count as marital misconduct?

Mr. O'DONNELL. I think not.
Mr. DAWIDA. Thank you.

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

Mr. McVERRY. With all due respect, the remarks of Mr. Levin do follow logically. However, only one of the parties is in fact deemed to be innocent and injured which is hardly really a provable thing in Pennsylvania, because I will submit to you that just as though there are less than 10 percent of all divorces that are filed in Pennsylvania today are granted in a contested fashion, likewise you will find that to be so under the enactment of this new statute and will very rarely get into the alimony and the property division aspect, because everything is going to be, frankly, the way it is today. You are going to negotiate. It is not going to change the fault grounds at all. You all know how difficult it is to get a divorce in Pennsylvania today when it is a contested divorce. It is well nigh impossible. It is still going to be impossible under this act, and, therefore, the people are going to negotiate just like they do to get an uncontested divorce today. However, when we do get into the award of the alimony, only one party is innocent and injured. The other must have been found to have committed such wrong as is defined in the statute, and that should be a relevant consideration. Again I urge your passage of the amendment.

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

The following roll call was recorded:

YEAS—137

Alden	Foster, W.	Lynch, E. R.	Ritter
Armstrong	Fryer	Mackowski	Rocks
Arty	Gallen	Madigan	Ryan
Austin	Gamble	Manmiller	Salvatore
Bennett	Gannon	McCall	Scheaffer
Bittle	Gatski	McClatchy	Serafini
Borski	Geist	McIntyre	Seventy
Bowser	George, C.	McKelvey	Shupnik
Brandt	George, M.	McMonagle	Sieminski
Brown	Giammarco	McVerry	Sirianni
Brunner	Goebel	Michlovic	Smith, E.
Burd	Goodman	Micozzie	Spitz
Caltagirone	Grabowski	Milanovich	Stairs
Cappabianca	Gray	Miller	Steighner
Cessar	Grieco	Mrkonic	Stewart
Chess	Gruppo	Mullen, M. P.	Stuban
Cimini	Halverson	Murphy	Sweet
Clark, B.	Hasay	Novak	Swift
Clark, R.	Hayes, D. S.	Noye	Taddonio
Cochran	Hayes, S. E.	O'Brien, B.	Taylor, E.
Cohen	Hutchinson, A.	O'Brien, D.	Telek
Cole	Itkin	O'Donnell	Trello
Cowell	Johnson, J.	Perzel	Vroon
Dawida	Jones	Peterson	Wachob
DeMedio	Kanuck	Petrarca	Wargo
DiCarlo	Kernick	Piccola	Wass
Dietz	Klingaman	Pistella	Wenger
Dombrowski	Knight	Pitts	Williams
Duffy	Kolter	Pott	Wilt
Dumas	Laughlin	Pucciarelli	Wright, D.
Durham	Lehr	Punt	Yahner
Fee	Letterman	Pyles	Zeller
Fischer, R. R.	Levi	Reed	Zitterman
Fisher, D. M.	Lewis	Rieger	Zwilk
Foster, A.			

NAYS—51

Anderson	Gallagher	Livengood	Smith, L.
Barber	Geesey	Manderino	Spencer
Belardi	Gladeck	Moehlmann	Thomas
Berson	Greenfield	Mowery	Wagner
Burns	Harper	Nahill	Weidner
Cornell	Hoeffel	Oliver	White
Coslett	Hutchinson, W.	Pievsky	Wilson
Cunningham	Irvis	Polite	Wright, J. L.
Davies	Johnson, E.	Rappaport	Yohn
DeVerter	Knepper	Rhodes	Zord
DeWeese	Kukovich	Schweder	
Dorr	Lashinger	Scirica	Seltzer,
Earley	Levin	Shadding	Speaker
Freind			

NOT VOTING—15

Beloff	Helfrick	Musto	Schmitt
Cianciulli	Honaman	Pratt	Street
Dininni	Kowalyszyn	Richardson	Taylor, F.
Donatucci	Lynch, F.	Rodgers	

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

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

Mr. McVERRY. Mr. Speaker, I have approximately seven amendments. However, several of them will not be offered because of the passage of the Rocks amendment earlier today. Those are the ones that were signed and ready to submit, and I have several others to sign. So if you will bear with me or possibly consider another amendment, I will be ready in a few moments.

The SPEAKER. The Chair will pass over you, Mr. McVerry, and come back.

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

Mr. GANNON offered the following amendments:

Amend Sec. 501, page 19, lines 13 and 14, by striking out "without regard to marital misconduct,"

Amend Sec. 501, page 20, by inserting between lines 8 and 9 (14) Any marital misconduct of a party.

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

AMENDMENTS WITHDRAWN

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

Mr. GANNON. Mr. Speaker, because of the prior amendment that was just agreed to by the House, of which I was a cosponsor, I am withdrawing amendment 2427.

The SPEAKER. Mr. Gannon indicates that he is withdrawing amendment No. 2427. Does the gentleman have another set of amendments?

Mr. GANNON. Yes, I do. I have one other amendment, Mr. Speaker.

The SPEAKER. Will the gentleman send that set to the desk?

On the question recurring,

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

Mr. GANNON offered the following amendments:

Amend Sec. 501, page 20, by inserting between lines 8 and 9
(c) The court shall, in an order made under this section, set forth each of the items specified in subsection (b) and shall indicate the consideration given to each item in its award or denial of alimony.

Amend Sec. 501, page 20, line 9, by striking out "(c)" and inserting (d)

On the question,

Will the House agree to the amendments?

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

Mr. GANNON. Mr. Speaker, under this section of the bill, 501, it sets forth certain criteria that the court must consider before awarding alimony. This amendment simply provides that the court will set forth in any award its consideration of those particular criteria enumerated.

AMENDMENTS WITHDRAWN

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

Mr. SCIRICA. Mr. Speaker, I do not want to speak for Mr. Gannon, but I think we can work out an acceptable amendment here, and we would prefer to put this over until a later time.

Mr. GANNON. Yes. Agreed to, Mr. Speaker.

The SPEAKER. The gentleman, Mr. Gannon, indicates he is withdrawing this amendment at this time, is that correct?

Mr. GANNON. Yes, Mr. Speaker.

On the question recurring,

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

Mr. CUNNINGHAM offered the following amendments:

Amend Sec. 501, page 20, by inserting between lines 8 and 9
(c) Duration.—Unless the ability of the party seeking the alimony to provide for his or her reasonable needs through employment is substantially diminished by reason of age, physical, mental or emotional condition, custody of minor children, or other compelling impediment to gainful employment, the court in ordering alimony shall limit the duration of the order to a period of time which is reasonable for the purpose of allowing the party seeking alimony to meet his or her reasonable needs by:

- (1) obtaining appropriate employment; or
- (2) developing an appropriate employable skill.

Amend Sec. 501, page 20, line 9, by striking out "(c)" and inserting (d)

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the gentleman from Centre, Mr. Cunningham.

Mr. CUNNINGHAM. Mr. Speaker, this amendment that I am offering is cosponsored by Mr. Scirica, the prime sponsor of HB 640. It represents an accommodation of interests here that accomplishes virtually all the objectives that I had hoped to accomplish with my two amendments in language that is more satisfactory to the prime sponsor of the bill, and I think it represents an excellent compromise.

What this requirement does is recognize that there is a right to alimony when a former spouse is in a condition of economic dependence. There certainly is a clear right to alimony, a clear right to economic protection, but with that right it recognizes that there is a responsibility on the part of that former spouse to do everything in his or her power, everything than can reasonably be done to contribute to his or her own economic well-being.

What it does essentially is set forth the obligation that the award in alimony will not be any longer than is necessary to restore the person seeking alimony to some condition of economic independence. It exempts former spouses who have their employment potential substantially reduced by reason of age, physical, mental or emotional condition, custody of minor children, or any other compelling impediment to gainful employment. So we are protecting the women who are older. We are protecting the women who are infirm. We are protecting the women who are in custody of children. And all we are saying is that, yes, there is a right to alimony but there is also a responsibility on the part of the person requesting alimony and accepting alimony to do everything in their power to contribute to their own economic well-being to the extent that that is possible. I think it is very important for us to recognize the right but also to recognize the existence of the responsibility as well.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—175

Alden	Gallagher	Livengood	Rocks
Anderson	Gallen	Lynch, E. R.	Ryan
Armstrong	Gamble	Lynch, F.	Salvatore
Arty	Gannon	Mackowski	Scheaffer
Austin	Gatski	Madigan	Schmitt
Belardi	Geesey	Manderino	Schweder
Bennett	Geist	Manmiller	Serafini
Berson	George, C.	McCall	Seventy
Borski	George, M.	McClatchy	Shadding
Bowser	Giammarco	McKelvey	Shupnik
Brandt	Gladeck	McMonagle	Sieminski
Brown	Goebel	McVerry	Sirianni
Brunner	Goodman	Michlovic	Smith, E.
Burd	Grabowski	Micozzie	Smith, L.
Burns	Greenfield	Milanovich	Spencer
Caltagirone	Grieco	Miller	Spitz
Cappabianca	Gruppo	Mowery	Stairs
Cessar	Halverson	Mrkonic	Steighner
Chess	Harper	Mullen, M. P.	Stewart
Cimini	Hasay	Murphy	Suban
Clark, B.	Hayes, D. S.	Musto	Sweet
Cochran	Hayes, S. E.	Nahill	Swift
Cohen	Hoeffel	Novak	Taddonio
Cole	Honaman	Noye	Taylor, E.
Cornell	Hutchinson, A.	O'Brien, B.	Thomas
Cowell	Irvis	O'Brien, D.	Trello
Cunningham	Itkin	O'Donnell	Vroon
Davies	Johnson, E.	Perzel	Wachob
Dawida	Johnson, J.	Peterson	Wargo
DeMedio	Jones	Petrarca	Weidner
DeVertter	Kanuck	Piccola	White
DeWeese	Kernick	Pievsky	Williams
DiCarlo	Klingaman	Pistella	Wilson
Dietz	Knepper	Pitts	Wilt
Dombrowski	Knight	Polite	Wright, D.
Dorr	Kolter	Pucciarelli	Wright, J. L.

Duffy	Kukovich	Punt	Yahner
Earley	Lashinger	Pyles	Yohn
Fee	Laughlin	Rappaport	Zitterman
Fischer, R. R.	Lehr	Reed	Zord
Fisher, D. M.	Letterman	Rhodes	Zwikl
Foster, A.	Levi	Richardson	
Foster, W.	Levin	Rieger	Seltzer,
Freind	Lewis	Ritter	Speaker
Fryer			

NAYS—5

Clark, R.	Pott	Telek	Wass
Durham			

NOT VOTING—23

Barber	Donatucci	McIntyre	Street
Beloff	Dumas	Moehlmann	Taylor, F.
Bittle	Gray	Oliver	Wagner
Cianciulli	Helfrick	Pratt	Wenger
Coslett	Hutchinson, W.	Rodgers	Zeller
Dininni	Kowalyshyn	Scirica	

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

REMARKS ON VOTE

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

Mr. ZELLER. Mr. Speaker, I was not quick on the trigger in regard to the last vote and I would like to be registered in the affirmative on Mr. Cunningham's amendment numbered A3022 to HB 640.

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

RULES SUSPENDED

The SPEAKER. The Chair recognizes the gentleman from Luzerne, Mr. O'Brien.

Mr. B. F. O'BRIEN. Mr. Speaker, I offer a condolence resolution and ask for a suspension of the rules for its immediate adoption. The condolence resolution is in behalf of a former member of this House.

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

The following roll call was recorded:

YEAS—179

Alden	Gallen	Mackowski	Schmitt
Anderson	Gamble	Madigan	Schweder
Armstrong	Gannon	Manderino	Scirica
Arty	Gatski	Manmiller	Serafini
Austin	Geesey	McCall	Seventy
Belardi	Geist	McIntyre	Shupnik
Bennett	George, C.	McKelvey	Sieminski
Berson	George, M.	McVerry	Sirianni
Borski	Giammarco	Michlovic	Smith, E.
Bowser	Gladeck	Micozzie	Smith, L.
Brandt	Goebel	Milanovich	Spencer
Brunner	Grabowski	Miller	Spitz
Burd	Gray	Moehlmann	Stairs
Burns	Greenfield	Mowery	Steighner

Caltagirone	Grieco	Mrkonic	Stewart
Cappabianca	Gruppo	Mullen, M. P.	Stuban
Cessar	Halverson	Murphy	Sweet
Chess	Harper	Musto	Swift
Clark, B.	Hasay	Nahill	Taddonio
Clark, R.	Hayes, D. S.	Novak	Taylor, E.
Cochran	Hayes, S. E.	Noye	Telek
Cohen	Hoeffel	O'Brien, B.	Thomas
Cole	Honaman	O'Brien, D.	Trello
Cornell	Hutchinson, A.	O'Donnell	Vroon
Coslett	Hutchinson, W.	Perzel	Wachob
Cowell	Irvis	Peterson	Wagner
Cunningham	Itkin	Petrarca	Wargo
Davies	Johnson, E.	Piccola	Wass
Dawida	Johnson, J.	Pievsky	Weidner
DeMedio	Jones	Pistella	Wenger
DeVerter	Kanuck	Pitts	White
DeWeese	Kernick	Polite	Williams
DiCarlo	Klingaman	Pott	Wilson
Dietz	Knepper	Pucciarelli	Wilt
Dombrowski	Knight	Punt	Wright, D.
Dorr	Kolter	Pyles	Wright, J. L.
Durham	Lashinger	Rappaport	Yahner
Earley	Laughlin	Rhodes	Yohn
Fee	Lehr	Richardson	Zeller
Fischer, R. R.	Letterman	Rieger	Zitterman
Fisher, D. M.	Levi	Ritter	Zord
Foster, A.	Levin	Rocks	Zwikl
Foster, W.	Lewis	Ryan	
Freind	Livengood	Salvatore	Seltzer,
Fryer	Lynch, E. R.	Scheaffer	Speaker
Gallagher			

NAYS—1

Goodman

NOT VOTING—23

Barber	Dininni	Kukovich	Reed
Beloff	Donatucci	Lynch, F.	Rodgers
Bittle	Duffy	McClatchy	Shadding
Brown	Dumas	McMonagle	Street
Cianciulli	Helfrick	Oliver	Taylor, F.
Cimini	Kowalyshyn	Pratt	

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

CONDOLENCE RESOLUTION

The SPEAKER. The clerk will read the resolution.

The following resolution was read by the clerk:

House of Representatives
Harrisburg, Pa.
Office of the Chief Clerk

RESOLUTION

WHEREAS, Vincent F. Gutendorf, former member of the Pennsylvania House of Representatives, passed away on August 22, 1979; and

WHEREAS, Vincent F. Gutendorf served in the Pennsylvania House of Representatives from 1951 until 1954. He was active in community affairs and a member of the Wilkes-Barre Industrial Development Authority, the Knights of Columbus, and the Advertising Club of Northeastern Pennsylvania; now therefore be it

RESOLVED, That the House of Representatives of the Commonwealth of Pennsylvania pauses in its deliberations to mourn the passing of a former dedicated member of the Pennsylvania House of Representatives and extends it heartfelt condolences to his wife, Dortha and son, Vincent, Jr.; and be it further

RESOLVED, That a copy of this resolution be delivered to

Mrs. Dortha Gutendorf, 188 North Franklin Street, Wilkes-Barre, Pennsylvania 18702.

We hereby certify that this is an exact copy of a resolution introduced in the House of Representatives by the Honorable Bernard F. O'Brien, and adopted by the House of Representatives on the 26th day of September 1979.

H. JACK SELTZER
Speaker

CHARLES F. MEBUS
Chief Clerk

(Members stood.)

The SPEAKER. The resolution is unanimously adopted.

ANNOUNCEMENT

The SPEAKER. The Chair regrets to announce that a former employe of this House, Mr. Paul Irving, died this morning. The viewing will be held on Friday evening at 7 p.m., at the Wesley A.M.E. Church at 5th and Camp Streets here in Harrisburg. The funeral services will be at 8 p.m. The burial will be on Saturday in Philadelphia.

It is the intention of the Chair and the majority and minority leaders who suggest to the House that is a proper time to adjourn for the week.

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.

WELCOMES

The SPEAKER. The Chair welcomes to the floor of the House the son of a member of this House, Kenneth Johnson, the son of the gentleman from Blair, Mr. Ed Johnson.

The Chair also welcomes to the floor of the House Charles Krul from Swissvale and Karen Piersol from Lancaster. They are the guests of the gentleman from Allegheny, Mr. Austin.

The Chair also welcomes to the floor of the House Rod Wolf. He is here as the guest of the gentlemen from Blair, Messrs. Geist, Johnson and Hayes.

The Chair welcomes to the hall of the House Mr. William Atkinson of Kennedy Township, Allegheny County, the guest of Mr. Trello.

ADJOURNMENT

Mr. PUCCIARELLI moved that this House of Representatives do now adjourn until Tuesday, October 2, 1979, at 1 p.m., e.d.t.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 4:55 p.m., e.d.t., the House adjourned.