COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

MONDAY, OCTOBER 29, 1979

Session of 1979 163rd of the General Assembly Vol. 1, No. 77

HOUSE OF REPRESENTATIVES

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

THE SPEAKER (H. JACK SELTZER) IN THE CHAIR

PRAYER

THE HONORABLE RICHARD A. GEIST, member of the House of Representatives and guest chaplain, offered the following prayer:

Heavenly Father, help the members of this House today as we conduct the legislative business of the state. May we forget our petty differences as we work together for the good of the people, and may we remember that patience is the best remedy for every trouble. Help us be worthy of the trust which the people have placed in us. May the decisions we make today benefit this great Commonwealth, and may we strive to enhance the lives of the people who reside in this state. 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, October 23, 1979, will be postponed until printed.

HOUSE BILLS INTRODUCED AND REFERRED

HB 1890  By Representatives STEWART, BITTLE and PN 2347 TELEK.

An Act authorizing the Department of General Services with the concurrence of the Department of Environmental Resources and the approval of the Governor, to sell and convey to Longwell Mining Incorporated in the name of the Commonwealth a tract of land in Adams Township, Cambria County, Pennsylvania.


HB 1891  By Representatives PIEVSKY, SALVATORE, PN 2348 McMENAGLE and GREENFIELD.


HB 1892  By Representatives RODGERS, McCALL, PN 2349 YAHNER, GALLAGHER and BURNS.

An Act providing for credits to mobile home owners for certain taxes paid under Article II of the “Tax Reform Code of 1971,” and making an appropriation.


HB 1893  By Representatives ZORD, KNEPPER, POTT, McVERRY, CESSAR, ITKIN, TRELL, KNIGHT, SEVENTY, RHODES, PISTELLA, COWELL, GRABOWSKI, CHESS, MRKONIC, GAMBLE, DUFFY, FISHER and GOEBEL.

An Act amending the “Second Class County Code,” approved July 28, 1953 (P. L. 723, No. 230), authorizing the jury commissioners to join their State association, providing for attendance at the annual meeting and authorizing payments by the county pertaining thereto.


HB 1894  By Representatives GRABOWSKI, KNIGHT, COWELL, CHESS, NOVAK, SEVENTY, PISTELLA, DAWIDA, DUFFY, ITKIN, RHODES, MICHLOVIC, DeWEES, CAPPIANCA, TRELL, GAMBLE, R. D. CLARK, COCHRAN, COHEN, HOEFFEL, ZORD and TELEK.

An Act requiring the Department of Transportation to provide for certain maintenance on State highways.


HB 1895  By Representative GRABOWSKI.


Referred to Game and Fisheries, Oct. 23, 1979.

HB 1896  By Representatives WILSON, F. J. LYNCH, PN 2353 KOLTER, BRUNNER, YAHNER and FEE.


HB 1897  By Representatives YAHNER, THOMAS, WENGER, TELEK, C. GEORGE, FRYER, LEHR, W. W. FOSTER, GRIECO, HASAY,
HB 19009 By Representatives KLEIN, KLEIN, MADIGAN, 
DE MEO, FEI, CALTAGIRONE, 
BROWN, COLE, STUBAN, A.C. FOSTER, 
JR., BOWSER, DEVERTER, McCall, 
RODGERS, B. F. O'BRIEN, HELFRICK, 
MACKOWSKI, LEVI, L. E. SMITH, PITTS, 
HALVERSON and LEWIS.

An Act amending the "Liquor Code," approved April 12, 
1951 (P. L. 90, No. 21), requiring the board to issue licenses for 
the limited manufacture and use of ethyl or methyl alcohol for 
liquid fuel purposes and providing for fees.

HB 19004 By Representative McCracken. 
PN 2361

An Act amending the "Federal Augmentation Appropriation 
Act of 1979," approved July 4, 1979 (No. 10A), changing 
appropriations and adding appropriations.

HB 19005 By Representative McCracken. 
PN 2362

An Act amending the "Public School Code of 1949," approved 
March 10, 1949 (P. L. 30, No. 14), requiring a course in sex edu-
cation to be taught in public high schools.

HB 19006 By Representatives GRADECK, COCHRAN, 
ZORD, NOYE, PUNT, PICCOLA, 
MADIGAN, VROON, ZELLER, MRKONIC, 
MACKOWSKI, KLEIN, PRATT, 
ALDEN, DUFFY, SIRIANI, CORNELL, 
LASHINGER, PYLES, LEWIS and E. Z. 
TAYLOR.

An Act amending the "Pennsylvania Election Code," approved 
June 3, 1937 (P. L. 1333, No. 320), eliminating 
cross-filing by candidates for the office of judge, school director or juris-
tice of the peace.

HB 19007 By Representatives REED and CIMINI. 
PN 2364

An Act requiring the Department of Transportation to make a feasibility study of certain Amtrak services; make a report to the General Assembly and making an appropriation.

HB 19008 By Representatives MOWERY, SCHEAFFER, 
PN 2365

W. W. FOSTER, PUNT, A. C. FOSTER, 
JR., GALLOW, SPENCER, L. E. SMITH, 
GEESEY, McCracken, S. E. Hays, JR., 
Yohn, Scirica, Dorr, Wilt, Fisher, 
Brown, Mackowski, Madigan, 
MOEHLMANN, WENGER, BURD, 
COHEN, BOWSER, GRUPPO, D. S. 
HAYES, SWIFT and NOYE.

An Act creating the Public Employee Retirement Study Com-
misson to make a continuing study of all public employee re-
tirement and pension systems; and making an appropriation.

HB 19009 By Representatives RHODES, SCIRICA, 
PN 2366

VROON, LEVIN, W. D. HUTCHINSON, 
BERSON, MANDERINO, LIVENGOOD.
An Act amending the "Tax Reform Code of 1971," approved SB517, PN 1146 March 4, 1971 (P. L. 6, No. 21, excluding certain interest from the personal income tax. Referred to Committee on Transportation.

DAWIDA, MURPHY and F. J. LYNCH.

An Act creating the Product Liability Review Commission as a temporary body to investigate and review product liability law and practice, providing staff, powers and duties and subpoena power, and requiring the submission of a report of its findings, recommendations and proposed legislation to the Governor, the General Assembly, the Judiciary and the public.


HB 1910 By Representatives ALDEN, ZORD, D. S.
PN 2368 HAYES, NOYE, COHEN, CESSAR, KNEPPER and PRATT.


HB 1911 By Representatives ALDEN, ZORD, PRATT. NOYE, JONES, MICOZZIE, PERZEL and CESSAR.

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, providing for the annual renewal of registrations and drivers' licenses by the county treasurer acting as agent of the department and making appropriations.


HB 1912 By Representatives ALDEN, ZORD, PRATT. NOYE, JONES, MICOZZIE, PERZEL and CESSAR.

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, by further providing for the offense of loitering or prowling.


HB 1913 By Representatives ALDEN, SERAFINI, MACKOWSKI, MICOZZIE and GOEBEL.

An Act amending the "Liquor Code," approved April 12, 1961 (P. L. 90, No. 21), further providing for the leasing of property for State stores.


HOUSE RESOLUTION INTRODUCED AND REFERRED

Serial No. 140 By Representatives TRELLO, GAMBLE, FEE, CHESS, DAWIDA, KNIGHT, C. GEORGE, KUKOVICH, PISTELLA, SEVENTY, GRABOWSKI, COWELL, ITKIN, MICHLOVIC, AUSTIN, MRKONIC, NOVAK, MANDERINO, IRVIS, B. D. CLARK, LAUGHLIN, SWEET, MUSTO, SHUPNIK and LIVENGOOD.

Attorney General and Department, Environmental Resources remove wastes from Neville Island Park site.

In the House, Oct. 23, 1979
Belardi Gamble McCall Seventy
Beloff Gannon McClatchy Shafield
Bennett Gutski McIntyre Shutnik
Berson Geesey McKelvey Sieminski
Bittle Gett McGonagle Siriani
Borski George, C. McVerry Smith, E.
Boswer George, M. Michnic Smith, L.
Brandt Giammarco Micozzi Spencer
Brown Gladbeck Milavich Stairs
Burd Goebel Miller Steinheir
Bruns Goodman Mohlmann Stewart
Caltagirone Grabowski Mowery Street
Cappabianca Gray Mrkonick Stuban
Cessar Greenfield Mullen, M. P. Sweet
Chies Grieco Murphy Swift
Cimini Gruppo Musto Taddeano
Clark, B. Halverson Nahill Taylor, E.
Clark, R. Harper Novak Taylor, F.
Cocharan Hasay Noye Telek
Cohen Hayes, S. E. O'Brien, B. Thomas
Cole Helfrick O'Brien, D. Trello
Cornell Hoeffel O'Donnell Wachob
Coseleti Honaman Oliver Wagner
Cowell Hutchinson, A. O'Reilly Wargo
Cunningham Hutchinson, W. Peterson Wess
Davies Itkin Petrarca Weidner
Dawida Johnson, E. Piccola Wenger
DeMeio Johnson, J. Piekavy White
DeVerter Jones Pistella Williams
DeWeese Knavick Pitts Wilson
DiCarlo Kernick Politte Witt
Dietz Klingerman Pott Wright, D.
Dininni Knepper Paciarelli Wright, J. L.
Dombrowski Knight Punt Yaehner
Donatucci Kolter Pyles Yohn
Dorr Kukovich Reed Zeller
Duffy Lashinger Rhodes Zitterman
Dumas Laughlin Rieger Zord
Durham Lehr Ritter Zwol
Farley Letterman Rocks
Fay Levi Rodgers Seltzer
Fischer, R. R. Levin Ryan Speaker
Fisher, D. M. Levin Ryan Speaker

NAYS—0

NOT VOTING—12

Brunner Irvis Madigan Richardson
Cianculli Kowalysyn Pratt Spitz
Hayes, D. S. Lynch, F. Rappaport Vroom

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

ANNOUNCEMENT

COMMITTEE MEETING POSTPONED

The SPEAKER. The Chair recognizes the gentleman from York, Mr. Lehr, for an announcement.

Mr. LEHR. I would like to remind the members of the Liquor Control Committee that we will not have our meeting this afternoon, and we will let you know when we will have that meeting. Thank you.

BILL REPORTED FROM COMMITTEE, CONSIDERED FIRST TIME, AND TABLED

HB 1708, PN 2090 (Unanimous) By Mr. GALLEN

An Act amending the act of May 31, 1893 (P. L. 188, No. 138), referred to as the Legal Holiday Law, providing for observance of Yom Kippur and for transactions occurring on that day.

State Government.

CALENDAR BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of HB 1771, PN 2166, entitled:


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

YEAS—139

Alden Fee Mannmiller Ryan
Anderson Fisher, D. M. McCollum Salvatore
Armstrong Freid McClatchy Scheaff
Arty Gallagher McIntyre Secina
Barber Gallen McKelvey Senfini
Belardi Gamble McMonagle Shadid
Beloff Gannon McVerry Shupnik
Bennett Gatski Michovic Silani
Berson Geist Micozzi Smith, E.
Broseki Giammarco Milanovich Smith, L.
Burd Goodman Mowrey Speers
Bruns Gray Mullen, M. P. Taylor, E.
Caltagirone Greenfield Muro Wargo
Cappabianca Grieco Nahill Warchob
Cessar Harper Noye Wagner
Clark, B. Hasay O'Brien, B. Warso
Cochran Hayes, S. E. O'Brien, D. Warts
Cohen Helfrick O'Donnell Wawer
Cornell Honaman Oliver Wensier
Coseleti Hutchinson, W. Perzel White
Cowell Johnson, J. Petrarca Williams
Cunningham Johnson, J. Petrarca Wilson
Davies Jones Piccola Wilt
DeVerter Knepper Piekavy Wright, D.
DeWeese Kolter Piekavy Wright, J. L.
DiCarlo Lashinger Pucciarelli Yohn
Dietz Laughlin Paciarelli Zeller
Dininni Levi Punt Zitterman
Dombrowski Levin Pyles Zord
Donatucci Lynch, E. R. Rieger Zwol
Duffy Mackowski Ritter
Dumas Madonna Rocks
Durham Manderino Rodgers
Earley

NAYS—49

Austin Geesey Knight Schweder
Bowser George, C. Kukovich Seventy
Brown Goebel Lehr Sieminski
Chees Grabowski Letterman Stairs
Clark, R. Gruppo Lewis Steinheir
Cole Halverson Lewin Livengood Stewart
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.

REMARKS ON VOTE

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

Mr. DORR. Mr. Speaker, I am incorrectly recorded on HB 1771. I would like the record to show that I voted in favor of HB 1771.

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

The House proceeded to third consideration of SB 234, PN 1014, entitled:

An Act making an appropriation to the Greater Pittsburgh Guild for the Blind, Pittsburgh, Pennsylvania, for the provision of services to the blind.

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

YEAS—184

Aiden  Alden  Anderson  Armstrong  Arty  Austin  Barber  Belardi  Belleff  Bennett  Berson  Bittle  Borski  Bowser  Brandt  Brown  Hurd  Burns  Caitagiron
Levin  Levine  Lewis  Livingood  Lynch, E. R.  F.  Lyon  Mackowski  Manmiller  McCull  McCall  McClythy  Mckalger  McKeel  McMonagle  George, C.  George, M.  Giammarco  Gladbeck  Goebel  Goodman  Grabowski
Salvatore  Scheaffer  Schmiel  Schmidt  Schweder  Seicra  Serafini  Seventy  Shaddin  Shupnik  Sieminski  Sirionni  Smith, E.  Smith, L.  Spazze  Stairs  Stieghaner  Stewart  Stuhman

NAYS—0

NOT VOTING—19

Brunner  Cianciulli  Dumas  Gannon  Hayes, D. S.  Manderino  Irving  Rappaport  Reed  Madigan  Pratt  Richardson  Street  Voss  Watters  Wright, D.  Wright, J. L.  Zeller  Yahner  Yahn  Zelinski  Zetter  Seltzer  Speaker

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

Ordered, That the clerk return the same to the Senate with information that the House has passed the same without amendment.

REMARKS ON VOTE

The SPEAKER. The Chair recognizes the minority whip. For what purpose does the gentleman rise?

Mr. MANDERINO. Would you report me as voting in the affirmative on SB 234, which was just voted, Mr. Speaker?

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

The House proceeded to third consideration of HB 852, PN 929, entitled:


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

Mr. MANDERINO offered the following amendment:

Amend Sec. 2, page 7, line 1 by removing the period after “days” and inserting and shall first apply to the tax year com-
mencing in 1980 and each year thereafter.

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

The SPEAKER. The Chair recognizes the minority whip.
Mr. MANDERINO. Mr. Speaker, my amendment deals with the effective date of the act. Presently the bill reads that the act shall take effect in 60 days. Since we are talking about a tax, my amendment adds after “... effect in 60 days” the words “and shall first apply to the tax year commencing in 1980 and each year thereafter.” So that there is no confusion as to whether or not this would apply to some partial part of a taxable year, we are making it clear that this bill would have only the effect of repealing the tax so far as the years commencing 1980 and thereafter. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—182

Aiden Fisher, D. M. Levi Salvatore
Anderson Fisher, A. Levin Scheaffer
Armstrong Fister, W. Livengood Schmitt
Arty Freund Lynch, E. R. Schweder
Austin Fryer Mackowski Schneider
Barber Gallagher Mammiller Seventy
Belardi Gallen McColl Shading
Beloff Gamble McKeown Smith, E.
Bennett Gannon McClatchy Shupnik
Bittle Gatski McIntyre Siemenski
Borski Grewey McKelvey Sirionni
Bowser Grewey McNamara Smith, L.
Brandt George, C. McVerry Smith, W.
Brown George, M. Michlovic Spencer
Burd Giannamarco Miczko Stairs
Burns Gladeck Milanovich Stegner
Calkins Goebel Miller Stewart
Capponichio Goodman Mohlmann Stubin
Cesar Grabowski Mowery Sweet
Chess Gray Mrokon Swift
Cimini Greenfield Mullen, M. P. Taddeo
Clark, B. Greco Murphy Taylor, E.
Clark, R. Gruppo Musicus Taylor, F.
Cohehan Halvorson Nahill Tekle
Cohen Harper Novak Thomas
Cole Hasay Noye Trello
Cornell Hayes, S. E. O'Brien, B. Warboe
Cucietti Hellrick O'Brien, D. Wagner
Cowell Hewitt O'Connell Wargo
Cunningham Honaman Oliver Wass
Davies Hutchinson, W. Perzel Weir
Davies Ikin Peterson White

DeMedio Johnson, E. Petracco Williams
DeVerder Johnson, J. Picoia Wilson
DeWeese Jones Plevsky Wirt
DiCarlo Kanuck Pastella Wright, D.
Dietz Kernick Pitts Wright, J. L.
Dimini Klingaman Polite Yahner
Dombrowski Knepper Pucciarelli Zitterman
Dorr Knight Ritter Zoller
Duffy Koter Punt Zwikl
Durham Lasinger Rocks
Earley Laughlin Rocks
Fee Lehr Rodgers Seltzer
Fischer, R. R. Leiterman Ryan Speaker

NAYS—1

Lewis

NOT VOTING—20

Berson Hutchinson, A. Pratt Richardson
Brunner Irvis Pyles Spitz
Cianciulli Kowalshyn Rappaport Street
Dunatojvi Lynch, F. Reed Vroom
Hayes, D. S. Maivigan Rhodes Weidner

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

REMARKS ON VOTE

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

Mr. WEIDNER. Mr. Speaker, I was away from my desk on the vote on the Manderino amendment to HB 852. I would like to be recorded in the affirmative.

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

CONSIDERATION OF HB 852 CONTINUED

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

Mr. LAUGHLIN. Mr. Speaker, would you pass the bill over briefly until my amendment can be brought down from my office? I was not aware that you were going to run it just now.

The SPEAKER. For the information of the gentleman, the Chair has a set of his amendments at the desk. They have already been circulated.

Mr. LAUGHLIN. Yes, Mr. Speaker, but I do not have the set for the reading clerk.

The SPEAKER. The Chair thanks the gentleman.

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

Mr. LAUGHLIN offered the following amendments:

Amend Title, page 1, line 11, by striking out “provided” and inserting produced
Amend Title, page 1, line 11, by removing the period after “Commonwealth” and inserting and sold in certain states.
Amend Sec. 1 (Sec. 1101), page 2, lines 14 and 15, by striking out “electric light company, water power company, hydroelectric company,”
Amend Sec. 1 (Sec. 1101), page 2, lines 23 and 24, by striking out "electric light and power, waterpower, hydroelectric,"
Amend Sec. 1 (Sec. 1101), page 3, lines 3 and 4, by striking out "electric energy or"
Amend Sec. 1 (Sec. 1101), page 3, line 4, by striking out "of gas"
Amend Sec. 1 (Sec. 1101), page 3, lines 6 and 7, by striking out "of electric energy or gas"
Amend Sec. 1 (Sec. 1101), page 3, line 14, by striking out the bracket before "(b)"
Amend Sec. 1 (Sec. 1101), page 4, line 5, by inserting after "Pennsylvania" in a state that has taken action since December 21, 1977 which results in higher costs for electric energy produced in that state and sold in Pennsylvania unless the action that was taken after December 21, 1977 is rescinded
Amend Sec. 1 (Sec. 1101), page 4, line 14, by striking out "(b)"
Amend Sec. 1 (Sec. 1101), page 4, line 15, by striking out the brackets before and after "subsections (a) and (b)"
Amend Sec. 1 (Sec. 1101), page 4, line 15, by striking out "subsection (a)"
Amend Sec. 1 (Sec. 1101), page 4, line 27, by striking out the bracket before "and"
Amend Sec. 1 (Sec. 1101), page 4, line 28, by removing the comma after "states" and inserting referred to in clause (2) of subsection (b).
Amend Sec. 1 (Sec. 1101), page 5, line 1, by striking out the bracket after "year"
Amend Sec. 1 (Sec. 1101), page 5, lines 4 and 5, by striking out the brackets before and after "subsections (a) and (b)"
Amend Sec. 1 (Sec. 1101), page 5, line 5, by striking out "subsection (a)"
Amend Sec. 1 (Sec. 1101), page 5, line 14, by striking out the brackets before and after "(d)"
Amend Sec. 1 (Sec. 1101), page 5, line 14, by striking out "(c)"
Amend Sec. 1 (Sec. 1101), page 5, line 22, by striking out the brackets before and after "(e)"
Amend Sec. 1 (Sec. 1101), page 5, line 22, by striking out "(d)"
Amend Sec. 1 (Sec. 1101), page 5, line 26, by striking out the bracket before "subsections"
Amend Sec. 1 (Sec. 1101), page 5, line 26, by striking out "subsection (a)"
Amend Sec. 1 (Sec. 1101), page 5, line 26, by striking out "subsection (a)"
Amend Sec. 1 (Sec. 1101), page 6, line 3, by striking out the brackets before and after "subsections (a) and (b)"
Amend Sec. 1 (Sec. 1101), page 6, line 3, by striking out "subsection (a)"
Amend Sec. 1 (Sec. 1101), page 6, line 17, by striking out the brackets before and after "subsections (a) and (b)"
Amend Sec. 1 (Sec. 1101), page 6, line 18, by striking out "subsection (a)"
Amend Sec. 1 (Sec. 1101), page 6, line 22, by striking out the brackets before and after "(f)"
Amend Sec. 1 (Sec. 1101), page 6, line 22, by striking out "(e)"
On the question recurring.
Will the House agree to the amendments?
(Members proceeded to vote.)

**VOTE STRICKEN**

The SPEAKER. For what purpose does the majority whip rise?
Mr. S. E. HAYES. Mr. Speaker, many Representatives have asked if Mr. Laughlin would go beyond the brief explanation he just gave and explain to the House that his amendment most particularly strikes to the situation between the State of West Virginia and the Commonwealth of Pennsylvania. I believe that is the real purpose of his amendment, and if he would elaborate, I believe most Representatives would appreciate a broader explanation than he has given so far.

The SPEAKER. The clerk will strike the vote.

The Chair recognizes the gentleman from Beaver, Mr. Laughlin. The gentleman may proceed.

Mr. LAUGHLIN. Mr. Speaker, in response to Mr. Hayes, the legislation presently would exempt all those areas outside the State of Pennsylvania that are presently encompassed in the legislation we passed in 1977; that is, the 4.5-percent gross receipts tax on utilities.

Mr. Speaker, in December of 1977, when we passed this legislation, West Virginia had in place at that time .88 mills of taxation on utilities generated and shipped into Pennsylvania. West Penn Power, being the owner of two of these generating plants in West Virginia, was taxed to the tune this year of $4.7 million. That means that we in Pennsylvania are paying a gross receipts or business tax on utilities only in southwestern Pennsylvania, only by the companies that are collecting it, those two companies being Duquesne Light and West Penn Power.

As late as last week I contacted the Governor and the head of the Public Utility Commission, Mr. Goode, to ask them to have West Penn Power and Duquesne Light cease and desist from collecting this tax since it is the normal process in the PUC that they hold up any collection of taxes while it is under litigation. West Penn Power and Duquesne Light are presently in court in West Virginia questioning the constitutionality of this tax that has been levied by West Virginia. At the same time Pennsylvania has levied such a tax which is in question in court, and they are not collecting the tax.

So, Mr. Speaker, this amendment that I have offered speaks to the issue of those two particular companies and the State of West Virginia, the only state that is levying such a tax against Pennsylvania consumers.

The SPEAKER. The Chair recognizes the majority whip.

Mr. S. E. HAYES. There are still persons asking questions. I believe in one or two sentences what the Laughlin amendment would do is this: If HB 852 became law and there would be a repeal of the tax on electricity generated in Pennsylvania and sold outside of state and there were those states such as West Virginia which retaliated in reaction to this General Assem-
bly's enactment, in those instances where states continued their posture of retaliation, our tax on those energies generated in Pennsylvania but sold, say, in the State of West Virginia would stay in place and would not be repealed. It is our retaliation to their retaliation.

Mr. LAUGHLIN. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—184

Alden Foster, A. Levin Schaeffer
Anderson Foster, W. Livengood Schmitt
Armstrong Frey Lynch, E. R. Schweyer
Arty Fryer Mackowski Serica
Austin Gallager Manderson Serafini
Barber Gallen Mann MILL Seventy
Belardi Gamble McCall Shaddin
Behof Gannon McClatchy Shupnik
Bennett Gatski Melntyre Sieminski
Lerson Greusey McGrew Siriani
Bittle Greis McMangh Smith, L.
Borski George, C. MeVery Spencer
Brandt George, M. Michlizzi Stairs
Brown Giarmarco Missazza Swip
Burd Gladbeck Milionich Stanger
Burns Goebel Miller Stewart
Caltagirone Goodman Mohimann Stuhman
Cappabianca Grabowski Mosewey Sweet
Cesar Gray Mrkonjic Swit
Chess Greenfield Mullen, M. P. Taylor
Cunini Greco Murphy Taylor, E.
Clark, B. Gruppo Mussio Taylor, P.
Clark, R. Haherson Nobb Taylor, P.
Cochran Harper Novak Thomas
Cohen Hasoy Noye Trello
Cole Hayes, S. E. O'Brien, B. Wachob
Cornell Hohlbeck O'Brien, D. Wagner
Cossett Hoestfeld O'Donnell Wargo
Cowell Honaman Oliver Wass
Cunningham Hutchinson, A. Peterson Weidner
Dawida Hutchinson, W. Petracca Werger
DeMedio Itkin Pecora White
DeVerter Johnson, F. Pesky Williams
DeWeese Johnson, J. Pestilla Wilson
DiCarlo Jones Pitts Witt
Dietz Kamack Polite Wright, D.
Dianni Kornick Polit Wright, J. L.
Dombrowski Klingman Pucciarelli Yahr
Donatucci Knepper Pump Yohn
Dorr Knight Pyles Zeller
Duffy Kolter Reiger Zitterman
Dumas Kravchuk Ritter Zord
Durham Lashinger Rocks Zweik
Earley Laughlin Rodgers
Fett Lehr Ryan Seltzer
Fischer, R. R. Letterman Salvatore Speaker
Fisher, D. M. Levi

NAYS—2

Bowser Lewis

NOT VOTING—17

Brunner Kowalchyn Kranz Pratte Richardson
Ciancilli Lynch, F. Rappaport Spitz
Devis Madigan Reed Street
Hayes, D. S. Perzel Rhodes Vroom
Irvis
wing of this building. We are asked to evacuate, so will the
members and guests in the balcony please evacuate the building
in an orderly fashion?

The Chair will recognize the minority whip when we return.

RECESS

The SPEAKER. The Chair declares a recess until the call of
the Speaker. The Chair hears no objection.

AFTER RECESS

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

The SPEAKER. Members will please report to the floor.
Please douse all flammable material on the way in.

CONSIDERATION OF HR 852 RESUMED

The SPEAKER. The Chair returns to page 5 of today's calen-
dar, HB 852, and resumes deliberations.

On the question recurring,
Shall the bill pass finally?

The SPEAKER. The Chair recognizes the minority whip.

Mr. MANDERINO. Mr. Speaker, the members of this House
who I hoped to convince do not seem to be in their seats.
The SPEAKER. Will those members who need convincing
please report to the floor?
The gentleman may proceed.

Mr. MANDERINO. Mr. Speaker, perhaps one of the ways to
get the members back to the floor is to repeat what I have al-
ready said. I know that you will be happy to hear that.

Mr. Speaker, HB 852, as I have indicated, gives members no
reason to repeal the utility tax that we put on the books in 1977
taxing out-of-state purchases of the electric power produced
in Pennsylvania at the same rate that we have always taxed the
citizens of Pennsylvania who consume the power produced
in Pennsylvania. There are many reasons and many costs that
Pennsylvania must incur because that power is produced in
Pennsylvania, and the burden of those costs should be shared
equally by those out-of-state consumers.

Mr. Speaker, we are presently before the courts of the Com-
monwealth of Pennsylvania, where the Justice Department of
this state is arguing the case for the Commonwealth that this
tax is a tax which ought to be paid and is a tax which we ought
to be collecting. The Justice Department is before the courts of
this Commonwealth to collect this tax from the utilities for the
years 1977, 1978 and 1979. I know that this bill is not retroac-
tive, but I know that we still will be pursuing the case before
the courts, and it is my opinion that the passage of this statute
repealing the tax will be detrimental to our efforts to collect
the tax for the first 3 years in court.

Now let us go to some of the arguments that have been raised
in support of HB 852. There is the argument heard by many of
you, I am sure, that it is unconstitutional to impose that tax
anyway. You have been referred to a New Mexico and Arizona
case, where the Arizona Public Service Company was contest-
ing the tax imposed by New Mexico on power produced in New
Mexico and consumed in Arizona. And the court in that case,
yes, did declare the statute in New Mexico unconstitutional.

But in that case New Mexico's tax caused a different rate to be
imposed on the in-state companies and the out-of-state com-
panies. The court in that case says Congress required only that
New Mexico, if it chooses to tax the generation of electricity for
consumption in either state, tax it equally for each.

We have met with our gross receipts tax on the foreign pur-
cCHASES of power. We have met that test. They are taxed at
exactly the same rate that we tax our own people who consume
power.

The second argument equally fallacious, in my opinion. Mr.
Speaker, advanced in support of HB 852 is the retaliation argu-
ment that other states will retaliate, and in fact West Virginia
has already retaliated, is the way the argument is made. I sub-
mitt to you that no state has retaliated, and that West Virginia
changed their rate of taxation on the power consumed outside
of West Virginia and produced in West Virginia because for
years the people of West Virginia have been complaining that
their people are taxed with a gross receipts tax and were taxed
at a very high gross receipt tax and the out-of-state gross re-
ceipts tax was very lenient. And it was the impetus of the pres-
sure of the people of West Virginia generated over a number of
years that caused the equalization of that tax. That tax is im-
posed upon the people of West Virginia as well as the people in
other states who consume West Virginia's power, and there is
no chance, as Mr. Laughlin correctly points out by offering his
amendment, that they are going to take that particular tax off
the people of Pennsylvania who might pay it, because they
would have to take it off their people, too, in toto, and that is
just so unlikely.

Mr. Speaker, we have been pointed to as being in a retaliation
situation to the State of New York who has not signed with the
rural electric companies in Pennsylvania contracts that had in
the past been signed for the purchasing of power for Pennsyl-
mania out of New York. Mr. Speaker, there is a whole different
issue involved there, and to date the rural electric companies
have not suffered. They have not been unable to get the power
that they want from New York, nor have they had to pay any
higher prices than they would have paid to get the power. They
are simply operating without a contract. But the issue so far as
the Governor of New York is concerned is that the power there
is being generated by the Niagara power project operated by
the Power Authority of the State of New York. And that
authority, having received Federal funds in its initiation and
construction of the facilities, must, according to Federal law,
provide a reasonable amount of its power to its neighboring
state, and the argument between New York and the rural com-
panies in Pennsylvania is, what is a reasonable amount of
power. That is very inexpensive power being provided, and the
State of New York wants to keep as much of it as it can for its
consumers in New York.

Mr. Speaker, the retaliation argument falls when examined
closely. Whether we are talking about the imposition of addi-
tional taxes or whether we are talking about New York not
signing contracts because no one has been hurt, the argument
of unconstitutionality just does not stand the test of scrutiny, and we would hurt ourselves in passing this law in the collection of the 3 years’ taxes that are due to the Commonwealth of Pennsylvania.

Mr. Speaker, I urge a negative vote for all of those reasons and for one other reason, Mr. Speaker. If we do not need the money being generated by this tax or should be generated by this tax in Pennsylvania to balance our budget, and if we can relieve someone of $75 million or $150 million in taxation, we ought to relieve our own citizens of that taxation and not citizens outside the Commonwealth of Pennsylvania. We ought to leave this tax on the books and relieve our own citizens on either the sales tax or the personal income tax or another tax applied only to our citizens. I urge a negative vote, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Clarion, Mr. Wright.

Mr. D. R. WRIGHT. I disagree slightly with the minority whip. Some of his arguments I agree with; others are unsailable; they are not irrefutable. But one of the things that I have learned, and I guess that other people have, is when we deal with public policy, we do not deal with certainty; we deal with probability and the probability is that 650,000 users of rural electricity in this Commonwealth will have their bills substantially increased if this bill fails to pass. So I speak, Mr. Speaker, on behalf of the 650,000 consumers of Pennsylvania’s rural electric cooperatives.

The fact of the matter is that the electricity that comes from the power authority of the State of New York provides 45 percent of the power used by the rural cooperatives at 19 percent of their costs. There is a substantial probability that unless this bill passes, there will be no contract and that these rural electric cooperatives will have to operate in a state of uncertainty. If that uncertainty does pass, the uncertainty will be resolved for increased rates of electricity.

For that reason, Mr. Speaker, I support this bill and encourage those who represent the rural part of this state to join me in that vote.

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

Mr. GEESEY. Mr. Speaker, I should like to point out to the members of the General Assembly that we have, at least, in the York delegation, examined the whole prospect of retaliation to very fine detail. We have indeed been advised by the Maryland delegation, by the Maryland leadership of the House, that unless this tax is repealed, Maryland will retaliate.

The minority whip pointed out the problems with TMI — Three Mile Island — and I thank him for that because we cannot forget those problems. What he did not point out, however, is the fact that in order to satisfy the electrical needs of the GPU — General Public Utility — service area, we are now buying our power in the grid and, for the most part, out-of-state and, to the best of my knowledge, for the most part from Maryland.

If retaliation occurs if this tax is not repealed, and it surely will, those people living in the GPU service area, whether they be in Johnstown or whether they be in the TMI area, are going to be subject to additional costs above and beyond the price that they have already paid for TMI. That surcharge will be levied on those electrical users in the TMI area, and I really do not think that is fair, Mr. Speaker. I call for the passage of the bill. Thank you.

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

Mr. S. E. HAYES. The gentleman, Mr. Manderson, would have this House believe that the utilities are paying this tax when we all know very well that ultimately the people are paying this tax. Whether or not our particular statute here in the Commonwealth of Pennsylvania will be declared unconstitutional is certainly a matter of conjecture for those of us who are debating here today, but there are a few other facts which we can point to and are in fact tangible and are not subject to the vagaries of what a court may or may not do.

The gentleman, Mr. Manderson, talked about the action in West Virginia. It is not certain to me whether or not West Virginia was in fact acting in a retaliatory way, but it certainly is coincidental indeed that just a few short months after this General Assembly passed the tax on electricity produced in Pennsylvania and sold in West Virginia went from .88 to 4.0 percent. I think that there is more than just a coincidence there. It at least leads us to believe that there may have been some thought on the State of West Virginia to retaliate.

Let us go now more pointedly to the State of New Jersey. Already in this session of their Assembly, Assembly bill 1525 passed by their House and also their Senate and is presently on the desk of their Governor. In their bill No. 1525, it closely parallels the statute which was passed by this General Assembly and it includes not only the enactment of a tax upon that electricity coming to our consumers here in the Commonwealth of Pennsylvania, but it also includes a provision that would repeal the New Jersey tax when the Pennsylvania tax is repealed.

It seems to me very clear that when New Jersey places that sort of provision in their statute that they are, at least in some measure, reacting to our statute in a retaliatory way and they are saying to us—most importantly, they are saying to our utility consumers here in Pennsylvania—that if your state continues to tax people living in New Jersey, we shall surely continue to tax the people of Pennsylvania.

Maybe the gentleman, Mr. Manderson, believes that utilities are paying this tax, but the people in New Jersey know that the people of Pennsylvania will be paying this tax. Then the gentleman, Mr. Manderson, brought up the question of the Niagara Redevelopment Act and the generation of hydroelectricity at Niagara Falls and he quoted in part—I will add, only in part—that to date those utilities in Pennsylvania which receive from New York cheaper power for our consumers here in Pennsylvania, that those utilities have not suffered to date. And the gentleman quoted in part from that act of the Federal Legislature, the Congress, where he stated about a reasonable amount of power had to be provided to neighboring states, a reasonable amount of power. But he stopped there, Mr. Speaker, and I suggest that he stopped there for a very clear reason: because that act of the Federal Legislature states that that reasonable
amount of power shall not be more than 20 percent of the power being generated at Niagara Falls. When we consider that amount of power that may be made available to the states outside of New York, we must consider that states like Connecticut, at the present time, are trying to share in that cheaper power; the State of Massachusetts is trying to share in that cheaper power, and the State of Vermont has already signed a contract for that small amount of cheaper power.

Those states are interested in getting that cheaper power for their utility consumers in their state, and I suggest that this House of Representatives should be no less concerned about the utility consumers of this Commonwealth than those assemblies in those other states.

It is not an unlimited largess of cheap power at Niagara. A maximum of 20 percent is to be shared with states outside of New York, and as the State of New York sees utility consumers in their state being hit by the act of this General Assembly, why should they cooperate with Pennsylvania? Why should they not share with their brothers in Connecticut, Massachusetts and Vermont, rather than the states of the south, which are taxing the people of New York?

I respectfully suggest that the promise made by the gentleman, Mr. Manderino, is indeed a frail hope upon which we should stake the cost of power to our consumers in this Commonwealth. Yes, to date those who received power from Niagara have not suffered, but it is only because those in New York are willing to wait to see whether we would reconsider that ill-advised action of an earlier day. Mr. Speaker, I move that this House approve HB 852. Thank you.

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

Mr. POTT. Mr. Speaker, prior to the enactment of this tax in 1977 by the General Assembly of Pennsylvania, foreign utility companies certainly did not pay their fair share of costs to Pennsylvania government. I would like to read into the record, Mr. Speaker, some facts.

In 1975, eight domestic utility companies produced 88 million kilowatt-hours of electricity and paid $215 million in Pennsylvania taxes, or $2.45 per thousand kilowatt-hours of electricity generated in this Commonwealth. By the same token, 12 foreign utility companies generated 26 million kilowatt-hours, but paid only $5.7 million in Pennsylvania taxes or 20 cents per thousand kilowatt-hours of electricity generated.

I ask you, are you being fair to your constituents by repealing this tax and going back to a level where they are paying $2.45 per kilowatt-hour in taxes and someone across the state line is paying only 20 cents? Are not the same roads in this Commonwealth torn up by the heavy trucks carrying coal to these utility plants? Is the quality of air and the quality of our water not being depleted because we have these utility plants in Pennsylvania? Do we not pay additional costs for additional regulations in our Public Utility Commission because we have these utility plants generating electricity here? Do we not have to employ additional security with our state police to protect these plants? Is it not only fair that the consumer of this electricity generated here in Pennsylvania, whether he consumes it in New York, West Virginia, Maryland, Delaware, New Jersey, Ohio or wherever, is it not only fair that he pay the same amount in taxes as your constituents do here in Pennsylvania for the privilege of using Pennsylvania electricity?

I do not think it is fair to repeal this tax. I do not think it is fair to our constituents in Pennsylvania to allow foreign utility companies off the hook when our domestic utility companies will have to pay approximately 10 or 12 times as much in additional taxes if we repeal this utility tax through the passage of HB 852. I ask for a negative vote. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Erie, Mr. Bowser.

Mr. BOWSER. Mr. Speaker, I just want to concur with the proponents of this bill. I do not want to get into the magnificent rhetoric which has been going on with this. I want to put it into simple terms.

In a very short period of time, if we do not repeal this bill, we will be paying much more than we are getting back from it, and I urge your support of HB 852. Thank you.

The SPEAKER. The Chair recognizes the majority whip.

Mr. S. E. HAYES. Mr. Speaker, I believe that all who are here now should recall the action of this House before the fire drill: We adopted the Laughlin amendment, which would leave in place the Pennsylvania law in those instances where a state outside of Pennsylvania wants to be retaliatory or levy the taxes referred to by Mr. Pott. If those taxes continue, then the Pennsylvania tax will continue, and I think, at this time, that we have to consider whether we want to get cheaper electricity from those sources such as Niagara for our consumers. Thank you very much, Mr. Speaker.

The SPEAKER. The Chair recognizes the minority whip.

Mr. MANDEINO. Mr. Speaker, we passed the law that we propose to repeal today, in 1977. At that time we heard the same cries of retaliation. They have not come true. No one has retaliated. We have had the law on the books for 3 years and all anybody can say is that they are going to retaliate. Well, until they retaliate and until it hurts our people, we ought to at least tax the people out of state who consume our power at the same rate we are willing to tax our own people. It just does not make sense to repeal this tax on the premise that someone is going to retaliate.

Mr. Speaker, I do not know what the House will decide when it puts this vote up on the board, but I know that HB 852 has been sold to us with arguments that do not hold water. Mr. Hayes talks about that 20 percent of power that New York must export under the Federal law, and I am aware that it is 20 percent. I did not think that it was significant that it be 20 percent because that is an awful lot of power being generated at the Niagara plant that they do export.

The argument in New York with the Governor is that he does not want to export as much as he has been exporting because it is cheap power, and if he wins that argument, it will not make any difference whether we have repealed this tax or not. He will keep as much cheap power for the State of New York as he can. There is no valid reason to pass HB 852 that I have heard.
on the floor of the House here today. Thank you, Mr. Speaker.

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

Mr. LAUGHLIN. Mr. Speaker, very briefly, I believe that the discussion has covered just about every aspect of the legislation, but one thing that has not been mentioned, Mr. Speaker, is the fact that we are not just talking about utilities in states; we are talking about the consumer, the person who pays the ultimate bill. And with regard to this, Mr. Speaker, in 1977 those of us who opposed the enactment of this tax told this House of Representatives that it would be most regressive in western Pennsylvania where that tax is presently imposed. Our view was overruled by this House by a vote of 104 members, and that tax was put in place. Today, with the amendment that I offered, we have taken care of the situation where West Virginia is taxing our people and we are getting nothing in return. But, Mr. Speaker, ultimately we are going to be playing a game of catch-up with other states that adjoin Pennsylvania.

We have the same situation in our school districts where one school district signs a contract and says we are getting x, y, z in benefits. The next year, a, b, c is added to it, and so on, and each district is used as a ping-pong ball bounced back forth to get additional benefits for the people who are involved.

Mr. Speaker, there is no difference with this utility tax. What we are doing is pasting a tax on that other states do not apply. The majority required affirmative vote.

Mr. Speaker, I concur and I ask for an affirmative vote.

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

Mr. GANNON. Mr. Speaker, it is my understanding that most of the rural electrics in the Commonwealth obtain electricity from imported sources outside the state. That means that if this bill continues to remain law, there is a good possibility that those rural electrics and their customers will be faced with higher energy costs. Higher energy costs would mean a decline in energy use and would mean a decline in production, which would mean a decrease in jobs in the Commonwealth in those areas affected. So I urge an affirmative vote on this bill.

On the question recurring, Shall the bill pass finally?

Agreeable to the provisions of the Constitution, the following roll call was recorded:

<table>
<thead>
<tr>
<th>YEAS—133</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aklen</td>
</tr>
<tr>
<td>Anderson</td>
</tr>
<tr>
<td>Armstrong</td>
</tr>
<tr>
<td>Arty</td>
</tr>
</tbody>
</table>

Mr. GEORGE offered the following amendments:
Amend Table of Contents, page 2, by inserting between lines 21 and 22
Section 504. Approval by governing body.
Amend Table of Contents, page 2, line 22 by striking out "504" and inserting 505
Amend Table of Contents, page 2, line 23 by striking out "505" and inserting 506
Amend Bill, page 27, by inserting between lines 16 and 17 Section 504. Approval by governing body.
No permit or license for the disposal of hazardous waste shall be granted without the written consent or approval of the governing body of the county in which the proposed disposal site is located.
Amend Sec. 504, page 27, line 17 by striking out "504" and inserting 505
Amend Sec. 505, page 33, line 8 by striking out "505" and inserting 506

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

The SPEAKER. The Chair recognizes the gentleman from Clearfield, Mr. George.
Mr. GEORGE. Mr. Speaker, I am sure that the debate on this will be extensive and there will be many arguments, and many of those will assume that something of this magnitude must come out within 2 or 3 days, a bill of this size and of this nature that all of its people in Pennsylvania will have to live with in the next 20 or 30 years. I submit that if this amendment does not pass, that those individuals—and I do not care what side of the aisle you sit on. I am talking about individual legislators who—must face the wrath of their constituency because another department of state has the sole control and the sole say over whether or not you get this type of material in your districts. I had suggested to the honorable colleague of ours, the chairman of the Conservation Committee—fortunately, he agreed with the amendment that it is—

The SPEAKER. Will the gentleman yield? Will the gentleman please confine his remarks to the content of the amendment?
Mr. GEORGE. I was just a short way from it, sir.
The SPEAKER. The Chair was unable to hear the gentleman. Maybe it is just as well. The gentleman may proceed.
Mr. GEORGE. Thank you, sir. I do not think it was all—I think it was a compliment coming from that gentleman. Thank you, sir.

The SPEAKER. The Chair recognizes the gentleman from Mercer, Mr. Bennett. For what purpose does the gentleman rise?
Mr. BENNETT. While we are yielding for a moment, would the gentleman tell me what the amendment number is again, please? Which amendment are we on?
The SPEAKER. The number is 3422.
Mr. BENNETT. Thank you.
The SPEAKER. The gentleman, Mr. George, may proceed.
Mr. GEORGE. Mr. Speaker, what this amendment does, it allows the municipality or the county to have some input, some say, into whether or not they feel that this type of material should be placed within their area, within their boundary or within that geographic location. It is specific in saying that no permit or license for the disposal of hazardous waste shall be granted without the written consent or approval of the governing body of the county in which the proposed disposal site is located.

My reasoning is not academic but really from experience. It was only a certain few months ago that, under the present law, if the local bodies did not have this control, this type of action, this type of site could have been induced and forced on the constituents of my area, and we, because of the current law, had a right to object to it. At the moment, the bill that we intend to put this amendment into absolutely alludes in no manner, only in the specific, that the Department of Environmental Resources and the board of its composition will make this sole decision. I have seen in the past several years where these types of boards come into your area and face the constituency, only to go back to Harrisburg and vote the way they wanted to to start with. This is not democracy. This is not the way these things should be handled, and no one should have more of a say whether or not a site is presented within a location than those citizens who live within it. Thank you very much.

The SPEAKER. The Chair recognizes the gentleman from Franklin, Mr. Bittle.
Mr. BITTLE. Mr. Speaker, Mr. George is correct. He did talk to me about this amendment, and I understand exactly what he is trying to do. And if the members will bear with me for a moment, I will tell you a little short story of my own that will show you that I have probably more concern than he does in this particular area. And that is, about 4 or 5 years ago, without any word to any state official, such as United States Senators or any Congressman or any State Representatives or any State Senators or any township supervisors or county commissioners or mayors of boroughs in my legislative district, the Environmental Protection Agency devised a plan secretly to come into my area and deposit Philadelphia sewage sludge. And the first notice that anybody got that this was going to be done in our area was a headline in the local newspaper which said, "Letterkenny Township To Receive Philadelphia Sewage Sludge". Now if you have never had any kind of a headline that had a disastrous effect on your life, you should have had to live with that one for about a year.

So I understand what he is talking about, and at this point it may sound like I am defending his amendment, and I may be at some future time, but there is no way that the gentleman nor anyone else here can show you any aspect of HB 1840 that relates to siting. This bill deals with the "whys" and the "whats." It does not deal with "where." I am going to have a problem with siting. All of you are going to have a problem with siting. The best line I ever heard about that was at a conference that I attended this summer dealing with hazardous waste, when the speaker said everybody wants their garbage picked up. Nobody wants it put down. Nobody wants one of those dumps in their district or their backyard or their county or whatever. This bill does not do that. It establishes the regulations which we have the ability administer because EPA—Environmental Protection Agency—has said that we have that ability. We cannot delegate that authority below our own level. It would be an illegal delegation of power, something we cannot do.
The next two bills dealing with hazardous waste will deal specifically with siting, which deals with the "wheres" which is the only thing that our local people are concerned with. They do not care "what." They care about it not coming into their county, their township, their borough, whatever. I tried to convince Mr. George and I am trying to convince the rest of you. His amendment may have some very, very valid points, but it should not be addressing itself to HB 1840. It should be addressing itself to the bill which will deal with the "wheres," the siting bill, which will probably be the second or third bill in this package.

I would ask all of you, regardless of the problem you have with this kind of thing and this local problem of having a dump or a landfill or whatever in your area, not to vote for this amendment until the amendment is really germane to what is being considered, and that is the legislation which will deal with siting. Thank you very much.

The SPEAKER. The Chair recognizes the gentleman from Clearfield, Mr. George.

Mr. GEORGE. It seems that my fine colleague is putting me on the back with a brick.

Now the gentleman states that this bill at the moment has nothing to do with siting, but if you read it thoroughly, it does have something to do with transportation. And I insist, how are we going to haul this stuff around if we do not have any place to put it? And that is exactly what the bill does.

Then the gentleman went further to admit that he suffered the same circumstances and the same problem that I did and that many of you will in the future. And I insist that this amendment does not hurt the bill but rather protects those people whom you represent. Thank you very much.

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

Mr. BITTLE. Mr. Speaker, if this amendment did not hurt the bill, I would not be standing here saying this. This bill would prohibit—Maybe I should turn it around the other way, This bill would force us to ground it has to be, and it will not. You will not find that in this section 301 that says, and I am reading line 11 "... processing or disposal is authorized by the rules and regulations of the department..." And the department means DER — the Department of Environmental Resources.

Now, you said to Mr. George that this bill does not deal with siting, if I heard you correctly. However, the bill itself states under that section that I have just quoted to you that it would deal with the management of residual waste. Would you please explain your reasoning to me, sir?

Mr. BITTLE. Mr. Speaker, those are part of the technical requirements of the Environmental Protection Agency regulations under the Resource Conservation Recovery Act regulations. They deal with the "hows" and the "whats." There is nothing in here that says where it will go, how they will determine what kind of an area is suitable. That is siting. That is what I told Mr. George, that this bill does not relate to that.

Mr. BENNETT. Mr. Speaker, again, it says, if I read the English language correctly under section 301 on page 16, line 9, "No person or municipality shall store, transport, ..." et cetera.

Now if you are saying to me that does not say where they will do it, then I think we might need some stronger language there.

Mr. BITTLE. Was that a question?

Mr. BENNETT. Well, it is both, Mr. Speaker.

What I am trying to find out is how in the world you can say that this bill does not say where, when I read it and it says that they shall store it and transport it wherever the bureau says that they will transport it or store it or whatever.

Now, it says in there that the department — DER — will tell you that you cannot store it in a certain place and you are telling this House that the bill does not say that, and I suggest that I would have to disagree with your theory.

Mr. BITTLE. Well, Mr. Speaker, you will have to disagree then. I am telling you the bill does not address siting. It addresses the "hows" and the "whys" and the "whats" of these kinds of regulations for disposal.

It has nothing to do with what kind of an area is going to be suitable or where they are going to be located, what kind of a ground it has to be, and it will not. You will not find that in this bill. That is siting and that is going to be — You know, if you think this one is going to be controversial, wait until we get to siting. That is all I can tell you, Mr. Speaker.

Mr. BENNETT. I thank the gentleman, Mr. Speaker.

The SPEAKER. The Chair recognizes the minority leader.

Mr. MANDERINO. Mr. Speaker, I wholeheartedly agree with Mr. Bennett and some of the others. Mr. George, who indicate that this bill does talk about siting. It talks about where a hazardous dump can be had. On page 23, section 502, it talks about permits and licensing application requirements:

Application for any permit or license shall be in writing, shall be made on forms provided by the department and shall be accompanied by such plans, designs and relevant data as the department may require. Such plans, designs and data shall be prepared by a registered professional engineer.
We are talking about plans for facilities. In section (h) of 502: “The application for a permit to operate a hazardous waste storage, treatment or disposal facility shall also be accompanied by a form...” etcetera, et cetera, et cetera.

I am not willing to take the chance that Mr. Bittle is evidently willing to take. I can foresee that this particular bill is enough for the Department of Environmental Resources to accept applications from individuals who want to have disposal areas on their particular land, and there is nothing in this bill that brings into play the local officials. DER will approve those plans or disapprove those plans based on their regulations. And certainly they can make regulations according to this act that are going to say what kind of soil you have to have, how many acres you have to have, etcetera, etcetera. But the point that Mr. George is making in his amendment is that there is nothing here that puts the local officials into the act, and I think we would be very unwise with some of the wording of this act to simply take Mr. Bittle’s word for it that this bill does not talk about siting. It does talk about siting. It talks about applications for permits to run a facility. That is siting as far as I am concerned.

I certainly think that Mr. George’s amendment ought to be adopted.

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

Mr. FRYER. Mr. Speaker, I support the amendment.

If the ladies and gentlemen of the House would turn to page 27, which is the portion that Mr. George is proposing be amended, you will see there that in the process of the permit or license that is granted by the department, it gives six reasons that the issuance can be changed; that it can be subject to modification or suspension at any time, and it gives six reasons.

However, Mr. Speaker, the local government is not considered in any one of those six reasons. Now, it seems to me that Mr. Bittle’s argument is, well, we will get into the siting later, and I submit that once you pass this piece of legislation in regards to siting, the local governments will have whatever input that the department cares to grant.

In other words, they will be placing themselves at their mercy. Now, if there is doubt as to whether or not this amendment should be placed therein, I submit it would not damage anything where it placed in there. And then, above all, those of us who are suspicious of this would have this amendment in to protect that local government—and when I say local government, I am referring to the county level; not on the borough or township level—to make it more pleasing to those who are advocating this approach. But I think that after the experience that Mr. Bittle related on the floor of this House at that time when we had that amendment placed, there was the usual hullabaloo, and I say that what we have at issue here is the long arm of the state government coming in and getting it through this vehicle, and then wherever those sites are to be placed, so be it. And with a kind word to the county affected, well, it is really for the best of you because we had to place it somewhere.

Mr. Speaker, I submit there is nothing, there is nothing that this amendment will damage unless it will damage those who feel that the state should have that all-consuming power. Mr. Speaker, I support the amendment.

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

Mr. MICHLovic. Mr. Speaker, would the gentleman, Mr. Bittle, stand for interrogation?

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

Mr. MICHLovic. Mr. Speaker, in section 104 of the bill dealing with the powers and the duties of the department, on page 9 of this proposal, am I reading correctly that we are giving the department the power, the authority to administer the Solid Waste Management Program under this act, and does that authority not include the authority to site waste disposal sites?

Mr. BITTLE. Mr. Speaker, as far as the administration of the Solid Waste Management Act, the department has had it for some long period of time and are doing it now, and it does not give them the right to site; only to issue permits. There are still numerous things that can interfere with the siting of a landfill or a dump that is not even toxic and hazardous in substance.

Mr. MICHLovic. As I read the powers of the department on page 10, it goes through a series of powers developing a statewide Solid Waste Management. As I read some of the subsections on page 10, items Nos. 3 and 6, it appears to me to be a clear demarcation of the powers, the authority of the department and I think that is the point to which Mr. George is addressing his amendment. We are talking here about the authority and whatever siting regulations and statutes that we develop at a later time, I think there is no question that the authority is granted in this act for the siting of those sites. So I would disagree with the gentleman, Mr. Bittle, in his statement that this does not deal with the siting. It does deal with that, as Mr. Manderino has pointed out, and we are talking here about the authority and whether or not that local government shall have a veto power. Thank you, Mr. Speaker.

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

Mr. LAUGHLIN. Mr. Speaker, very briefly, the gentleman, Mr. Bittle, in his presentation has said that siting is not part of this particular piece of legislation. Mr. Speaker, the facts are these: that the Department of Environmental Resources has for many years had the oversight on such things as solid waste, landfills, and other areas. This deals with the leaching of water or some contamination that might come down through a landfill and be deposited in our water sources. It deals with the burning or the incinerating of toxic materials that would in fact be a danger or a hazard to the health of the people of Pennsylvania.

Mr. Speaker, it will not so much be the wishes of a county commissioner as to toxic and hazardous waste being deposited in a given county. It will be the geology of Pennsylvania that will dictate whether or not these sites can in fact hold and contain such toxic, hazardous materials as PCB — polychlorinated biphenyl —, cyanide and other materials that are mentioned in this legislation. As a matter of fact, they are not mentioned in this legislation, Mr. Speaker, but they are mentioned in the
Federal EPA Regulations that this particular legislation happens to be drafted to. So the fact that the county commissioners of a county may have some concern and certainly our constituents would have some concern about having any waste dump of any kind located within our counties. Nonetheless, Mr. Speaker, the final and ultimate decision will be whether that geology of that area and whether the circumstances of population in that area will dictate whether or not we can in fact handle a hazardous or toxic material in that area. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—110

Alder, Freind Kukovich, Ritter
Arty, Fryer Leshinger, Rodgers
Austin, Gallagher Laughlin, Schmitt
Beloff, Gallen Letterman, Schweder
Bennett, Gamble Levi, Seventy
Borski, Gannon Levin, Shadding
Brown, Gaiski Livengood, Shuppik
Cappelmini, Geist Mackowski, Smith, L.
Cimini, George, C. Manderino, Steighner
Clark, B. Giammarco McCall, Stewart
Cochran, Gladke McIntyre, Street
Cohen, Goodman McMonagle, Stuban
Cole, Gray Meoazzie, Sweet
Coslett, Greenfield Milanovich, Taylor, E.
Cowell, Greico Mrkonie, Taylor, F.
Davies, Harper Mullen, M. P. Thomas
Dawida, Hasay Musto, Trello
DeMedio, Hayes, S. E. Novak, Wachob
DeVerter, Helfrick O'Brien, B., Wagner
DeWeese, Hutchinson, A. Oliver, Wargo
Dombrowski, Hutchinson, W. Petracek, White
Donatucci, Johnson, J. Piesky, Williams
Dorr, Jones Pitts, Wright, D.
Duffy, Kernick Polite, Zeller
Durham, Kingsman Pucarena, Zitterman
Earley, Knight Rieger, Zwick
Fee, Kolter

NAYS—75

Anderson, George, M. Maehlmann, Serafini
Armstrong, Goebel Mowery, Sieninski
Belardi, Grabowski Murphy, Siracusa
Bittle, Gruppo Nahil, Spencer
Bowser, Halverson Noye, Stairs
Brandt, Hoeffel O'Brien, D., Swift
Burd, Honaman O'Donnell, Taddeo
Burns, Hkin Perzel, Telek
Cessar, Johnson, E. Peterson, Wess
Chess, Kanuck Picrolo, Weinhard
Clark, R. Knepper Pestella, Wenger
Connell, Lehr Pott, Wilson
Cunningham, Lewis Puzt, Witt
D'Carlo, Manmiller Fyles, Wright, J. L.
Dietz, McClutchy Rocks, Yohn
Dinanni, McKelvey Ryan, Zord
Fischer, R. B. Mccarthy Salvatore, Zeltner
Fisher, D. M. Michievic Scheaffer, Speaker
Foerster, A. Miller Scirica, Speaker
Foerster, W.

NOT VOTING—18

Barber, Hayes, D. S. Pratt, Richardson

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

REMARKS ON VOTE

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

Mr. YAHNER. My switch is locked out. I would like to vote in favor of the George amendment No. A3422 to HB 1840.

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

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

Mr. DAVIES offered the following amendment:

Amend Sec. 403, page 20, by inserting between lines 25 and 26

(c) After January 1, 1981 any producer of any hazardous waste or any producer having a byproduct of production which is a hazardous waste may be required by the department to submit to the department for its approval a plan relating to the disposal of such hazardous waste at either an on-site disposal area or an off-site disposal area.

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

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

Mr. DAVIES. In the interest of saving time, I would withdraw the other two amendments that I had submitted and ask for only consideration of amendment A3572, so as to alleviate any confusion about the form.

The SPEAKER. The Chair thanks the gentleman.

The amendment before the House is A3572. The gentleman may explain his amendment.

Mr. DAVIES. Mr. Speaker, this amendment would essentially state that after 1981, any producer of any hazardous waste as defined in the bill, HB 1840, FN 2263, that what hazardous waste producer must—I am sorry, may, not must—may be required, by the department, to submit to the department for its approval a plan relating to the disposal of that waste at either an on-site disposal area or an off-site disposal area.

Essentially, I think that what Mr. Laughlin said in addressing the issue of where the siting is going to take place, it is true that under present day circumstances, without the application of some of the new techniques that are looking at us and possibly in a one- or two-year period, what he says is basically true today, but that it overnight with the application of technology to this matter of the handling of hazardous waste, because we are on the threshold of a major breakthrough with the development of certain vitreous materials as attested to just the other week in the newspaper that had been announced by
the French government, that you are not going to be concerned just by the fact of the type that you have the A #1 geological background to accept waste, but this now may be a question of any and every municipality having somewhat of a potential to take care of some of these hazardous wastes with the development of these new materials. So that you are not talking about the guy next door or the guy down the highway or we will pick up the garbage and we will transfer it. You are talking about the potential now of onsite developments by industries in locations with the breakthrough in technology and the development of this new technology.

I am not holding this up as some sort of a hope that we are going to be able to resolve all of the placement of hazardous waste as far as the Commonwealth is concerned or that each and every municipality going to be able to force or can take care of their own, because in addition to the ordinary geological makeup, we are going to have to take into consideration the seismological security of that very area in itself, whether it is prone or not prone to seismological defects and the like. But we are going to have to address this from other viewpoints as this technology develops, and that is one reason I think that we are going to have to concern ourselves with a plan that by 1981 the department is going to be able to say to a manufacturer or a carrier, you are going to have to have this free of charge. Just as this technology develops, and that is one reason I think that we are going to have to think of this new technology.

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

Mr. BITTLE. Mr. Speaker, I have reviewed that amendment with the gentleman, Mr. Davies, and that amendment is acceptable and would be agreed to.

On the question recurring,
Will the House agree to the amendment?
The following roll call was recorded:

<table>
<thead>
<tr>
<th>Yeas</th>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>177</td>
<td>Alden, Foster, W.</td>
</tr>
<tr>
<td></td>
<td>Anderson, Freind</td>
</tr>
<tr>
<td></td>
<td>Armstrong, Fryer</td>
</tr>
<tr>
<td></td>
<td>Arty, Gallagher</td>
</tr>
<tr>
<td></td>
<td>Austin, Gallen</td>
</tr>
<tr>
<td></td>
<td>Belardi, Gamble</td>
</tr>
<tr>
<td></td>
<td>Bennett, Gannon</td>
</tr>
<tr>
<td></td>
<td>Berson, Gatski</td>
</tr>
<tr>
<td></td>
<td>Bittle, Geesey</td>
</tr>
<tr>
<td></td>
<td>Borski, Geist</td>
</tr>
<tr>
<td></td>
<td>Bowser, George, C.</td>
</tr>
<tr>
<td></td>
<td>Brandt, George, M.</td>
</tr>
<tr>
<td></td>
<td>Brown, Giannamore</td>
</tr>
<tr>
<td></td>
<td>Burd, Gladek</td>
</tr>
<tr>
<td></td>
<td>Burns, Goebel</td>
</tr>
<tr>
<td></td>
<td>Callugiron, Goodman</td>
</tr>
<tr>
<td></td>
<td>Cappabianco, Grabowski</td>
</tr>
<tr>
<td></td>
<td>Caesar, Greenwood</td>
</tr>
<tr>
<td></td>
<td>Chess, Grieco</td>
</tr>
<tr>
<td></td>
<td>Cinini, Gruppo</td>
</tr>
<tr>
<td></td>
<td>Clark, B., Halverson</td>
</tr>
<tr>
<td></td>
<td>Clark, R., Harper</td>
</tr>
<tr>
<td></td>
<td>Cochran, Hassay</td>
</tr>
<tr>
<td></td>
<td>Cohen, Hayes, S. E.</td>
</tr>
<tr>
<td></td>
<td>Cole, Helfrich</td>
</tr>
<tr>
<td></td>
<td>Cornell, Hoesfitt</td>
</tr>
<tr>
<td></td>
<td>Coslett, Honaman</td>
</tr>
</tbody>
</table>

Cowell, Hutchinson, A. | Peterson, Wargo |
Davies, Hutchinson, W. | Petracca, Wass |
Dawida, Hkin, Pecola |
DeMedio, Johnson, E. | Plevsky, Weidner |
DeVender, Jones, Pitta |
DeWeese, Kanuck, Polite |
DiCarlo, Kernick, Pot |
Diest, Klingsman, Pucciarelli |
Dinnini, Konner, Pund |
Domlbowski, Knight, Pyles |
Duffy, Kolter, Reed |
Durnham, Kukovich, Rhodes |
Earley, Las linger, Ritter |
Fischer, R. R. | Laughlin, Rodger |
Fisher, D. M. | Letterman, Seltzer |
Foster, A. | Levi, Salvatore |

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. LASHINGER offered the following amendments:

Amend Table of Contents, page 3, by inserting between lines 11 and 12:

"Right of citizen to initiate or intervene in proceedings."

Amend Bill, page 44, by inserting after line 30:

"Any citizen of this Commonwealth having an interest which is or may be adversely affected shall have the right on his own behalf, without posting bond, to initiate or intervene in any action brought pursuant to section 602, 604, 605 or 607.

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

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

Mr. LASHINGER. Mr. Speaker, I would ask the members to bear with me. There have been a few changes in the number of amendments. This is numbered A3584. It is different than one of the original amendments proposed.

What this amendment will do is allow for direct citizen intervention in the proceedings of the Commonwealth under HB 1840, under the new amendments to the Solid Waste Management Act. Currently, Mr. Speaker, there is no provision for direct citizen intervention under this new act or under the proposed act. Federal statutes provide for citizen intervention in the Clean Water Act, the Resource Conservation Recovery Act, and the Safe Drinking Water Act. Provisions must be given to participation comparable to the existing Federal statutes under...
the other acts in this area.

There were recently proposed regulations proposed for comment from the Environmental Protection Agency directed at those states that were to assume primacy, which is what we are trying to do under HB 1840. Those “regs” allow for direct citizen intervention in state enforcement actions. I assume in having recent conversations with the Environmental Protection Agency, representatives from the Environmental Protection Agency, over the past few weeks, that these “regs” will be adopted and the Commonwealth will have to move in this direction if we are going to assume primacy, which is what we are trying to do under HB 1840.

Aside from that, New Jersey, Arkansas, and Texas already allow for citizen intervention in this area, Mr. Speaker. The State of Alabama recently enacted right of intervention in amendments to their water pollution control statute. This is a serious problem throughout the Commonwealth, and we are not sure what the magnitude of the problem is at this exact date. It is my prediction, or in my estimation, the problem is only going to continue to grow. The departments admitted that they do not have the resources to administer the existing programs, to police the existing programs. What citizen intervention does is allow your constituents, those who are directly affected through toxic waste disposal, through hazardous waste disposal, it allows them to protect themselves. It is what your constituents want. It is what your constituents demand. Thank you, Mr. Speaker.

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

Mr. BITTLE. Mr. Speaker, I do not agree with the gentleman as far as where intervention is being called for. I think that intervention and participation by citizens is being asked for in hearings, in panels, and all of those kinds of things, but not in enforcement proceedings. I cannot think of a more unpleasant situation for a prosecuting attorney, be it criminal or civil, than to have a local group become involved with five or 10 of their own lawyers in the kind of a case when he is trying to enforce the provisions of this act. I think that this thing could really be looked upon as a lawyer’s bill, because I think certain individuals would probably go around drumming up business under this act. The citizen participation ought to be in any area dealing with this act, but not in the actual lawsuits and hearings on it, and I would ask the membership to oppose the amendment.

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

Mr. LASHINGER. Mr. Speaker, just a brief reply: If the members would look at the amendment, the conflict that the sponsor of the bill talks about in terms of interfering with prosecutors, be it at the district attorney level or here at the Commonwealth level, are removed. It does not apply to section 606, but applies merely to sections 602, 604, 605 and 607, which are civil actions and would probably involve citizen intervention with other private attorneys.

The other area of contention, Mr. Speaker, in that case that I cited, in the Federal Circuit Court in Illinois, clearly reassessed the need, and the speaker said that it did not apply directly to the Solid Waste Management Act, but clearly reassessed the necessity for requiring citizen intervention in state enforcement actions. Thank you, Mr. Speaker.

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

Mr. BITTLE. Mr. Speaker, I did not say it should not apply to the Solid Waste Management Act. In fact, I said it should apply to the Solid Waste Management Act. Maybe it should apply to very many aspects of it, but not when you are actually in court enforcing one of the provisions of this law and having 10, 15, 20 other lawyers in court with you screwing up your case. That is why I am asking you to oppose the amendment.

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

The following roll call was recorded:

YEAS—89

Austin
Benson
Borski
Bowser
Brown
Caltagirone
Cheese
Clark, B
Cochran
Cohen
Cole
Cornell
Coslett
Cowell
Cunningham
Dawda
DeMedio
DeWeese
Donatucci
Duffy
Fischer, R. R
Fryer
Gallagher
Gamble
Gatski
Geesey
George, C.
Giammarco
Gleck
Goodman
Greenfield
Harper
Hassey
Hoefel
Hukin
Johnson, J.
Jones
Kanuck
Kernick
Knight
Kolter
Kukovich
Lashinger
Lewis
Livingood
Mackowski
Manderino
McCall
McClatchy
McKlonic
Mullen, M. P.
Murphy
Musto
Nahill
Novak
O’Brian, B.
O’Donnell
Petrarca
Pievsky
Pistella
Pitts
Pucciarelli
Pyles
Ritter
Rodgers
Schmitt
Schweder
Seventy
Shadidn
Shupnik
Stairs
Stoughton
Stewart
Stuban
Sweet
Taylor, F.
Trelle
Wachob
Warpo
White
Williams
Wilt
Wright, D.
Yahn
Zeitzer
Zitterman
Zwicki

NAYS—92

Alden
Anderson
Armstrong
Arty
Belardi
Beloff
Bennett
Bittie
Brandt
Burd
Burns
Cappabianca
Cessar
Cimini
Clark, R.
Davies
DeVerter
DiCarlo
Dietz
Diminini
Dombrowski
Dorr
Durham
Earley
Efe
Fisher, D. M.
Foster, A.
Foster, W.
Freind
Gallen
Gannon
Geist
George, M.
Goebel
Grabowski
Gray
Grieco
Grappo
Halverson
Hayes, S. E.
Helfrick
Honan
Hutchinson, W.
Johnson, E.
Klingaman
Knepper
Laughlin
Lehr
Letterman
Levi
Levin
Lynch, E. R.
Marmiller
McKelvey
McMongale
McVerry
Micozzi
Milovich
Mochmann
Mowery
Nove
Perzel
Peterson
Pecold
Police
Pett
Punt
Rocks
Ryan
Salvatore
Scheffler
Seitz, A.
Speaker
NOT VOTING—22

Barber
Branmer
Cianciulli
Dumas
Hayes, D. S.
Irvis
Kowalchyk
Lynch, F.
Madigan
McIntyre
Miller
O'Brien, D.
Olive
Patt
Rappaport
Reed
Rhodes
Richardson
Riegler
Spitz
Street
Vroom

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

REMARKS ON VOTE

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

Mr. DAVIES. Mr. Speaker, may I record my vote on Mr. Lashinger's first amendment?

I was out of my seat on the first amendment. I would like to be recorded in the negative on Mr. Lashinger's first amendment.

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

On the question recurring.

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

Mr. LASHINGER offered the following amendments:

Amend Sec. 604, page 36, by inserting between lines 8 and 9 (c) In addition to any other remedies provided in this act, any citizen of the Commonwealth having an interest which is or may be adversely affected may institute a suit in equity on his own behalf to restrain a violation of this act, regulations, standards, or orders adopted or issued thereunder.

Amend Sec. 604, page 36, line 9, by striking out “(e)” and inserting (d)

Amend Sec. 604, page 36, line 13, by striking out “(d)” and inserting (e)

On the question,

Will the House agree to the amendments?

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

Mr. LASHINGER. Mr. Speaker, this differs somewhat from the first amendment. The first amendment talked about intervention in administrative proceedings. This talks about direct citizen intervention in suits in equity, citizen intervention on their own behalf. Presently the department tells us that there are 18 field inspectors in the Bureau of Solid Waste Management. They are responsible for all the field inspection programs. They are responsible for policing the municipal, industrial, agricultural hazardous waste activities throughout the Commonwealth. They review the permits, the complaints, the inspections.

What this amendment will do, Mr. Speaker, is what I had hoped to achieve in the first amendment. I think it is important that the members make every best effort to understand that it is not a lawyer's bill. It is more a consumer's bill than anything else, and it is not an effort to muddle litigation on behalf of the consumer. It is an attempt to strengthen litigation on behalf of the consumer. The citizens are usually the first to know about this problem. They are the ones who are most adversely affected through contamination.

We have a specific problem in the southeastern region with trichloroethylene. The citizens who were the first to know were the ones who lived in the area of the spill. Those citizens then were responsible to go to the Department of Environmental Resources, who were to bring an action on their behalf. It has not happened, Mr. Speaker. The citizens would augment the existing state enforcement capabilities. We are saying that we do not have the resources to handle the program ourselves. What this is an addition through citizen intervention to the existing state program. Thank you, Mr. Speaker.

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

Mr. BITTLE. Mr. Speaker, I did not get the number of that amendment. Could the gentleman, Mr. Lashinger—

The SPEAKER. The amendment is 3500.

Mr. BITTLE. Mr. Speaker, essentially this does the same thing as the first amendment, which was just defeated, except, as I understand Mr. Lashinger's explanation, it does an inequity, and I would ask the membership to oppose the amendment for the same reason. What you are going to have are suits being brought on behalf of the damaged parties trying to establish the courtroom procedures and the technique to win those cases on behalf of the damaged parties, and you are going to allow 35 other people to bring their lawyers and come into the same kind of hearing or case and be tried along with him, and I cannot imagine more of a nightmare than that. I would ask you to oppose the amendment.

The SPEAKER. The Chair recognizes the lady from Delaware, Mrs. Durham.

Mrs. DURHAM. Mr. Speaker, may I interrogate Mr. Bittle, please?

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

Mrs. DURHAM. Mr. Speaker, I do not quite understand your logic. If you are in a court of equity and you have a class action suit, is it not common for there to be several different parties involved?

Mr. BITTLE. Mr. Speaker, in the first place, this is not a class action suit. These people can bring their own attorneys to help prosecute the case. I do not know but your husband is an attorney, is that correct?

Mrs. DURHAM. He is not here voting on the floor today; I am.

Mr. BITTLE. I understand that. But maybe the lady should have directed the interrogation at him, because I cannot imagine worse of a nightmare for either an attorney who was the prosecutor in a criminal case or prosecuting a case civilly than to have the, quote, unquote, help of 35 other lawyers in the courtroom with him, who have no expertise, perhaps, in a particular area.

Mrs. DURHAM. I do not think my question was answered, Mr. Speaker.

Mr. BITTLE. It is not a class action, Mr. Speaker. That is the answer to your question.

Mrs. DURHAM. If Mr. Lashinger's amendment were passed,
would this allow for class actions?

Mr. BITTLE. No, it would not. It would allow them to bring their own attorneys to prosecute the case along with the attorney who is assigned to prosecute it by the municipality or the damaged party or the Commonwealth.

Mrs. DURHAM. If Mr. Lashinger's amendment is not passed, how would an injured party receive equitable treatment? What process would they go through to be equitably reimbursed by the damage?

Mr. BITTLE. By the party who was empowered under the provisions of HB 1840 to prosecute these violations. That is why we are establishing these violations and enforcement sections.

Mrs. DURHAM. So, therefore, it would be the Department of Environmental Resources that would have to bring the action against a company?

Mr. BITTLE. What I was trying to bring out is, this gives them the power to intervene in the same hearing. Nobody can take away your right to sue. This bill does not do that as it is presently constituted, and Mr. Lashinger's amendment does not change that. What it does do is allow them to intervene in the same suit. Nobody can stop them from bringing their own suits.

Mrs. DURHAM. Thank you, Mr. Speaker.

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

Mr. W. D. HUTCHINSON. Mr. Speaker, will the gentleman, Mr. Bittle, consent to further interrogation?

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

Mr. W. D. HUTCHINSON. Mr. Speaker, as the bill now stands without the Lashinger amendment, does the gentleman have an opinion as to whether or not the bill confers any private right of action itself on any individual? Does it confer any such private right of action as it now stands?

Mr. BITTLE. Mr. Speaker, I believe it neither confers nor detracts from a person's ability now to prosecute those kinds of actions, the bill as it stands now.

Mr. W. D. HUTCHINSON. In other words, Mr. Speaker, is the gentleman saying that as the bill now stands, a person who wished to bring a private lawsuit because of damage suffered because of the disposal of waste would have such rights as he has under current law, no more, no less?

Mr. BITTLE. That is true. That is exactly correct.

Mr. W. D. HUTCHINSON. Okay.

A little further interrogation: If the Lashinger amendment is placed into the bill, then does the gentleman have an opinion as to whether or not there would be a private right of action conferred on individuals to sue if there was a violation of the provisions of this particular bill?

Mr. BITTLE. In my opinion, if the Lashinger amendment were to be adopted, it would confer the right upon those individuals to enter into the same suit, and I think that is wherein the trouble lies.

Mr. W. D. HUTCHINSON. So that if the Lashinger amendment were put into the bill, there would be in effect a sort of private attorney general, a right on the part of an individual to bring a suit supposedly on behalf of the general public? Is that the gentleman's opinion?

Mr. BITTLE. Yes.

Mr. W. D. HUTCHINSON. Mr. Speaker, I oppose the amendment.

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

The following roll call was recorded:

YEAS—75

<table>
<thead>
<tr>
<th>Aiden</th>
<th>Gallagher</th>
<th>Kukovich</th>
<th>Pistella</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austin</td>
<td>Gambling</td>
<td>Lashinger</td>
<td>Pucarelli</td>
</tr>
<tr>
<td>Borski</td>
<td>Gresey</td>
<td>Levi</td>
<td>Pyles</td>
</tr>
<tr>
<td>Bowser</td>
<td>George, C.</td>
<td>Lewis</td>
<td>Rhode</td>
</tr>
<tr>
<td>Brown</td>
<td>Giammarco</td>
<td>Livengood</td>
<td>Rodgers</td>
</tr>
<tr>
<td>Caltagiron</td>
<td>Gladeke</td>
<td>Maderino</td>
<td>Schmitt</td>
</tr>
<tr>
<td>Chees</td>
<td>Greenfield</td>
<td>McClanahan</td>
<td>Seventy</td>
</tr>
<tr>
<td>Clark, B.</td>
<td>Halverson</td>
<td>McCalhoun</td>
<td>Shadding</td>
</tr>
<tr>
<td>Cochran</td>
<td>Harper</td>
<td>Miller</td>
<td>Trillo</td>
</tr>
<tr>
<td>Coherent</td>
<td>Mullen</td>
<td>White</td>
<td>Wachob</td>
</tr>
<tr>
<td>Cowell</td>
<td>Hutchinson, A.</td>
<td>Mullen, M. P.</td>
<td>White</td>
</tr>
<tr>
<td>Cunningham</td>
<td>Ikin</td>
<td>Murphy</td>
<td>Williams</td>
</tr>
<tr>
<td>Dawida</td>
<td>Johnson, J.</td>
<td>Musto</td>
<td>Wright, D.</td>
</tr>
<tr>
<td>DeWeese</td>
<td>Jones</td>
<td>Nahill</td>
<td>Yahner</td>
</tr>
<tr>
<td>DiCarlo</td>
<td>Karack</td>
<td>Novak</td>
<td>Yohn</td>
</tr>
<tr>
<td>Donatucci</td>
<td>Kernick</td>
<td>O'Brien</td>
<td>Zitterman</td>
</tr>
<tr>
<td>Duffy</td>
<td>Klugman</td>
<td>O'Donnell</td>
<td>Zord</td>
</tr>
<tr>
<td>Durham</td>
<td>Knight</td>
<td>Peturen</td>
<td>Zwikli</td>
</tr>
<tr>
<td>Fischer, R. R.</td>
<td>Kolter</td>
<td>Pivus</td>
<td></td>
</tr>
</tbody>
</table>

NAYS—105

<table>
<thead>
<tr>
<th>Anderson</th>
<th>Foster, A.</th>
<th>Manmiller</th>
<th>Smith, E.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Armstrong</td>
<td>Foster, W.</td>
<td>McElveen</td>
<td>Smith, L.</td>
</tr>
<tr>
<td>Arty</td>
<td>Freind</td>
<td>McMonagle</td>
<td>Spencer</td>
</tr>
<tr>
<td>Belardi</td>
<td>Fryer</td>
<td>McVerry</td>
<td>Stairs</td>
</tr>
<tr>
<td>Beloff</td>
<td>Gellen</td>
<td>Miazee</td>
<td>Steighner</td>
</tr>
<tr>
<td>Bennett</td>
<td>Gannon</td>
<td>Milanovich</td>
<td>Stewart</td>
</tr>
<tr>
<td>Bittle</td>
<td>Gatski</td>
<td>Mohlmann</td>
<td>Stoban</td>
</tr>
<tr>
<td>Brandt</td>
<td>Geist</td>
<td>Mowry</td>
<td>Sweet</td>
</tr>
<tr>
<td>Burds</td>
<td>George, M.</td>
<td>Morkoski</td>
<td>Switlik</td>
</tr>
<tr>
<td>Burns</td>
<td>Goebel</td>
<td>Perzel</td>
<td>Taddion</td>
</tr>
<tr>
<td>Cappabianca</td>
<td>Goodman</td>
<td>Peterson</td>
<td>Taylor, E.</td>
</tr>
<tr>
<td>Cessar</td>
<td>Grabowski</td>
<td>Piccola</td>
<td>Taylor, F.</td>
</tr>
<tr>
<td>Cimini</td>
<td>Greco</td>
<td>Pitts</td>
<td>Telex</td>
</tr>
<tr>
<td>Clark, R.</td>
<td>Grappo</td>
<td>Polite</td>
<td>Thomas</td>
</tr>
<tr>
<td>Cole</td>
<td>Haryay</td>
<td>Pott</td>
<td>Wagner</td>
</tr>
<tr>
<td>Cornell</td>
<td>Hayes, S. E.</td>
<td>Pun</td>
<td>Wargo</td>
</tr>
<tr>
<td>Colettt</td>
<td>Helfrick</td>
<td>Kitter</td>
<td>Wass</td>
</tr>
<tr>
<td>Davies</td>
<td>Honaman</td>
<td>Rocks</td>
<td>Weiderer</td>
</tr>
<tr>
<td>DeMedio</td>
<td>Hutchinson, W.</td>
<td>Ryan</td>
<td>Wenger</td>
</tr>
<tr>
<td>DeVerter</td>
<td>Johnson, E.</td>
<td>Salvatore</td>
<td>Wilson</td>
</tr>
<tr>
<td>Dietz</td>
<td>Knepper</td>
<td>Scheffler</td>
<td>Witt</td>
</tr>
<tr>
<td>Diminini</td>
<td>Laughlin</td>
<td>Schwerer</td>
<td>Wright, J. L.</td>
</tr>
<tr>
<td>Dombrowski</td>
<td>Lehr</td>
<td>Scirica</td>
<td>Zeller</td>
</tr>
<tr>
<td>Dow</td>
<td>Letterman</td>
<td>Serafini</td>
<td></td>
</tr>
<tr>
<td>Earley</td>
<td>Levin</td>
<td>Shupnik</td>
<td>Seltzer,</td>
</tr>
<tr>
<td>Fisher, D. M.</td>
<td>Mackowski</td>
<td>Sianinni</td>
<td></td>
</tr>
</tbody>
</table>

NOT VOTING—23

<table>
<thead>
<tr>
<th>Barber</th>
<th>Hayes, D. S.</th>
<th>Noye</th>
<th>Richardson</th>
</tr>
</thead>
<tbody>
<tr>
<td>Berson</td>
<td>Irvis</td>
<td>O'Brien, D.</td>
<td>Rieger</td>
</tr>
<tr>
<td>Brunner</td>
<td>Kowalskyshn</td>
<td>Oliver</td>
<td>Spitz</td>
</tr>
<tr>
<td>Canezuli</td>
<td>Lynch, F.</td>
<td>Pratt</td>
<td>Street</td>
</tr>
<tr>
<td>Dumas</td>
<td>Madigan</td>
<td>Rappop</td>
<td>Vroom</td>
</tr>
<tr>
<td>Gray</td>
<td>McIntyre</td>
<td>Reed</td>
<td></td>
</tr>
</tbody>
</table>
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 as amended on third consideration?

Mr. LASHINGER offered the following amendments:

Amend Table of Contents, page 3, by inserting between lines 11 and 12:
Section 615. Class actions.
Amend Bill, page 44, by inserting after line 30
Section 615. Class actions.

Any individual who is directly affected by any unlawful activity with regard to the transportation, processing, treatment, storage and disposal of hazardous wastes may institute an action to enjoin such unlawful activity, to abate such activity as a public nuisance, to seek damages for injuries suffered or any combination of the above. Such actions may be brought as a class action for and on behalf of the individual and all other individuals similarly situated.

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

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Lashinger. Mr. LASHINGER. Mr. Speaker, on Mr. Bittle's comments, I agree that it is not an abrogation of any existing rights that a property owner, one who brings an action, might have. I think what Mr. Bittle is doing instead is inferring that the property owner has this existing right under this legislation. I think it is purely an inference, and I do not see anywhere in the legislation where there is an allowance for direct citizen intervention. I believe it is just the department or be it the Environmental Quality Board or the local district attorney, Mr. Speaker.

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

The following roll call was recorded:

YEAS—90

NAYS—93

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

Mr. LASHINGER. Mr. Speaker, on Mr. Bittle's comments, I agree that it is not an abrogation of any existing rights that a property owner, one who brings an action, might have. I think what Mr. Bittle is doing instead is inferring that the property owner has this existing right under this legislation. I think it is purely an inference, and I do not see anywhere in the legislation where there is an allowance for direct citizen intervention. I believe it is just the department or be it the Environmental Quality Board or the local district attorney, Mr. Speaker.

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

The following roll call was recorded:

YEAS—90

NAYS—93
NOT VOTING—20
Barber Hutchinson, W. McIntyre Richardson
Brunner Iris Oliver Rieger
Cianciulli Kowalskyyn Pratt Spitz
Lumas Lynch, P. Rappaport Street
Hayes, D. S. Madigan Reed Vroom

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 as amended on third consideration?
Mr. LASHINGER offered the following amendment:

Amend Sec. 103, page 4, by inserting between lines 21 and 22 “Abatement.” The restoration, reclamation, recovery, etc., of a natural resource adversely affected by the activity of a person, permittee or municipality. It has been agreed to.

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

Mr. BITTLE. Mr. Speaker, this amendment has been discussed with the gentleman proposing the amendment. It has been agreed to.

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

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. Lashinger, for an additional set of amendments.

Mr. LASHINGER. Mr. Speaker, this amendment will alter the definition of “abatement” as outlined on page 4 of HB 1840. The word “abatement,” the broad definition, means to make or become less; in law it means to end. My concern with the specific problem we had in the southeastern region was what to do with the existing damage to the natural resources. We broadened the language so that it would provide for restoration to the environment and return it to its original condition. Again, that cost would be borne by the violator, Mr. Speaker.

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

Mr. BITTLE. Mr. Speaker, this amendment has been discussed with the gentleman proposing the amendment. It has been agreed to.

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

The following roll call was recorded:

YEAS—180

<table>
<thead>
<tr>
<th>Alden</th>
<th>Foster, A.</th>
<th>Livengood</th>
<th>Schmitt</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anderson</td>
<td>Foster, W.</td>
<td>Lynch, E. R</td>
<td>Schneider</td>
</tr>
<tr>
<td>Armstrong</td>
<td>Frye</td>
<td>Mackowski</td>
<td>Serafini</td>
</tr>
<tr>
<td>Arty</td>
<td>Gallagher</td>
<td>Mannriller</td>
<td>Seventy</td>
</tr>
<tr>
<td>Austin</td>
<td>Gallon</td>
<td>McCall</td>
<td>Shaddling</td>
</tr>
<tr>
<td>Belard</td>
<td>Gamble</td>
<td>Gannon</td>
<td>Shupnik</td>
</tr>
<tr>
<td>Beloff</td>
<td>Gaski</td>
<td>Gaski</td>
<td>Sieminski</td>
</tr>
<tr>
<td>Bennett</td>
<td>Geist</td>
<td>McVerry</td>
<td>Siroman</td>
</tr>
<tr>
<td>Benson</td>
<td>George, C.</td>
<td>McHovac</td>
<td>Smith, E.</td>
</tr>
<tr>
<td>Bittle</td>
<td>George, M.</td>
<td>Micouzie</td>
<td>Smith, L.</td>
</tr>
<tr>
<td>Bower</td>
<td>Giambasco</td>
<td>Milanovich</td>
<td>Spearer</td>
</tr>
<tr>
<td>Brandt</td>
<td>Gladeck</td>
<td>Miller</td>
<td>Stairs</td>
</tr>
<tr>
<td>Brown</td>
<td>Guelb</td>
<td>Mohnmann</td>
<td>Stieghter</td>
</tr>
<tr>
<td>Buri</td>
<td>Goodman</td>
<td>Mowery</td>
<td>Stewart</td>
</tr>
<tr>
<td>Burns</td>
<td>Grabowski</td>
<td>Mrobiic</td>
<td>Stuban</td>
</tr>
<tr>
<td>Cattagione</td>
<td>Greenfield</td>
<td>Mullen, M. P</td>
<td>Sweet</td>
</tr>
<tr>
<td>Cappabianck</td>
<td>Grieco</td>
<td>Murphy</td>
<td>Swift</td>
</tr>
<tr>
<td>Cesar</td>
<td>Gruppo</td>
<td>Musto</td>
<td>Tadlaonic</td>
</tr>
<tr>
<td>Chess</td>
<td>Halveson</td>
<td>Nahill</td>
<td>Taylor, E.</td>
</tr>
<tr>
<td>Camini</td>
<td>Harper</td>
<td>Novak</td>
<td>Taylor, F.</td>
</tr>
<tr>
<td>Clark, B.</td>
<td>Hayes</td>
<td>Noge</td>
<td>Telek</td>
</tr>
<tr>
<td>Clark, R.</td>
<td>Hayes, S. E.</td>
<td>O'Brien, B.</td>
<td>Thomas</td>
</tr>
<tr>
<td>Cohran</td>
<td>Helfrick</td>
<td>O'Brien, D.</td>
<td>Trelle</td>
</tr>
<tr>
<td>Cohen</td>
<td>Hoofied</td>
<td>O'Honnell</td>
<td>Wachob</td>
</tr>
<tr>
<td>Cole</td>
<td>Homansan</td>
<td>Perzel</td>
<td>Wagner</td>
</tr>
<tr>
<td>Cornell</td>
<td>Hutchinson, A.</td>
<td>Peterson</td>
<td>Wargo</td>
</tr>
<tr>
<td>Coletti</td>
<td>Hutchinson, W.</td>
<td>Peturack</td>
<td>Wess</td>
</tr>
<tr>
<td>Conell</td>
<td>Hikin</td>
<td>Piroola</td>
<td>Weidner</td>
</tr>
<tr>
<td>Cunningham</td>
<td>Johnson, E.</td>
<td>Piopky</td>
<td>Wengar</td>
</tr>
<tr>
<td>Davies</td>
<td>Johnson, J.</td>
<td>Pistella</td>
<td>White</td>
</tr>
<tr>
<td>Dawida</td>
<td>Jones</td>
<td>Pitts</td>
<td>Williams</td>
</tr>
<tr>
<td>DeMida</td>
<td>Kamack</td>
<td>Polite</td>
<td>Wilson</td>
</tr>
<tr>
<td>DerVenter</td>
<td>Kernick</td>
<td>Pott</td>
<td>Witt</td>
</tr>
<tr>
<td>DeWeese</td>
<td>Klingaman</td>
<td>Prucarel</td>
<td>Wright, D.</td>
</tr>
<tr>
<td>DiCarlo</td>
<td>Knepper</td>
<td>Punt</td>
<td>Wright, J. L.</td>
</tr>
<tr>
<td>Dietz</td>
<td>Knight</td>
<td>Pyles</td>
<td>Yahnren</td>
</tr>
<tr>
<td>Dinni</td>
<td>Kolter</td>
<td>Rhodeos</td>
<td>Yohn</td>
</tr>
<tr>
<td>Dombrowski</td>
<td>Kukovich</td>
<td>Rieger</td>
<td>Zeller</td>
</tr>
<tr>
<td>Darr</td>
<td>Lasheinger</td>
<td>Ritter</td>
<td>Zitterman</td>
</tr>
<tr>
<td>Duffy</td>
<td>Laughlin</td>
<td>Hocks</td>
<td>Zorz</td>
</tr>
<tr>
<td>Durham</td>
<td>Lebr</td>
<td>Rodgers</td>
<td>Zwikl</td>
</tr>
<tr>
<td>Farley</td>
<td>Lettermen</td>
<td>Ryan</td>
<td></td>
</tr>
<tr>
<td>Fee</td>
<td>Levi</td>
<td>Salvatore</td>
<td>Seltzer</td>
</tr>
<tr>
<td>Fischer, R. R.</td>
<td>Levin</td>
<td>Schoffer</td>
<td>Speaker</td>
</tr>
<tr>
<td>Fisher, D. M.</td>
<td>Lewis</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

NAYS—0
NOT VOTING—23
Barber Goocyay Madigan Reed
Brunner Gray McIntyre Richardson
Cianciulli Hayes, D. S. McMonagle Spitz
Lumas Lynch, F. Oliver Street
Hayes, D. S. Kowalskyyn Pratt Vroom

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. LASHINGER offered the following amendment:

Amend Sec. 201, page 12, line 13, by inserting after “mile” and each municipality with a population density of less than 300 wherein the department has identified a waste problem or a potential waste problem. It has been agreed to.

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

Mr. LASHINGER. This is also an alteration of the first amendment. This is numbered A3575. Mr. Speaker, under HB 1840 those municipalities with a population density of less than 300 wherein the department has identified a waste problem or a potential waste problem. If we cannot account for the flow of groundwaters, be it in Potter County or in some of the more rural counties, and we are trying to identify a specific problem, I think this type of requirement that will al-
low the department to require submission of a plan because they think there is a potential problem in one of the rural areas would help up in our enforcement capabilities.

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

Mr. BITTLE. Mr. Speaker, Mr. Lashinger is correct, and this amendment was modified to meet some objections that I had, and I have no objections to the amendment in the form in which it now stands.

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

The following roll call was recorded:

YEAS—183

Ade: Foster, A.  Livengood  Salvatore
Anderson: Foster, W.  Lynch, P. R.  Schaeffer
Armstrong: Friedl  Mackowski  Schmitt
Arty  Fryer  Manderino  Schweber
Austin  Gallager  Mannmiller  Sierina
Belardi  Gallen  McCall  Serafini
Beloff  Gamble  McClatchy  Seno
Bennett: Cannon  McIntyre  Shapnik
Berson  Caltagirone  McKelvey  Sieminski
Bitte: Geesey  McMahon  Siranni
Borski  Geist  McVerry  Smith, E.
Bowser  George, C.  Mihalovic  Smith, L.
Brandt  George, M.  Miczuzic  Spencer
Brown  Gianmarchi  Milamovich  Starks
Burk  Close  Moehlmann  Slaughter
Burns  Goodman  Mowrey  Stupan
Caffugione  Grabowski  Mrkonjic  Sweet
Cappellicci: Greenfield  Mullin, M. P.  Swift
CESS: Grice  Mullen, J.  Tadbonio
Ches: Gruppe  Murphy  Taylor, E.
Cimini: Halbfinger  Musto  Taylor, F.
Clark: Harper  Nahill  Treglia
Clark: Hasay  Novak  Teleg
Cochran  Hayes, S. E.  Nye  Thomas
Cohen  Helfrick  O'Brien, B.  Tredo
Cule  Hoeffel  O'Brien, D.  Wachob
Cornell  Honossi  O'Donnell  Wagner
Coslett  Hutchinson, A.  Oliver  Wargo
Cowell  Itkin  Perzel  Wass
Cunningham Johnson, E.  Peterson  Weidner
Davies: Johnson, J.  Petracka  Wenger
Dawidow: Jones  Piccola  White
DeMedici  Kanuck  Pevsky  Williams
DeVetier: Kenrick  Pastella  Wilkon
DeWeese: Klingaman  Pits  Witt
DiCarlo  Knepper  Politte  Wright, D.
Dietz  Knight  Pott  Wright, J. L.
Dinnerm  Kratzer  Puricelli  Yahn
Dombrowsk: Kowicki  Pant  Zill
Dounaev: Lashinger  Pyles  Zitterman
Dorr  Laughlin  Rhodes  Zord
Duffy  Lehr  Rieger  Zwick
Dunham  Lettermun  Ritter  Zwick
Earley  Levi  Rock  Zwick
Fee  Levin  Rodgers  Seltzer
Fischer, R. R.  Lewis  Ryan  Speaker
Fisher, D. M.

NAYS—0

NOT VOTING—20

Barber  Gray  Lynch, F.  Richardson
Brunner: Hayes, D. S.  Madigan  Shadding
Cangiulli: Hutchinson, W.  Pratt  Spitz

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. LASHINGER offered the following amendment:

Amend Sec. 504, page 28, line 15, by striking out "$10,000" and inserting "$100,000"

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

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

Mr. LASHINGER. Mr. Speaker, I thank the House for its patience in this. This is probably one of the most critical bills, in my estimation, that the House will face not this year but possibly in this decade.

The problem has just begun. In talking with people from surrounding states, Pennsylvania has gained recognition probably as the toxic waste, hazardous waste capital possibly in the country. I can read to you a statement from Secretary Cliff Jones before the House Conservation Committee wherein he said that the Environmental Protection Agency estimates that 90 percent of the waste is inadequately disposed of—50 percent of the waste is lagooned or impounded; 30 percent is buried in unlined landfills; and 10 percent goes to inadequate incinerators, injection wells, and land spreading. Only 10 percent is considered to be disposed of safely, Mr. Speaker. The Environmental Protection Agency estimates that 3,600,000 dry tons a year of hazardous waste is generated in the Commonwealth of Pennsylvania, and we are the third largest generator of such waste in the Nation.

This amendment, Mr. Speaker, will alter the bond provision, the bonding requirement, which is now somewhat discretionary under the department's proposed guidelines, from $10,000 to a minimum of $100,000. It is my belief that the bonding must be in line with the cost of recovery efforts. A case in point: Love Canal, Mr. Speaker, in New York, Hooker Chemical Company, where the costs right now in the cleanup of probably one of the largest problems in the Nation if not the world today are estimated to be $2.5 billion. We checked on what the average cleanup costs and follow-up or postclosure inspection costs were for solid waste landfill. An average, which would be a 50-cubic-meter-per-year site which is operated for about 20 years, which is the norm, would be about $1.7 million in closure costs and about $38,000 annually for postclosure inspections and routine annual surveillance. Just in Montgomery County, Mr. Speaker, in one specific instance in Montgomery County, the TCE problem, the trichloroethylene spill, has cost about $200,000 just in trying to identify the scope of the problem to date. This does not even include corrective measures.

If by chance we should ever stumble upon—and I think we have, Mr. Speaker, in the Commonwealth, be it a landfill, be it a hazardous waste disposal site, toxic waste disposal site—a company that goes belly up the day after a known spill or prob-
l'wsar
Hurd
Rrl;ndt
Hurns
HowspI
Hitile,
I3pnnptt
Hc,lswdi
Arty
i<,rni<,ni:
Anderson
Alden
Corhran
Clark.
Chrss
Cnltngironr
Hrown
Horski
Austin
the act but because I think it does nothing to improve the act
ment—and it is sure not going to he this bill—it is going to he
ments, and inserting $50,000
The question was determined in the negative, and the amend-
ment was not agreed to.
On the question recurring,
Will the House agree to the amendment?
Mr. LASHINGER offered the following amendment:
Amend Sec. 504, page 31, line 27, by striking out "$10,000"
and inserting "$50,000"
On the question,
Will the House agree to the amendment?
Mr. LASHINGER, Mr. Speaker, I guess I should have learned
my lesson by now, but we will continue on.
What the prior amendment did to sites, this does to trans-
porters. The minimum bonding requirement again—and I think
the sponsor of the bill will agree—is a $10,000 minimum bond-
ing requirement, and it leaves some discretion with the depart-
ment to increase that bonding requirement. This requires car-
riers, those in hazardous waste and toxic waste transportation,
to maintain a minimum bond of $50,000.
Again it is my contention that the bond must be in line with
the recovery costs. We could cite example after example, Mr.
Speaker, of where the state—and that is probably what is going
to happen in the Commonwealth—the state is going to have to
intervene in a lot of these cases, assume the costs itself, because
recovery cannot be had against the violators. That is what is so
important about these amendments, Mr. Speaker. It really puts
the onus for recovery and restoration on the violators. Like I
said, we could cite up to $3.5 million in a case in Ohio where a
toxic waste transporter had his rig overturn, and that is what
the recovery and restoration costs were. Those costs were in-
curred, by the way, for the members' information, by the State
of Ohio. Thank you, Mr. Speaker.

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

Mr. BITTLE, Mr. Speaker, I am going to ask you to oppose
the amendment also, and not because I think that it damages
the act but because I think it does nothing to improve the act
and it damages your municipalities which are going to have to
pay for these bonds. That figure of $10,000 that is in there now
that the department may require as a bond is a low figure, but
it is a minimum figure. The maximum could be $8 million if
such a catastrophic situation should be envisioned. Your mu-
icipalities are going to pay the premiums on those bonds. In
addition to that, if anybody is going to benefit by this amend-
ment—and it is sure not going to be this bill—it is going to be
the bonding companies. I would ask you to oppose the amend-
ment.

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

The following roll call was recorded:

YEAS—67

Austin
Bonski
Brown
Calitlagione
Chess
Clark, B.
Cohon
Cohn
Cole
Cornell
Coletti
Cowell
DeWeese
DiCarlo
Dombrowski
Fischer, R. R.
Gallagher

Gammon
Gatski
Giammarco
Gladbeck
Goodman
Greenfield
Harper
Hayes, S. E.
Hoeffel
Hutchinson, A.
Hikin
Johnson, J.
Jones
Klingaman
Knight
Koller

Kukowich
Lashinger
Mandarino
McCall
Mullen, M. P.
Murphy
Musto
Nahlil
Novak
O'Donnell, B.
Petaraca
Pieczyk

Pitts
Puciarrelli
Rodgers
Schweder
Sieminski
Stubban
Taylor, T.
Taylor, F.
Wachob
White
Williams
Wright, D.
Zitterman
Zwilk

NOT VOTING—22

Barber
Benson
Brunner
Ciampiulli
Cirini
Donatucci

Dumas
Goehl
Hayen, D. S.
Hutchison, W.
Irvin
Kowalyshyn

Lynch, F.
Madigan
Pratt
Roppaport
Reed

Shadding
Spitz
Street
Street

Seltzer
Speaker

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

Mr. LASHINGER, Mr. Speaker, I guess I should have learned
my lesson by now, but we will continue on.

What the prior amendment did to sites, this does to trans-
porters. The minimum bonding requirement again—and I think
the sponsor of the bill will agree—is a $10,000 minimum bond-
ing requirement, and it leaves some discretion with the depart-
ment to increase that bonding requirement. This requires car-
riers, those in hazardous waste and toxic waste transportation,
to maintain a minimum bond of $50,000.

Again it is my contention that the bond must be in line with
the recovery costs. We could cite example after example, Mr.
Speaker, of where the state—and that is probably what is going
to happen in the Commonwealth—the state is going to have to
intervene in a lot of these cases, assume the costs itself, because
recovery cannot be had against the violators. That is what is so
important about these amendments, Mr. Speaker. It really puts
the onus for recovery and restoration on the violators. Like I
said, we could cite up to $3.5 million in a case in Ohio where a
toxic waste transporter had his rig overturn, and that is what
the recovery and restoration costs were. Those costs were in-
curred, by the way, for the members' information, by the State
of Ohio. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from
Franklin, Mr. Bittle.
Mr. BITTLE. Mr. Speaker, I would ask the members to oppose this amendment for basically the same reasons as they did the last time, except that here you do not have a municipality paying the bond; you have the transportation industry paying the bond, and I think it could pose a serious problem for transporting the substances that we are talking about.

The $10,000 figure that is in here at the present time, once again, is a minimum figure. The department can start with that figure and work its way up when they see situations where the substance being transported is so hazardous that it demands a higher figure, and I think we ought to allow that discretion to exist instead of imposing initially a $50,000 minimum figure.

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

Mr. LASHINGER. When you are throwing around these figures of $10,000, $50,000, $100,000, it is important to note that this will not be the cost that is borne by the company. I checked with the Surety Association in New York, and they said, based on the risk, probably the maximum cost under the bond would be about 10 percent. So if you are talking $50,000, you are talking of approximately 10 percent of that figure; if you are talking $100,000, you are talking 10 percent of that figure. So it is not going to be the $100,000 or the $50,000 that is borne by either the disposal site or the transporter.

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

Mr. GANNON. Mr. Speaker, I rise in support of this amendment. I do not think a $50,000 bond requirement is all that heavy a burden to place upon a transporter. Bond premiums for a surety are not that excessive; they are minimal, and I think this will guarantee at least to some degree, to a better degree than presently exists in transportation, that the substances will be transported in a safe manner.

Mr. BITTLE. Mr. Speaker, I hope the gentleman, Mr. Gannon, understands what I am talking about. I do not think $50,000 bond is too much in some instances. I do not think $1 million bond is too much in some instances, but there are going to be a heck of a lot of instances where it is going to be too much when the substance being transported is of a minimal hazard. So why remove the discretion to start at $10,000 and then go to $1 million if it becomes necessary?

I would ask that the amendment be opposed.

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

Mr. BITTLE. Mr. Speaker, I hope the gentleman, Mr. Gannon, understands what I am talking about. I do not think $50,000 bond is too much in some instances. I do not think $1 million bond is too much in some instances, but there are going to be a heck of a lot of instances where it is going to be too much when the substance being transported is of a minimal hazard. So why remove the discretion to start at $10,000 and then go to $1 million if it becomes necessary?

I would ask that the amendment be opposed.

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

The following roll call was recorded:

YEAS—79

<table>
<thead>
<tr>
<th>Austin</th>
<th>Gatski</th>
<th>Lewis</th>
<th>Rhodes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Berson</td>
<td>George, C.</td>
<td>Livengood</td>
<td>Rieger</td>
</tr>
<tr>
<td>Brown</td>
<td>Giammarco</td>
<td>Mackowski</td>
<td>Rodgers</td>
</tr>
</tbody>
</table>
30 days prior to the time when such settlement is to take effect. The publication shall contain a solicitation for public comments concerning such settlement which shall be directed to the government agency bringing the action.

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

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

Mr. LASHINGER. Last amendment, Mr. Speaker.

This amendment is again, like the first three amendments, designed to instill a bit of confidence in the process available to citizens, which is basically nothing right now under the existing bill, the way the bill is drafted. This would require that if there is a settlement under any of the sections 602, 604, 605, 606, and 607, criminal and civil sections, the citizens in the impacted area would be notified. There is a requirement for publication at least 30 days prior to the time when the settlement is to take effect that would open it up for public comment.

What is happening right now, Mr. Speaker, is that citizens who live in an affected area are being dealt with as noninterested third parties in negotiations between the Department of Environmental Resources and on our budget. I do not think it adds anything to the bill, and it puts the department into the advertising business which the newspapers will love and which our taxpayers will vote for.

I would ask you to oppose the amendment.

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

The following roll call was recorded:

<table>
<thead>
<tr>
<th>YEAS—95</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austin</td>
</tr>
<tr>
<td>Beloff</td>
</tr>
<tr>
<td>Berson</td>
</tr>
<tr>
<td>Beskis</td>
</tr>
<tr>
<td>Besor</td>
</tr>
<tr>
<td>Brown</td>
</tr>
<tr>
<td>Burns</td>
</tr>
<tr>
<td>Calagione</td>
</tr>
<tr>
<td>Chess</td>
</tr>
<tr>
<td>Clark, B.</td>
</tr>
<tr>
<td>Cochran</td>
</tr>
<tr>
<td>Cohen</td>
</tr>
<tr>
<td>Cole</td>
</tr>
<tr>
<td>Costello</td>
</tr>
<tr>
<td>Cowell</td>
</tr>
<tr>
<td>Cunningham</td>
</tr>
<tr>
<td>Dowida</td>
</tr>
<tr>
<td>DeGennaro</td>
</tr>
<tr>
<td>DeWese</td>
</tr>
<tr>
<td>DiCarlo</td>
</tr>
<tr>
<td>Domhrowski</td>
</tr>
<tr>
<td>Donatucci</td>
</tr>
<tr>
<td>Duffy</td>
</tr>
<tr>
<td>Fischer, R. R.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>NAYS—89</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alden</td>
</tr>
<tr>
<td>Anderson</td>
</tr>
<tr>
<td>Armstrong</td>
</tr>
<tr>
<td>Arty</td>
</tr>
<tr>
<td>Belarus</td>
</tr>
<tr>
<td>Bennett</td>
</tr>
<tr>
<td>Bettle</td>
</tr>
<tr>
<td>Brandt</td>
</tr>
<tr>
<td>Burd</td>
</tr>
<tr>
<td>Capabianca</td>
</tr>
<tr>
<td>Ciminii</td>
</tr>
<tr>
<td>Clark, R.</td>
</tr>
<tr>
<td>Clark, W.</td>
</tr>
<tr>
<td>Daves</td>
</tr>
<tr>
<td>DeVetter</td>
</tr>
<tr>
<td>Dietz</td>
</tr>
<tr>
<td>Dimmii</td>
</tr>
<tr>
<td>Dorr</td>
</tr>
<tr>
<td>Durham</td>
</tr>
<tr>
<td>Earey</td>
</tr>
<tr>
<td>Fee</td>
</tr>
<tr>
<td>Fisher, M.</td>
</tr>
<tr>
<td>Foster, A.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>NOT VOTING—19</th>
</tr>
</thead>
<tbody>
<tr>
<td>Barber</td>
</tr>
<tr>
<td>Brunner</td>
</tr>
<tr>
<td>Cesar</td>
</tr>
<tr>
<td>Cianciulli</td>
</tr>
<tr>
<td>Dumas</td>
</tr>
</tbody>
</table>

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. LETTERMAN offered the following amendments:

Amend Table of Contents, page 1, by inserting between lines 23 and 24
Section 106. Legislative oversight.
Amend Table of Contents, page 3, by inserting between lines 17 and 18
Section 902. Severability.
Amend Table of Contents, page 3, line 18, by striking out “902” and inserting 903

Amend Sec. 103, page 5, line 28, by inserting after “liquid,” radioactive and nuclear material
Amend Bill, page 11, by inserting after line 30 Section 106. Legislative oversight.
(a) Prior to the promulgation of proposed regulations relating to this act, the Environmental Quality Board shall submit such proposed regulations to the Joint Legislative Air and Water Pollution Control and Conservation Committee.
(b) Upon submission of the proposed regulations to the committee, the committee shall have 60 days in which to approve, modify or veto the proposed regulations. If the committee takes no action within the 60-day period, the regulations shall be deemed to have been approved by the committee. If the committee vetoes the proposed regulations or otherwise raises objections, the board shall withdraw the proposed regulations, or modify them in such a manner as shall be approved by the committee. Upon approval by the committee or the expiration of the 60-day period without action, the board may proceed to deposit the proposed regulations for publication in the Pennsylvania Bulletin in the manner provided by law.
Amend Bill, page 45, by inserting between lines 25 and 26 Section 902. Severability.
If any provision of this act or the application thereof to the disposal of nuclear or radioactive wastes is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provisions or application and to this end the provisions of this act are declared to be severable.
Amend Sec. 902, page 45, line 26, by striking out “902” and inserting 903
On the question,
Will the House agree to the amendments?

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

Mr. LETTERMAN. Mr. Speaker, this is amendment A3567. I am withdrawing all other amendments I had.

Mr. Speaker, this amendment, I think, can be acceptable. All it does is ask for legislative oversight by the joint air, water and pollution control and conservation committee, plus it also has a severability clause whereby anything in this provision that is claimed to be invalid does not affect the rest of the bill.

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

Mr. BITTLE. Mr. Speaker, the gentleman is correct. The language in the amendment is acceptable and, I think, probably improves the bill.

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

The following roll call was recorded:

YEAS—176

Alden    Foster, W.    Lewis    Ryan
Anderson  Freind    Livengood    Salvatore
Armstrong  Fryer    Lynch, E. R.    Schoeffler
Artzy    Gagliardi    Mandernas    Schroeder
Austin    Gaven    Maniglio    Sorice
Belardi    Gatzki    McCall    Serafini
Bennett    Georsey    McIntyre    Seventy
Bittle    Geist    McKelvey    Shupnik
Borski    George, C.    Mihalovich    Sirinski
Bowser    George, M.    McVey    Siranni

Brandt    Giannarco    Michlovic    Smith, E.
Brown    Gloeck    Miezny    Smith, L.
Burg    Goebel    Molanovich    Spencer
Burns    Goodman    Miller    Starr
Caltagirone    Grabowski    Moehmann    Steighner
Cappabianca    Gray    Mrigik    Stuban
Cass    Greco    Mullen, M. P.    Swee
Clark, R.    Gruppo    Murphy    Swift
Clarken    Halverson    Musto    Taddion
Cochran    Harper    Nahill    Taylor, E.
Cohen    Hasay    Novak    Taylor, F.
Call    Hayes, S. E.    Nye    Telek
Carr    Heflick    O'Brien, B.    Thomas
Catlett    Hoefel    O'Brien, D.    Trelfa
Ceevil    Horneman    O'Donnell    Wachob
Cunningham    Hutchinson, A.    Oliver    Wagner
Havas    Hutchinson, W.    Perzel    Wargo
Hawida    Iklin    Peterson    Wass
DeMedico    Johnson, E.    Petracca    Weidner
DeVerter    Jones    Peckola    Wenger
DeWeese    Kamek    Paveisky    Wilson
Difilipko    Kazyack    Pitts    Witt
Dietz    Kingsman    Polite    Wright, D.
Dinanni    Knepper    Pott    Wright, J. L.
Dombrowski    Knight    Pucinelli    Yahn
Dorsey    Kolter    Punt    Yohn
Duffy    Kukowski    Pyles    Zeller
Durham    Lasheger    Rhodes    Zitterman
Earley    Laughlin    Rigler    Zwickl
Fee    Lehr    Ritter    
Fischer, R. R.    Lettermann    Rocks    Seltzer
Fisher, D. M.    Levi    Rodgers    Speaker
Foster, A.    Levin    

NAYS—0

NOT VOTING—27

Barber    Gamble    McClatchey    Spitz
Beleff    Hayes, D. S.    Pastella    Street
Brunner    Irvis    Pratt    Yron
Cesser    Johnson, J.    Rappaport    White
Cincenti    Kowalbysyn    Reed    Williams
Donatucci    Lynch, P.    Richardson    Zord
Dunas    Madigan    Shadding    

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. MICHLIVOC offered the following amendment:

Amend Sec. 403, page 20, line 21, by inserting after "department" and the affected municipality or municipalities

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

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

Mr. MICHLIVOC. Mr. Speaker, this amendment deals with the responsibility by a transporter or a producer of a hazardous chemical or hazardous waste that is spilled, with his responsibility to notify the affected municipality. As the bill now reads, that person or entity is only required to notify the Department of Environmental Resources. This amendment would extend that notification to any municipality affected by that spill.
The SPEAKER. The Chair recognizes the gentleman from Franklin, Mr. Bittle.

Mr. BITTLE. Mr. Speaker, I had a little conference going on and could not hear the gentleman, Mr. Michlovic, said.

Mr. MICHLIVIC. Mr. Speaker, I indicated that this amendment deals with the notification of affected municipalities concerning hazardous spills.

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

Mr. BITTLE. Mr. Speaker, that language is acceptable. I think it is an improvement to the language in the bill and would ask support of it.

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

The following roll call was recorded:

YEAS—175

<table>
<thead>
<tr>
<th>Alden</th>
<th>Foster, W.</th>
<th>Lewis</th>
<th>Ryan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anderson</td>
<td>Freid</td>
<td>Livengood</td>
<td>Salvatore</td>
</tr>
<tr>
<td>Armstrong</td>
<td>Fryer</td>
<td>Lynch, E. R.</td>
<td>Scheffer</td>
</tr>
<tr>
<td>Artiz</td>
<td>Gallagher</td>
<td>Mackowski</td>
<td>Schmitt</td>
</tr>
<tr>
<td>Austin</td>
<td>Gallen</td>
<td>Manderino</td>
<td>Schneider</td>
</tr>
<tr>
<td>Belardi</td>
<td>Gamble</td>
<td>Mammiller</td>
<td>Scirica</td>
</tr>
<tr>
<td>Beloff</td>
<td>Gannon</td>
<td>McCald</td>
<td>Serafini</td>
</tr>
<tr>
<td>Bennett</td>
<td>Gatski</td>
<td>McClatchy</td>
<td>Seventy</td>
</tr>
<tr>
<td>Benson</td>
<td>Geesey</td>
<td>McIntyre</td>
<td>Shupnik</td>
</tr>
<tr>
<td>Bittie</td>
<td>Geist</td>
<td>McKeel</td>
<td>Sieminski</td>
</tr>
<tr>
<td>Bowser</td>
<td>George, C.</td>
<td>McMonagle</td>
<td>Siriani</td>
</tr>
<tr>
<td>Brant</td>
<td>George, M.</td>
<td>McVerry</td>
<td>Smith, E.</td>
</tr>
<tr>
<td>Brown</td>
<td>Giannareco</td>
<td>Michlovic</td>
<td>Smith, L.</td>
</tr>
<tr>
<td>Hurd</td>
<td>Gladeck</td>
<td>Mizzio</td>
<td>Speaker</td>
</tr>
<tr>
<td>Burns</td>
<td>Goebel</td>
<td>Milanovich</td>
<td>Stains</td>
</tr>
<tr>
<td>Callagranoe</td>
<td>Goodman</td>
<td>Miller</td>
<td>Steighner</td>
</tr>
<tr>
<td>Capobianco</td>
<td>Grabowski</td>
<td>Moehlmann</td>
<td>Stewart</td>
</tr>
<tr>
<td>Chess</td>
<td>Greenfield</td>
<td>Mowery</td>
<td>Stuban</td>
</tr>
<tr>
<td>Cimini</td>
<td>Grceco</td>
<td>Mrkonie</td>
<td>Sweet</td>
</tr>
<tr>
<td>Clark, B.</td>
<td>Gruppo</td>
<td>Mullen, M. P.</td>
<td>Swift</td>
</tr>
<tr>
<td>Clark, R.</td>
<td>Halverson</td>
<td>Murphy</td>
<td>Taftonia</td>
</tr>
<tr>
<td>Cochrane</td>
<td>Harper</td>
<td>Musto</td>
<td>Taylor, E.</td>
</tr>
<tr>
<td>Cohen</td>
<td>Hasay</td>
<td>Nahill</td>
<td>Taylor, P.</td>
</tr>
<tr>
<td>Cole</td>
<td>Hayes, E.</td>
<td>Novak</td>
<td>Teck</td>
</tr>
<tr>
<td>Cornell</td>
<td>Hefleic</td>
<td>Noyo</td>
<td>Thomas</td>
</tr>
<tr>
<td>Colet</td>
<td>Hoefeld</td>
<td>O'Brien, B</td>
<td>Trollo</td>
</tr>
<tr>
<td>Cowell</td>
<td>Honaman</td>
<td>O'Brien, D</td>
<td>Wachob</td>
</tr>
<tr>
<td>Cunningham</td>
<td>Hutchinson, A.</td>
<td>O'Donnell</td>
<td>Wagner</td>
</tr>
<tr>
<td>Davies</td>
<td>Hutchinson, W.</td>
<td>Perzel</td>
<td>Wargo</td>
</tr>
<tr>
<td>Dawidzka</td>
<td>Itkin</td>
<td>Peterson</td>
<td>Weidner</td>
</tr>
<tr>
<td>DeMedia</td>
<td>Johnson, E.</td>
<td>Petrarca</td>
<td>Wengler</td>
</tr>
<tr>
<td>DeVerte</td>
<td>Kamack</td>
<td>Pierella</td>
<td>Wilson</td>
</tr>
<tr>
<td>DeWese</td>
<td>Kernick</td>
<td>Pievy</td>
<td>Wilt</td>
</tr>
<tr>
<td>DiCarlo</td>
<td>Klumman</td>
<td>Pistella</td>
<td>Witt</td>
</tr>
<tr>
<td>Diets</td>
<td>Knepper</td>
<td>Pits</td>
<td>Wright, D.</td>
</tr>
<tr>
<td>Dianni</td>
<td>Knight</td>
<td>Police</td>
<td>Wright, J. L.</td>
</tr>
<tr>
<td>Dombrowski</td>
<td>Kolber</td>
<td>Potts</td>
<td>Yahner</td>
</tr>
<tr>
<td>Dorr</td>
<td>Kukovich</td>
<td>Punt</td>
<td>Yohn</td>
</tr>
<tr>
<td>Duffy</td>
<td>Lasinger</td>
<td>Pyles</td>
<td>Zeller</td>
</tr>
<tr>
<td>Durham</td>
<td>Laughlin</td>
<td>Rhodes</td>
<td>Zitberman</td>
</tr>
<tr>
<td>Earley</td>
<td>Lede</td>
<td>Riegler</td>
<td>Zwilt</td>
</tr>
<tr>
<td>Fee</td>
<td>Lettman</td>
<td>Ritter</td>
<td>Zwilt</td>
</tr>
<tr>
<td>Fischer, R. B.</td>
<td>Levin</td>
<td>Rocks</td>
<td>Zwilt</td>
</tr>
<tr>
<td>Fisher, D. M.</td>
<td>Levin</td>
<td>Rodgers</td>
<td>Zwilt</td>
</tr>
<tr>
<td>Foster, A.</td>
<td></td>
<td></td>
<td>Speaker</td>
</tr>
</tbody>
</table>

NAYS—0

NOT VOTING—28

<table>
<thead>
<tr>
<th>Barber</th>
<th>Gray</th>
<th>Madigan</th>
<th>Shading</th>
</tr>
</thead>
<tbody>
<tr>
<td>Borski</td>
<td>Hayes, D. S.</td>
<td>Oliver</td>
<td>Spitz</td>
</tr>
<tr>
<td>Brunner</td>
<td>Irvis</td>
<td>Pratt</td>
<td>Street</td>
</tr>
<tr>
<td>Cesser</td>
<td>Johnson, J.</td>
<td>Pucinelli</td>
<td>Vroom</td>
</tr>
<tr>
<td>Cianciulli</td>
<td>Jones</td>
<td>Rappaport</td>
<td>White</td>
</tr>
<tr>
<td>Dornavecchi</td>
<td>Kowalykshyn</td>
<td>Reed</td>
<td>Williams</td>
</tr>
<tr>
<td>Munns</td>
<td>Lynch, P.</td>
<td>Richardson</td>
<td>Zerd</td>
</tr>
</tbody>
</table>

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. MICHLIVIC offered the following amendment:

Amend Sec. 503, page 26, line 18, by inserting after "violations." In the case of a corporate applicant, permittee or licensee, the Department of Environmental Resources may deny the issuance of a license or permit if it finds that a principal of the corporation was a principal of another corporation which committed past violations of this act.

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

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

Mr. MICHLIVIC. Mr. Speaker, this is the final amendment which I shall offer this afternoon. Despite my circulating several of them, this will be the final one.

This amendment A3569 would permit the Department of Environmental Resources to consider the past history of not only a corporation or an entity but the principals and the stockholders in that corporation.

The need for this kind of a bill was brought to my attention in certain cases dealing with strip miners where they set up a dummy corporation and then later came back and filed for an application or a license under a new corporation, and the Department of Environmental Resources has no power to consider their own personal past history. This amendment would allow the department that power. Basically it is a "may" provision.

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

Mr. BITTLE. Mr. Speaker, the language in this amendment is also acceptable, and I feel that it strengthens the bill and would ask the voters to vote in favor of it.

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

The following roll call was recorded:

YEAS—179

<table>
<thead>
<tr>
<th>Alden</th>
<th>Foster, W.</th>
<th>Lewis</th>
<th>Ryan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anderson</td>
<td>Freid</td>
<td>Livengood</td>
<td>Salvatore</td>
</tr>
<tr>
<td>Armstrong</td>
<td>Fryer</td>
<td>Lynch, E. R.</td>
<td>Scheffer</td>
</tr>
<tr>
<td>Artiz</td>
<td>Gallagher</td>
<td>Mackowski</td>
<td>Schmitt</td>
</tr>
<tr>
<td>Austin</td>
<td>Gallen</td>
<td>Manderino</td>
<td>Schneider</td>
</tr>
<tr>
<td>Belardi</td>
<td>Gamble</td>
<td>Mammiller</td>
<td>Scirica</td>
</tr>
<tr>
<td>Beloff</td>
<td>Gannon</td>
<td>McCald</td>
<td>Serafini</td>
</tr>
<tr>
<td>Bennett</td>
<td>Gatski</td>
<td>McClatchy</td>
<td>Seventy</td>
</tr>
<tr>
<td>Benson</td>
<td>Geesey</td>
<td>McIntyre</td>
<td>Shupnik</td>
</tr>
<tr>
<td>Bittie</td>
<td>Geist</td>
<td>McKeel</td>
<td>Sieminski</td>
</tr>
<tr>
<td>Bowser</td>
<td>George, C.</td>
<td>McMonagle</td>
<td>Siriani</td>
</tr>
</tbody>
</table>

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

Mr. MICHLIVIC. Mr. Speaker, this is the final amendment which I shall offer this afternoon. Despite my circulating several of them, this will be the final one.

This amendment A3569 would permit the Department of Environmental Resources to consider the past history of not only a corporation or an entity but the principals and the stockholders in that corporation.

The need for this kind of a bill was brought to my attention in certain cases dealing with strip miners where they set up a dummy corporation and then later came back and filed for an application or a license under a new corporation, and the Department of Environmental Resources has no power to consider their own personal past history. This amendment would allow the department that power. Basically it is a "may" provision.

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

Mr. BITTLE. Mr. Speaker, the language in this amendment is also acceptable, and I feel that it strengthens the bill and would ask the voters to vote in favor of it.

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

The following roll call was recorded:

YEAS—179

<table>
<thead>
<tr>
<th>Alden</th>
<th>Foster, W.</th>
<th>Lewis</th>
<th>Ryan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anderson</td>
<td>Freid</td>
<td>Livengood</td>
<td>Salvatore</td>
</tr>
<tr>
<td>Armstrong</td>
<td>Fryer</td>
<td>Lynch, E. R.</td>
<td>Scheffer</td>
</tr>
<tr>
<td>Artiz</td>
<td>Gallagher</td>
<td>Mackowski</td>
<td>Schmitt</td>
</tr>
<tr>
<td>Austin</td>
<td>Gallen</td>
<td>Manderino</td>
<td>Schneider</td>
</tr>
<tr>
<td>Belardi</td>
<td>Gamble</td>
<td>Mammiller</td>
<td>Scirica</td>
</tr>
<tr>
<td>Beloff</td>
<td>Gannon</td>
<td>McCald</td>
<td>Serafini</td>
</tr>
<tr>
<td>Bennett</td>
<td>Gatski</td>
<td>McClatchy</td>
<td>Seventy</td>
</tr>
<tr>
<td>Benson</td>
<td>Geesey</td>
<td>McIntyre</td>
<td>Shupnik</td>
</tr>
<tr>
<td>Bittie</td>
<td>Geist</td>
<td>McKeel</td>
<td>Sieminski</td>
</tr>
<tr>
<td>Bowser</td>
<td>George, C.</td>
<td>McMonagle</td>
<td>Siriani</td>
</tr>
</tbody>
</table>
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. GRIECO offered the following amendments:

Amend Table of Contents, page 2, by inserting between lines 21 and 22

Section 504. Approval by governing body.

Amend Table of Contents, page 2, line 22, by striking out “504” and inserting “505”.

Amend Table of Contents, page 2, line 23, by striking out “505” and inserting “506”.

Amend Bill, page 27, by inserting between lines 16 and 17

Section 504. Approval by governing body.

No permit or license for the disposal of hazardous waste shall be granted without the written consent or approval of the governing body of the local municipality in which the proposed disposal site is located.

Amend Sec. 504, page 27, line 17, by striking out “504” and inserting “505”.

Amend Sec. 505, page 33, line 8, by striking out “505” and inserting “506”.

On the question,

Will the House agree to the amendments?

AMENDMENT WITHDRAWN

The SPEAKER. The Chair recognizes the gentleman from Lycoming, Mr. Grieco.

Mr. GRIECO. Mr. Speaker, I wish to withdraw my amendment.

On the question recurring,

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

Mr. CLATCHY offered the following amendments:

Amend Sec. 103, page 5 by removing the comma after “environment and inserting a period.

Amend Sec. 103, page 5, lines 12 through 14, by striking out “is” in line 12, and all of lines 13 and 14.

Amend Sec. 104, page 11, line 5, by inserting after “institute” criminal.

Amend Sec. 104, page 11, lines 5 and 6, by striking out “or municipality”.

Amend Sec. 105, page 11, line 21, by striking out “of” and inserting for.

Amend Sec. 201, page 12, line 16, by striking out “the effective date of this section” and inserting the grant authorized in section 203.

Amend Sec. 201, page 14, line 23, by striking out “may” and inserting shall.

Amend Sec. 201, page 14, line 24, by striking out “require” and inserting assist in.

Amend Sec. 203, page 15, line 28, by striking out “up to 50%” and inserting 100%.

Amend Sec. 502, page 24, lines 12 and 13, by striking out all of line 12, and “Water Obstructions Act,” in line 13.

Amend Sec. 502, page 24, line 19, by inserting after “Safety” and Encroachments.

Amend Sec. 502, page 24, line 21, by removing the comma after “enumerated” and inserting a period.

Amend Sec. 502, page 24, lines 21 through 26, by striking out “and failure to comply with the” in line 21, and all of lines 22 through 26.

Amend Sec. 503, page 26, lines 2 and 3, by striking out “the act of June 25, 1913 (P. L. 555, No. 355), referred to as the Water Obstructions Act,”.

Amend Sec. 503, page 26, line 7, by inserting after “Safety” and Encroachments.

Amend Sec. 504, page 27, lines 25 through 27, by striking out “the act” in line 25, and all of line 26, and “Obstructions Act,” in line 27.

Amend Sec. 504, page 28, line 3, by inserting after “Safety” and Encroachments.

Amend Sec. 606, page 37, line 25, by striking out “or municipality”.

Amend Sec. 606, page 37, lines 25 and 26, by striking out “provision of this act, the”.

Amend Sec. 606, page 38, line 2, by striking out “or municipality”.

Amend Sec. 606, page 38, lines 3 and 4, by striking out “any rule or regulation of the department, any order of the department, or any term or condition of any permit,”.

Amend Sec. 606, page 38, line 9, by striking out “or municipality”.

Amend Sec. 606, page 39, lines 11 through 16, by striking out all of said lines.

Amend Sec. 902, page 45, line 27, by striking out all of said lines and inserting:

(a) As much of sections 104 and 105 as relates to preparation for the full implementation of this act as provided in subsection (b) shall take effect immediately.

(b) The remaining provisions of this act shall take effect on the same date as the effective date of comprehensive legislation regulating the placing of hazardous waste, passed subsequent to this act.

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

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

Mr. McClatchy. This amendment, Mr. Speaker, is a long amendment. It touches quite a few items in the bill, and I will try to go over them slowly.

The first page of the amendment I do not think is too controversial. It starts on page 5, lines 12 and 14. It reads at the present time, "or a constituent of the solid waste enters the environment," and then it goes on, "is emitted into the air or is discharged to the waters of the Commonwealth." I take out that last part, Mr. Speaker, because I think environment covers everything. It is all-inclusive, and therefore we do not need the air or the water.

The next section would be on page 11, line 5, and it is a simple correction of instituting. It says, "institute prosecutions." Prosecutions are criminal. I put in the word "institutes criminal prosecutions." And in the last part of that section I have dropped out "or municipality." That really is the heart great deal of my amendment, and we will deal with it later. I am trying to take local municipalities out of the criminal section of this act.

On line 21 it reads, "its duty shall be to adopt the rules and regulations of the department . . . ." The Environmental Quality Board should be the one issuing the rules and regulations. I am changing "of" to "for." So that it will be the rules and regulations of the Environmental Quality Board instead of DER. I think that is the intent of the act.

The next section would be page 12, and on line 16 it begins "... within two years of the effective date of this section, . . . ." This means that the municipality would have to come up with their plans after 2 years of the effective date of this act.

I am changing it to the effective date of the grant authorized in section 203. So that if the municipality does not receive its grant from the state to pay for its plans, then it does not have to proceed. The burden is upon us to come up with the funds rather than make the municipality proceed without the funds.

On page 14, line 23 is striking out "may" and inserting "shall." It is not permitting the department to a "may." It is insisting it is "shall." The department shall establish priorities for the time within which plans shall be submitted and may, in the appropriate cases, . . . . assist. It shall assist the submission of the joint plans.

On page 15, line 28, I am raising the administrative grants from 50 percent up to 100 percent for local municipalities.

On page 24, line 12, I am striking out "the act of June 25, 1913 . . . .", referred to as the Water Obstructions Act." This act has been repealed and therefore the language is redundant.

On line 19, I am adding "Dam Safety and Encroachments Act. That is the proper wording.

On line 21, I am eliminating the words "and failure to comply with the statutes hereinafter enumerated during construction and operation or thereafter shall render the operator liable to the . . . ."—just hold on a second, Mr. Speaker.

All right, by that language, Mr. Speaker, if you read the above language, the municipality or person involved with the illegal dumping of the hazardous waste can be clipped first under The Clean Streams Law, then under the Conservation Reclamation Act, or if he is charged with something under the clean streams law and the Conservation Reclamation Act, he can also be charged under the Hazardous Waste Act. That is a three-in-one action, and I am deleting the third. So, therefore, if you are taken under one act, that is what you will be taken under, not all of them.

Page 26, I am taking out the "Water Obstructions Act" which has been repealed.

On line 7, the "Dam Safety and Encroachments Act," I am adding that since that is the proper wording to the act.

On page 37, I think this is the most serious part of my amendment. I am taking out under the "Criminal Penalties," the local municipalities. That does not mean that they will not be subject to penalties but they will be subject to civil penalties.

Presently, if we enact this legislation into law, we will be sending local supervisors and councilmen to jail and with serious criminal fines, Mr. Speaker. I think the civil fines are sufficient under this act and I think we have more cooperation with the agreement by local communities with this act if we would take away the civil penalties. This is only for municipalities.

And, lastly, Mr. Speaker, section 902, on page 45, this is again one of the most serious sections of my amendment. It strikes out line 27, "This act shall take effect immediately." It strikes that out.

My amendment says that this act will be implemented as much as possible but will not be completely implemented until they deal with the siting legislation.

I think we have seen already, Mr. Speaker, amendments go into this bill. We have a regulatory concept that is going to be passed into law, and you are going to find without the siting part passed, we will have a regulation saying we are not going to be able to do anything with this stuff. You are not going to be able to put it anywhere in Pennsylvania.

I think that is wrong, Mr. Speaker, and I think we ought to deal with both these issues at the same time. Thank you, Mr. Speaker.

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

Mr. Bittle. Mr. Speaker, I would ask the members to oppose the amendment. I think there are a lot of reasons that you could oppose various sections of the amendment as they have been presented by the gentleman, Mr. McClatchy, but basically I think two or three things are very important.

Number one, this House unanimously passed the enforcement provisions of HB 424 which permitted us to enforce against violators when their act constituted either a civil or criminal offense. That bill passed this House unanimously.

Secondly, I do not know why we should not be able to enforce under several different acts if the violation that one of the municipalities commits is a violation of several different acts. If it is a violation of the Clean Streams Act, they should be prosecuted under that; if it is a violation of this HB 1840 and its terms, they should be prosecuted under that.
Thirdly and most importantly, as far as a reason not to vote for this amendment, you are going to pass a bill that is going to give up great enforcement provisions, a great ability to collect fines and establish a waste abatement fund, but then you are not going to let us do it until there is a sitting hill, and we do not know when that is going to be. That means TCE and the PCB—Polychlorinated Biphenyl—and the Pittsboro hole and the landfill in Lackawanna County, or wherever else they may be, can continue to operate or do whatever they want to do and we do not have the teeth to enforce the language contained in this bill because it is being detained until a later date.

Why not just detain the whole bill? I would ask the members to oppose the amendment.

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

Mr. LASHINGER. Would the maker of the amendment stand for just a brief interrogation, just two questions?

Mr. McClatchy. Yes, sir.

The SPEAKER. Does the gentleman, Mr. Lashinger, wish to interrogate Mr. McClatchy? The gentleman indicates he will stand for interrogation. The gentleman may proceed.

Mr. LASHINGER. Mr. Speaker, is there a cost estimate on what it would cost to have the state assume 100 percent of the cost for coming up with the plans or developing the individual plans?

Mr. McClatchy. No, there is not, Mr. Speaker.

Mr. LASHINGER. Would the maker of the amendment stand for a brief interrogation, just two questions?

Mr. McClatchy. Yes, sir.

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

Mr. LASHINGER. Mr. Speaker, may I have permission to make a few brief comments?

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

Mr. LASHINGER. Like the sponsor of the bill, Mr. Bittle, I also urge opposition to the McClatchy amendment.

We are trying to come up with a strong law, at least as stringent as the Resource Conservation Recovery Act, the existing Federal statute. We are trying to take primacy in that area. What we are doing is we are weakening or diluting the Solid Waste Management Act as proposed by Mr. Bittle.

I think as Mr. Bittle indicated, some of the worst violators, or the worst known violators are those municipalities. And they should, like the private contractors or the private sites, be forced with the same burden that the private developers are in this area, Mr. Speaker.

For those reasons, I urge opposition to the McClatchy amendment. Thank you.

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

The following roll call was recorded:

```
YEAS—19
Heloff Gray McClatchy Stairs
Fischer, R. R. Hutchinson, A. McMonagle Taylor, E.
Foster, A. Hutchinson, W. Nahill Wilt
Fryer Kinzinger Peterson Yohn
George, C. Levin Pitts

NAYS—157

NOT VOTING—27
Hersen Irvis Pevsky Street
Brunner Johnson, J. Pratt Vroom
Burns Kovalchyn Rappaport Weidner
Casciulli Kovalchyn Richardson White
Donatucci Madison Rugger Wilson
Halverson McIntyre Skadding Wright, J. J.
Hayes, D. S. Oliver Spitz
```
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 as amended on third consideration?

Mr. McClatchy offered the following amendment:

Amend Sec. 605, page 37, lines 12 and 13, by striking out “and forward the money to the department.”

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

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

Mr. McClatchy. On page 37, Mr. Speaker, under civil penalties is the entire section.

You have to start at the top of the page actually. DER — Department of Environmental Resources — can assess a civil penalty. “When the department proposes to assess a civil penalty…” and I am reading, “it shall inform the person or municipality of the proposed amount of said penalty. The person charged with the penalty shall then have 30 days to pay the proposed penalty in full or, if the person wishes to contest either the amount of the penalty or the fact of the violation, the person shall within such 30 day period file an appeal of such action with the Environmental Hearing Board, and forward — and here is where I am having trouble — the proposed amount to the department within 30 days for the placement in an escrow account with the State Treasurer or any Pennsylvania bank. Failure to appeal — if they fail to appeal, I do not have any quarrel with that. That is their own fault — and forward the money to the department within 30 days shall result in a waiver of all legal rights to contest the violation or the amount of the penalty.”

What we are saying to a small local municipality is, we are giving the power to the department to assess $30,000 or $40,000, and say, you have got to come up with the money. If you do not come up with the money, when you appeal it, you lose it, but they do not have to forward the money. Thank you, Mr. Speaker.

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

Mr. Bittle. Mr. Speaker, I am not sure what I want to say about the amendment. I do not agree with the terms of it. We do this in every other kind of provision among state laws where you have a fine.

If you are convicted of a violation of any of our laws and you pay your fine and costs, you pay it. You make an appeal. You may get it refunded by the Commonwealth in a summary violation. It is sent in initial. I would ask that the amendment be opposed.

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

Mr. W. D. Hutchinson. Mr. Speaker, I would support this amendment.

It seems to me that it is utterly unfair to say to a person, if you can pay the money and you pay it right away, you will have some legal rights to appeal. But if you cannot pay it, then you do not have any rights at all.

This is the kind of thing that you have with the tax laws where you pay jeopardy assessments and people are deprived of valid legal rights simply because they cannot quickly come up with the funds to pay it. I would support this amendment.

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

Mr. Letterman. May I question the sponsor, please?

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

Mr. Letterman. Mr. Speaker, does your amendment make any provision for them to pay it after the appeal is heard?

Mr. McClatchy. No. After the appeal is heard, then they have to pay it.

Mr. Letterman. Within how many days?

Mr. McClatchy. I did not read that far, Mr. Speaker. I guess whatever the act states then. If they have lost the appeal, then they will have to come up with the money.

Mr. Letterman. It says there within 30 days. So if they would lose a case, would they have to pay it within the 30 days, right? Or immediately after the appeal was over?

Mr. McClatchy. Immediately after. If they appeal the case and they take it to court and lose that appeal, then they would have to pay it. Yes.

Mr. Letterman. Okay, thank you.

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

The following roll call was recorded:

YEAS — 149

1979. LEGISLATIVE JOURNAL—HOUSE

DeWeese
Kanoe
Kernick
Klingaman
Kolter
Laschinger
Laughlin
Lehr
Levi
Levin
Lewis

Pirosky
Pitsello
Pitts
Pucciarelli
Peles
Reed
Ritter
Rocks
Rodgers
Ryan

DeCarlo
Diez
Dunini
Dombrowski
Dorre
Druffy
Durham
Fees
Fisher, R. R.
Fisher, D. M.

Yahner
Zeller
Zittman
Zuid
Zwick
Zoll

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. McClatchy offered the following amendments:

Amend Sec. 605, page 36, line 24, by removing the comma after "willful" and inserting or
Amend Sec. 605, page 36, line 24, by removing the comma after "negligent" and inserting a period
Amend Sec. 605, page 36, lines 24 and 25, by striking out "or without fault."

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, may I interrogate the gentleman, Mr. McClatchy?

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

Mr. GANNON. Mr. Speaker, as I read the bill in its present form, it assesses certain civil penalties against the wrongdoer. Those penalties are related to the actual damages that have been done. There is a relationship established there, according to the language of the bill as I read it.

Now your amendment takes out the provision "without fault." If there are damages done without fault and that provision has been taken out of the bill, who is to take care of these damages? Who is going to compensate or where is the loss going to fall, so to speak?

Mr. McClatchy. Obviously, I guess there would not be any way to proceed, if the damage was without fault.

Mr. GANNON. So that we have damages without fault, so to speak. I think there is a Latin term for it, but I am not going to use it.

May I speak to the amendment, Mr. Speaker?

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

Mr. GANNON. Mr. Speaker, I think there is a question of the equities between the parties here. And this amendment—as the amendment was agreed to. The bill now stands. I should say, places the risk of loss on the party responsible even if they are not at fault.

I think on a balance that is where it should remain because that is the party that would benefit most by his actions. Here we would have a situation with this amendment in the bill that if a party was without fault and yet had caused damages, I think the loss would fall, so to speak.

I think that in the equities, I certainly have some reservations or some feelings about somebody being charged with something when it was without fault. I think it is a question of where the loss should fall. I think it should be on the party who caused the damages.

I urge a negative vote on this amendment. Thank you, Mr. Speaker.

On the question recurring.

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—170

Alden
Anderson
Armstrong
Arty
Austin
Belardi
Beloff
Bennett
Bittle
Bower
Brandt
Brown
Foster, W.
Fryer
Gallagher
Gallen
Gamble
Gatski
Grewey
Geist
George, C.
George, M.
Giammarco
Lewis
Livengood
Lynch, E. R.
Mackowski
Manniller
McCall
McClatchy
McKevey
McMenagle
McCerry
Mazzocci
Milanovich

NAYS—30

Bennett
Bittle
Clark, B.
Dawid
DeVerter
Earley
Freind
Gannon
Godsel
Grabowski
Hutchinson, A.
Itkin
Johnson, E.
Korpper
Kukovich
Kotter
Leach, F.
Madigan
McIntyre
Rhodes
Letterman
Michler
Murphy
Petrarca
Polite
Punt

NOT VOTING—24

Barber
Borski
Brunner
Caniculli
Donatucci
Dumas
Hayes, D. S.
Irvis
Kowalysen
Leonch, F.
Madigan
McIntyre
Oliver
Pratt
Rappaport
Richardson
Rigler
Shadding

Sirianni
Spitz
Street
Srova
White
Wass
Williams

Scheaffer
Schmitt
Schweeder
Scirica
Serafini
Seventy
Shaddick
Shupnik
Sieminski
Smith, E.
Smith, L.
concentrated or unprocessed materials as they occur in nature which emit radiation but does include hazardous waste.

Amend Sec. 103, page 9, line 3, by inserting after "to," radioactive waste material.

Amend Sec. 104, page 11, line 12, by striking out "and"

Amend Sec. 104, page 11, line 17, by removing the period after "hereunder" and inserting; and

Amend Sec. 104, page 11, by inserting between lines 17 and 18.

(4) deny new construction by a public utility of any plant that will generate electricity by means of nuclear power until the department finds that the United States Government, through its authorized agency, has identified and approved a demonstrable technology or means for the disposal of high-level nuclear waste.

Amend Sec. 401, page 18, by inserting between lines 12 and 13.

(c) No facility for the permanent storage or disposal of radioactive waste material shall be constructed or established in the Commonwealth without the legislative approval of the General Assembly. The General Assembly hereby directs the department to hold public hearings in the county in which such a proposed facility is to be located. Upon completion of its hearings, the department is directed to submit its report to the General Assembly for legislative action.

Amend Sec. 402, page 18, line 15, by inserting after "of" radioactive waste material or

Amend Sec. 402, page 18, line 16, by inserting after "particular" radioactive waste material or

Amend Sec. 402, page 18, line 20, by inserting after "of" radioactive waste material or

On the question,

Will the House agree to the amendments?

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

Mr. B. F. O'BRIEN. Mr. Speaker, I think my amendment on nuclear waste is the most serious problem confronting the utilities today in the nuclear energy area. I think Federal Government is setting back absolutely doing nothing in regards to nuclear waste.

Under HB 1840, at the present time, in my opinion, DER—The SPEAKER. Would the gentleman yield?

GERMANENESS OF AMENDMENT QUESTIONED

The SPEAKER. For what purpose does the majority leader rise?

Mr. RYAN. Mr. Speaker, with respect to the amendments that Mr. O'Brien is offering at this time, I have had an opportunity to review them and I do not believe they are germane to the bill. The gentleman is in a field entirely foreign to the title of this bill, and I do not think that this House should consider at this time Mr. O'Brien's amendment. And I say that as a matter of parliamentary procedure and I raise it as a point of order.

The SPEAKER. The question of germaneness has been raised by the majority leader, Mr. Ryan. On the question of germaneness of amendments to a bill, the Chair turns to rule 27. The Chair quotes part of that rule: "Questions involving whether an amendment is germane to the subject shall be decided by the House."

The question is on the germaneness of the amendment offered by the gentleman from Luzerne, Mr. O'Brien.

The Chair recognizes the gentleman, Mr. O'Brien.

Mr. B. F. O'BRIEN. Mr. Speaker, I think this is germane. I
think that it is connected with the hazards of waste material. There has to be a site picked, and DER will be the one to select it, and I really think it does come under this bill.

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

Mr. BENNETT. Mr. Speaker, would the majority leader consent to an interrogation?

The SPEAKER. The gentleman indicates that he will.

Mr. BENNETT. Mr. Speaker, on what particular grounds are you suggesting that the amendment is not germane?

The SPEAKER. Would the gentleman yield for a moment? Would the gentleman please yield?

The Chair recognizes the gentleman from Mercer, Mr. Bennett. The gentleman may proceed.

Mr. BENNETT. When the Chair, as I recall, asked me to yield, I was in the process of about to ask the majority leader or perhaps had asked the majority leader if he would specify for the members of this House the particular section of the O'Brien amendment that he felt was not germane to the legislation.

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, on the flip side of the amendment, that is the second page of the amendment, section 104, page 11, by inserting certain language between lines 17 and 18, it seems to be a subsection 14. I do not believe that that is germane to the bill as proposed.

Mr. BENNETT. Thank you, Mr. Speaker.

Mr. Speaker, I would request unanimous consent to make a brief statement.

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

Mr. BENNETT. Mr. Speaker, Mr. O'Brien and many members of this House, indeed, have been struggling for quite some time to arrive at a decision on nuclear waste and, in itself, nuclear power, as an aftermath of the Three Mile incident. Much has been said, much has been written since Three Mile Island. And I believe what Mr. O'Brien is attempting to do in his amendment is send a message to the Nuclear Regulatory Commission that Pennsylvania does not want to be the dumping ground for the entire United States or for, perhaps, the entire world for nuclear waste if and unless it has been proven to us that those wastes can be disposed of in some safe way.

Mr. Speaker, I say to the members of this House that I am not certain in my own mind as to the germaneness of the particular amendment. However, I would say that I think we ought to accept this amendment as germane and we ought to send that message to the Nuclear Regulatory Commission.

So in that respect, Mr. Speaker, I would ask for an affirmative vote on the germaneness of the O'Brien amendment.

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Would the gentleman, Mr. O'Brien, consent to an interrogation?

The SPEAKER. The gentleman, Mr. O'Brien, indicates that he will. The majority leader may proceed.

Mr. RYAN. Mr. Speaker, it is my understanding—and I am not trying to put the bunny in the hat. I am really asking a question—that the Federal Government has preempted to a great extent the whole area covered by the amendment that you are proposing. Is that accurate?

Mr. B. F. O'BRIEN. That the Federal Government has what, Mr. Speaker?

Mr. RYAN. They have preempted this area of the law and we cannot regulate it.

Mr. B. F. O'BRIEN. Right now in California there is a court case. And if you want to sit back and let NRC, the way they have been going, Mr. Speaker—

Mr. RYAN. Mr. Speaker, I am not trying to debate a political or a sexy issue here. I am trying to get a question answered.

Mr. B. F. O'BRIEN. If a court case is involved in who controls what, I say Pennsylvania should be involved in it. I think we should control our own area as to whether we want to be the dumping ground of the nuclear waste.

Mr. RYAN. Will the gentleman advise me what the title of this bill is that he seeks to amend? I do not have it in front of me.

Mr. B. F. O'BRIEN. Read the bill. It is right on the top.

I understand that it is waste, and high level waste is hazardous waste. I really think you agree with me that nuclear waste is one of the most serious wastes there is in the country right now.

Mr. RYAN. I do agree, but that is part of a debate.

Would the gentleman tell me what that portion of the amendment, that subsection 14, has to do with the main bill? That is the denial of new construction by a public utility of any plant.

Mr. B. F. O'BRIEN. What we are trying to do in this bill is try to control high hazard waste in the future. And we are saying to the utility industry that at the present time it cannot be controlled, and up until the time that it will, we do not want any other plants built in Pennsylvania. It is just as simple as that.

Mr. RYAN. Is the gentleman suggesting that we should also have an amendment in prohibiting any new construction or the expansion of any facility in Pennsylvania that creates toxic or hazardous material?

Mr. B. F. O'BRIEN. It all depends on what type of material it is.

I did talk to DER and they have some type of oil. I do not know what it is. But at the present time they have no place to put it in Pennsylvania. And if they do not find a place somewhere in the country, then there are going to have to be certain laws dealt with within that particular area. I think if you ask DER, they will come up with it.

Mr. RYAN. I thank the gentleman.

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, this whole business of nuclear energy in Pennsylvania, particularly, is a volatile subject. It is the type subject that anyone who is against nuclear energy or the construction or expansion of nuclear energy plants is somewhat of a hero today, and it is very understandable.

The people of Pennsylvania and really the people of the United States were alarmed, were scared and are still alarmed and scared by what took place here in Pennsylvania some 6 months, 8 months ago. A committee of this House, which Mr. O'Brien co-chairs, has been investigating for many months now the whole Three Mile Island incident. That committee may very
well in the near future come out with suggested legislation. It would seem that Mr. O'Brien, by this amendment—that section of the amendment that I am questioning—would thwart the deliberations of the committee that he co-chairs. He has put the bunny in the hat. He is saying we have spent 6 or 8 months and it does not really matter what this committee wants to do because I, Bernie O'Brien, have decided that the bottom line of the investigation of this committee is to deny the construction of any further nuclear plants in Pennsylvania. I think that is a mistake. I think it is at best a poor reflection on the special committee. I think it is a knock at that committee.

Aside from all of that, I say to you sincerely that in a parliamentary sense I happen to believe that what Mr. O'Brien proposes by his new subsection 14 is not germane to this bill. Forgetting about the sex appeal of the issue, we are run here, hopefully, in a parliamentary fashion. We abide by parliamentary rules, and I recognize that in a publicity-seeking sense I am not making many friends, particularly in central Pennsylvania, by saying that the parliamentary rules should govern at this point.

What Mr. O'Brien wants is legislation dealing with the licensing or the oversight on nuclear construction or plants that will use nuclear materials. I do not fault him for that. He has it now within his power to get that. He can introduce a discharge resolution to get out of committee a bill that he has sponsored to do this. I do not think we should sacrifice our parliamentary rules to, quote, send a message, close quote, to those people in Washington, and I am standing here now asking that this be found not germane and that the press and anyone else not interpret this as an indication of the feelings of the members as to the merits of that section of this amendment.

I challenge Mr. O'Brien to offer his discharge resolution if he wants to do it. He has been here long enough that he knows how to get a bill out of committee, and I just do not think we sacrifice what would otherwise be a good bill on the altar of publicity.

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

Mr. B. F. O'BRIEN. Mr. Speaker, I just want to let you know that publicly I have supported nuclear energy in the United States. I believe then and I think we have to have a certain amount of it. But I do not trust the Nuclear Regulatory Commission with the mistakes they have been making in the nuclear area, and I do not want Three Mile Island to become a nuclear waste dump for Pennsylvania, which NRC can do tomorrow. Because Nevada, Washington State and Carolina closed their states, where is it going to go? There is only one answer, and that is for NRC to say to Middletown and to GPU down there, you keep it until we make a decision where to go.

I want the Federal Government to spend money and come up with a decision to solve the problem, and it is our responsibility to do it.

If they dump hazard in there tomorrow, into the river, you can get up on the floor and you can make headlines, you can do anything you want, but we do not have the legislative power to stop them, and that is what I want. I want control in what I think is states rights in Pennsylvania.

The SPEAKER. The Chair has been extremely liberal in permitting debate on the germaneness of the amendment offered by the gentleman. The Chair is now going to insist that all remaining debate be on germaneness and not on the merits or the demerits of nuclear energy.

For what purpose does the gentleman from Philadelphia, Mr. Greenfield, rise?

Mr. GREENFIELD. To argue the germaneness of the bill, Mr. Speaker.

The SPEAKER. Will the gentleman repeat his statement?

Mr. GREENFIELD. To argue the germaneness of the bill.

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

Mr. GREENFIELD. Mr. Speaker, I disagree with the majority leader. The bill speaks about planning and regulation of solid waste. I think of no better way of regulating solid waste material than eliminating the source of that waste, if we deem it so desirable. I think that the majority leader led into this matter himself. He said, would you eliminate an industry or group of businesses that put toxic waste into the streams? I think that we could do that, Mr. Speaker, if we deem it desirable for public policy, and that is the argument.

The SPEAKER. The Chair is listening closely. The gentleman is debating the merits of the amendment rather than the germaneness of the amendment.

Mr. GREENFIELD. No, Mr. Speaker; I am speaking to the germaneness of the amendment.

The SPEAKER. The Chair cautioned the gentleman earlier and he will caution him again, within the limits of germaneness, the gentleman may proceed.

Mr. GREENFIELD. Mr. Speaker, we are talking about solid waste. This amendment refers to solid waste and its regulation. It says the way to regulate the solid waste in this particular instance—

The SPEAKER. The germaneness question raised by the majority leader has to do with the second page of the bill—discussing the construction of generating electricity by means of nuclear power.

Mr. GREENFIELD. That section, Mr. Speaker, refers to the source of solid waste. This bill speaks to solid waste and its regulation.

The SPEAKER. If the gentleman cannot confine his remarks to germaneness, the Chair will recognize another member. Within the limits of the germaneness, the gentleman is in order and may proceed.

Mr. GREENFIELD. If all you want me to say, Mr. Speaker, is that I believe that this amendment speaks to the bill, I so say that, Mr. Speaker. I say that we speak of solid waste. The bill talks about its regulation. The amendment talks about its regulation, and I think that the amendment is germane, Mr. Speaker.

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

Mr. J. L. WRIGHT. Thank you, Mr. Speaker.

The Chair is correct. The remarks should be directed only to the germaneness of the amendment that is before us. And that is what concerns me greatly.
This new section 14 talks about construction and virtually every legal authority in the nuclear field will agree that both state and Federal statutes and by Federal court decisions the Federal Government has preempted the states in a decision-making process on the construction and licensing of nuclear reactors.

If we insert this in the bill and it eventually goes to court, there is a strong possibility—because we have inserted language that is not within our area of responsibility—that we may lose the whole bill, the whole act in regards to the supervision and the control of hazardous and toxic waste in Pennsylvania. If you want the bill to survive, you may not have language in it regarding construction and licensing of reactors. And I would suggest, at the very least, that the amendment be voted down or at the very least my advice to Mr. O'Brien would be to divide the question.

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

Mr. ZELLER. Mr. Speaker, we are preempted by Federal laws. Since the argument has been for the last 20 years and has held that central control has to be by the Federal Government, that has been concluded in regard to states that have tried to fight it over the years. By a telephone call I just found that out.

The reason why they backed it up—and that is why I say that it is not germane—it sends air clouds and other means of carrying any radiation that know no boundaries. Therefore, this amendment that I see is strictly before the TMI committee that has a chance to make its conclusion. This is strictly a political movement and should be brought down, should be voted down.

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

Mr. COHEN. Mr. Speaker, I think this amendment is very, very germane. I think that on germaneness we have to be very, very careful about how we construe germaneness. In the whole history of the germaneness provision of the House rules, which is now almost 3 years, there has only been one or two instances in which anything has been found to be not germane. The overwhelming majority of the times that germaneness has been raised, the House has considered that whatever amendment has been offered has been germane. Using germaneness will only serve to choke off debate. Germaneness means relevant, and this legislation, the amendment offered by Mr. O'Brien, is very relevant to the purpose of the legislation.

Earlier in this year the question of subpoena power was voted down for parliamentary reasons. I do not think that we can afford a second instance which tends to deal with nuclear power to be voted down on the issue of germaneness. We cannot afford to let what I believe is a very, very false and very arbitrary construction of parliamentary procedure to be used to support the will of many, many people in Philadelphia and throughout the state, and throughout the country where state legislators deal with serious problems of nuclear waste. I urge support of Mr. O'Brien's amendment.

The SPEAKER. The Chair recognizes the gentleman from Lancaster, Mr. Miller.

Mr. MILLER. I rise to speak in favor of germaneness for this issue.

We have many, many times debated other issues in this General Assembly where we are talking about new powers for the Pennsylvania government. It is not new to us. We all know we run the risk of court challenge. We all know we run the risk of criticism for passing a bill that perhaps is not written as best as it could be after years of study. But let us face it: This is the first opportunity this General Assembly has had to face the hard, clear issue of that source of hazardous waste in our Commonwealth. We cannot turn from it; we cannot run from it. Today is the day to face it.

In deciding this question of germaneness, simply think of the issue itself—hazardous waste, what causes it? Nuclear power plants cause it. You cannot separate the two. We must face them today. Thank you.

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

Mr. REED. Mr. Speaker, I rise to say that the O'Brien amendment to HB 1840 is clearly germane. HB 1840 is a vehicle to deal generally with the subject of solid waste and the management of solid waste. More specifically the definition of waste as we know it in our highly industrial and technological society has got to include those types of hazardous or toxic substances already known to us, and clearly that substance known as nuclear waste, which poses probably the most severe hazards for the longest period of time to our general population, has got to be included as part of solid waste by definition alone. Since the act that is being amended by HB 1840 deals with the management of solid waste, Mr. O'Brien's amendment, particularly at section 14 dealing with the source or the management of nuclear waste, is clearly germane to the purpose of the bill. The only way that the O'Brien amendment would not be germane is if individual legislators' definition of the term "waste" would be so narrow that it would exclude nuclear waste, and I suggest that that type of narrow definition is hazardous to the public's health and safety.

The SPEAKER. The Chair recognizes the gentleman from Columbia, Mr. Stuban.

Mr. STUBAN. Mr. Speaker, I rise to speak in favor of the germaneness of the O'Brien amendment, and personally I have been to many meetings with Mr. O'Brien and I never thought that I would rise to support his position when it comes to nuclear waste.

I personally think that if you look at the bill, it addresses hazardous waste, and at the present time I do not know of anything in Pennsylvania, except for the poison that is running into the river at Pittston, that is any more hazardous than nuclear waste.

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

Mr. KUKOVICH. Mr. Speaker, I rise in favor of germaneness of the amendment, and I would suggest that we look at Mason's Manual. On the subject of germaneness there are three paragraphs in particular that I believe lead one to realize that the amendment is germane. Section 402 of Mason's Manual, paragraph 2, states that "To determine whether an amendment is germane, the question to be answered is whether the question..."
is relevant, appropriate, and in a natural and logical sequence to the subject matter of the original proposal." Paragraph 3 states that "To be germane, the amendment is required only to relate to the same subject. It may entirely change the effect of the motion or measure and still be germane to the subject."

I would submit to you that this is a logical sequence to this bill, that it at the very least relates to the same subject. If one would read the original description of the act, it deals with solid waste, planning and regulation. It deals with the entire processing, treatment, and disposal facilities, and I would suggest that the amendment does deal with that.

Paragraph 6 in Mason's Manual, section 402, even goes so far as to state that "... an amendment may be in conflict with the spirit of the original motion, and still be germane and, therefore, in order." I would suggest then that to vote against germaneness on this issue would be using a parliamentary trick to avoid the real substance of the amendment. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the minority whip.

Mr. MANDERINO. Mr. Speaker, I rise neither to talk about the amendment being germane or not being germane. I rise in favor of Mr. Greenfield, who was ordered down because he spoke about germaneness. I think he was germane, especially since Mr. Wright spoke right after him and talked about pre-emption by the Federal Government which has nothing to do with this amendment and you did not rule him out of order. I ask respectfully, Mr. Speaker, that you be a little more temperate with Mr. Greenfield.

The SPEAKER. It is never proper for the presiding officer to debate with a member. If the Chair inadvertently put Mr. Greenfield down, the Chair apologizes profusely. The Chair easily discerned the difference between Mr. Greenfield's debate and that offered by Mr. Wright. The Chair has always attempted to be fair on both sides of every question as he has attempted today, and again the Chair apologizes to Mr. Greenfield.

PARLIAMENTARY INQUIRY

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RYAN. The question of whether the amendment is germane or is not germane I am directing at section (14), which is the first portion on the second page of the O'Brien amendment, not the balance of the amendment, and I do not think I have ever said anything that could be construed to include the entire amendment.

I wonder, Mr. Speaker, if the Chair would advise of the proper motion so that when the vote is taken as to the question of germaneness, that question is limited to section (14), the top of the second page of the amendment. Is it necessary for me to divide the amendment and then raise the question of germaneness, or can that be done by the Chair in putting the motion?

The SPEAKER. If the Chair understands the inquiry of the majority leader correctly, his response would be that the majority leader should divide the question—the question being the amendment offered by the gentleman from Luzerne, Mr. O'Brien—and that then the gentleman, Mr. Ryan, specifically question the germaneness of those lines at the top of the second page of the amendment which begin "Amend Sec. 104, page 11, ..." et cetera, and end with "... of high-level nuclear waste."

QUESTION OF GERMANENESS WITHDRAWN

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, I move that the amendments of Mr. O'Brien be divided.

The SPEAKER. Will the gentleman first withdraw his germaneness to the entire amendment?

Mr. RYAN. I withdraw my question as to the germaneness of the entire amendment.

The SPEAKER. The Chair thanks the gentleman.

AMENDMENTS DIVIDED

Mr. RYAN. And now I move that the amendment be divided.

The SPEAKER. It is the opinion of the Chair that the amendment is divisible in the manner in which inquiry was made by the majority leader.

The Chair recognizes the gentleman from Centre, Mr. Letterman. For what purpose does the gentleman rise?

Mr. LETTERMAN. Mr. Speaker, I would just like to remind everybody that the severability clause which I had inserted in my amendment and which was accepted would take care of anything that is in Mr. O'Brien's amendment. I do not see any need to have any fears here at all, because that severability clause is in it which speaks specifically to the disposal of nuclear or radioactive waste. So I do not see any fear in it at all. You already accepted the severability clause.

Mr. Speaker, may I have permission to read the severability clause—

The SPEAKER. Will the gentleman yield?

Mr. RYAN. Mr. Speaker, I am not trying to find fault with the gentleman's argument, but his severability clause disposes of and eradicates from the bill anything that is found to be not germane. I am attempting to avoid litigation. You solve the problem if litigation ends up with something being found non-germane. I am trying to avoid that confrontation with the courts in implementing this bill by saying that the courts do not have to pass on whether or not this section is or is not germane, because I think it is not and I am asking this House to find that it is not.

The SPEAKER. It is the understanding of the Chair that the majority leader has asked whether or not the question can be divided, and the Chair has indicated that the amendment is divisible. Now would the gentleman, Mr. Ryan, indicate which part of the amendment he would like to take up first?

GERMANENESS QUESTIONED

Mr. RYAN. Mr. Speaker, I am not sure just how to phrase this, but I question whether the second page of the amendment starting "Amend Sec. 104 ..." and ending with the words "... nuclear waste" is germane to the bill, and it is this section inclusive that I question.
The SPEAKER. The question before the House is the germaneness of that part of the amendment starting at the top of page 2, which reads "Amend Sec. 104, page 11, by inserting between lines 17 and 18..." and continues down to the end of that paragraph with the last words being "...of high-level nuclear waste."

The Chair recognizes the minority whip.

Mr. MANDERINO. Mr. Speaker, the Chair has ruled that the amendment is divisible. I am informed that section 103, page 6, lines 9 and 10, and section 103, page 6, line 13, where they are inserting "slaughterhouses" also have reference to section (14).

The SPEAKER. The question raised by the majority leader, Mr. Ryan, is the germaneness of the section the Chair just indicated. It is the opinion of the Chair that that section can stand by itself. Under the rules of this House, for a question to be divisible, both halves must be able to stand by themselves, and it is the opinion of the Chair that that section can stand by itself and the remaining amendment can stand by itself.

Mr. MANDERINO. Mr. Speaker, that is the point I am trying to make. On the first page of the bill, there are two areas of amendment that pertain to nothing but section (14) which you are dividing from, and if section (14) is taken out, those two sections cannot stand. They have no purpose in the bill.

The SPEAKER. The Chair has reread the amendment, and the Chair has no difficulty in ruling that the amendment is divisible as indicated prior.

Mr. MANDERINO. Mr. Speaker, I think you are wrong, but I would urge all members to vote in favor of germaneness.

The SPEAKER. The question before the House is the germaneness of the top of page 2 of the amendment starting with "Amend Sec. 104, page 11,..." and continuing through the last line, "...of high-level nuclear waste." The question is on the motion. All those who believe that part of the amendment is germane will vote "aye"; those who believe it is not germane will vote "no."

On the question,

Will the House agree to the germaneness of that part of the amendments?

The following roll call was recorded:

YEAS—85

Austin
Bennett
Berson
Brown
Caltagirone
Cappabianca
Chess
Clark, B.
Cohran
Cohen
Cole
Coslett
Cowell
Dowd
DeMedio
DeWeese
DiCarlo
Dinini
Dombrowski
Donatucci
Duffy
Foe

Letterman
Levin
Livengood
Manderino
Mannmiller
McCall
Michles
Minnich
Miller
Mroczek
Mullen, M. P.
Musto
Newalk
O'Brien, B.
O’Donnell
Oliver
Petricca
Piccola
Pielasky
Rhodes
Rager
Rogers
Schmitt
Schweder
Shadding
Shupnik
Stieghner
Stewart
Stuban
Sweet
Taylor, F.
Telesk
Trelle
Wachob
Wargo
White
Wright, D.

Pistella
Reed
Zahner

Kukovich

NAYS—94

Aiken
Anderson
Armstrong
Arti
Belardi
Bittle
Boswer
Brandt
Burd
Burns
Cesar
Cimini
Clark, R.
Cornell
Cunningham
Daves
DeVerter
Dietz
Dorr
Durham
Earley
Fisher, R. R.
Fisher, D. M.
Foester, A.

Foster, W.
Freind
Gallen
Gannon
Geist
Gladeck
Goebel
Grieco
Gruppo
Hayes, S. E.
Helfrick
Honaman
Hutchinson
Johnson, E.
Karuck
Klingaman
Knepper
Laskinger
Lehr
Lewis
Lewis
Lynch, E. R.
Mackowski

McClatchy
McKelvey
McVerry
Micazie
Mochmann
Mowery
Murphy
Nahill
Noye
O'Brien, D.
Perzel
Petersen
Pitta
Polte
Pott
Punt
Pyles
Ritter
Rocks
Ryan
Salvatore
Scheffer
Scirica
Sersafi

Sieminski
Siarni
Smith, F.
Smith, L.
Spencer
Stairs
Swift
Taddeo
Taylor, E.
Thomas
Wagner
Wass
Weidner
Wenger
Wilson
Witt
Wright, J. L.
Yohn
Zeller
Zord
Zwickl

NOT VOTING—24

Barber
Beloff
Borski
Brunner
Carroll
Dumas

Gray
Hayes, D. S.
Irvis
Johnson, J.
Jones
Kowalskshyn

Rappaport
Madigan
Melstyre
McMonagle
Pratt
Puccarelli

Richardson
Spitz
Street
Vroom
Williams

The Speaker. Less than the majority having voted in the affirmative, that part of the amendments is held to be not germane to the amendment.

The SPEAKER. The question before the House remains the adoption of the remaining part of the amendments offered by the gentleman from Luzerne, Mr. O'Brien.

The Chair recognizes the gentleman from York, Mr. Geesey.

Mr. GEESEY. Will the gentleman, Mr. O'Brien, please stand for interrogation?

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

Mr. GEESEY. Mr. Speaker, would you please indicate the intention of the third main section of your amendment on the first page where you amend section 103, page 8? Specifically it is the part referring to radioactive waste material.

Mr. B. F. O'BRIEN. By inserting "Radioactive waste material"?

Mr. GEESEY. Yes. What do you mean by that section?

Mr. B. F. O'BRIEN. Any particles emitting radiation.

Mr. GEESEY. Does it also refer to the mining of uranium?

Mr. B. F. O'BRIEN. If they are going to use that and it is highly radioactive, yes.

Mr. GEESEY. But at least this part of the amendment reads: "The term 'radioactive waste material' does not include unconcentrated or unprocessed materials as they occur in nature which emit radiation but does include hazardous waste."
REQUEST TO DIVIDE AMENDMENTS

Mr. GEESEY. Mr. Speaker, may I suggest that we divide the question, because the bill as it presently stands would include mining operations. The amendment would take it out. I cannot support that part of the amendment. It very clearly can be divided, and would the Speaker be kind enough to divide the remaining part of the amendment by omitting “Amend Sec. 103, page 8, by inserting between lines 23 and 24” that paragraph entitled “Radioactive waste material”?

The SPEAKER. In response to the inquiry by the gentleman from York, Mr. Geesey, as to the further divisibility of this amendment, it is the opinion of the Chair that the amendment is not divisible in the manner suggested by the gentleman, Mr. Geesey.

PARLIAMENTARY INQUIRY

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

Mr. GEESEY. I rise to a parliamentary inquiry, Mr. Speaker. The SPEAKER. The gentleman will state it.

Mr. GEESEY. Inasmuch as the bill has been heavily amended, would it be possible or proper to print the bill tonight and hold final passage until tomorrow to give all of us a chance to examine in total the bill as it presently reads and then have an opportunity to correct any deficiencies we might find?

The SPEAKER. In response to the gentleman, it was the intention of the Chair, upon the completion of this amendment and one further amendment which the Chair has before it, to have the bill reprinted so all of those interested in this legislation can view the bill as it has been amended today.

Mr. GEESEY. Thank you, Mr. Speaker.

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

Mr. ITKIN. Mr. Speaker, I am having a problem with this amendment. I am having a problem for two reasons: The first one is that this would give the General Assembly the right to approve, on an individual basis, the permanent storage or disposal of radioactive waste facilities. It would appear to me that that would be the General Assembly providing for a special law, which is prohibited by our constitution.

Secondly, we have, in the Commonwealth, many, many institutions which generate radioactive waste materials and, in particular, the radioactive waste material provided and generated in our hospitals throughout the Commonwealth.

If this amendment were to pass and the bill enacted into law, the chances are that there would never be a facility for the storage of even low-level radioactive waste and it would become a very difficult factor for the hospitals to continue with their radiological and radiology programs.

I see no need for the General Assembly to get involved in specific siting of these facilities and therefore I think it would be prudent for this House to reject the amendment.

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

Mr. LASHINGER. Mr. Speaker, would Mr. O'Brien consent to just a brief interrogation?

The SPEAKER. The gentleman, Mr. O'Brien, indicates that he will stand for interrogation. The gentleman, Mr. Lashinger, may proceed.

Mr. LASHINGER. Mr. Speaker, on the amendment to section 401, page 18, on the back of the amendment, just for some clarification purposes, what type of approval—maybe this grant has already been gone over, and I apologize if it has—would be required by the legislature?

Mr. B. F. O'BRIEN. I believe that a site is picked by DER — Department of Environmental Resources — and all of the information will be supplied to the General Assembly. Then we would determine, by voting on it, whether that site, in the opinion of the General Assembly, would be the site to take or not.

The final say would be done by the General Assembly.

Mr. LASHINGER. I understand that, Mr. Speaker, but because there is no precedent in this area, what kind of a vote would be necessary? What would be required of the General Assembly for passage?

Mr. B. F. O'BRIEN. A constitutional majority, 102, and over in the Senate, 26.

Mr. LASHINGER. In the section that directs the General Assembly to hold public hearings, would this also affect facilities that are in day 1, say hypothetically day 1, of construction or day 1 of planning, day 2? Would this affect existing facilities?

Mr. B. F. O'BRIEN. The General Assembly will not hold hearings. DER will hold hearings and they will determine.

Pennsylvania is one of 34 states that I understand is on the approval list for a nuclear site, and my understanding was, back 2 years ago, Dr. Goddard and they were ordered to look for a site. At that time they could pick a site and the General Assembly would not have any say on it at all. They could determine and make Pennsylvania the dumping ground, and I want the General Assembly to have some veto power.

Mr. LASHINGER. I understand the intent of that, Mr.
Speaker. What I am getting at is—and I understand that you are saying that the department would hold hearings—what about facilities that may be at day 1 or day 2 of planning, site locating, or possibly of construction? Would it include those facilities? I understand that it says “proposed facility.” What I am looking for is a clear definition of that.

Mr. B. F. O'BRIEN. My amendment, when we are talking about facilities, any facility under construction I am not objecting to. It is all new construction. From here on in, I feel that DER has a right to veto it until the nuclear waste problem is solved.

Mr. LASHINGER. Okay, fine. For the record I was just trying to clear that that would exclude the Limerick facility then?

Mr. B. F. O'BRIEN. You asked a question in regard to whether that was an amendment or a constitutional vote in one of your previous questions.

Mr. LASHINGER. On the first question it was—and I am reading the amendment—“No facility for the permanent storage or disposal . . . shall be constructed or established in the Commonwealth without the legislative approval of the General Assembly.” What I was saying is that there is no clear precedent for what type of approval it takes from this General Assembly for site locating.

Mr. B. F. O'BRIEN. My interpretation on my part of the bill would be that DER would conduct the hearings, make recommendations to the General Assembly, and we would approve or disapprove by a constitutional vote.

Mr. LASHINGER. Okay, and the last question was on the Limerick facility. Excluded?

Mr. B. F. O'BRIEN. What is the last question?

Mr. LASHINGER. You said that this would not—I was just trying to get on the record—include facilities that are currently under construction or in the planning stages, and I asked whether or not this would exclude then definitely the Limerick facility?

Mr. B. F. O'BRIEN. No, it would not. It would exclude.

Mr. LASHINGER. It would exclude?

Mr. B. F. O'BRIEN. Would exclude.

Mr. LASHINGER. Fine. Thank you, Mr. Speaker.

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

Mr. ZELLER. Mr. Speaker, the reason why I oppose this amendment is because it is very popular presently today to get involved in such activities because of the scare tactics that have been put out by the Fourth Estate in regard to TMI—Three Mile Island.

Headlines, glaring headlines and statements that they assume this and they assume that, without fact. That is why I do not want to get involved in a political move for votes. This is all it is. I know I will be criticized and I care less for the simple reason that I do not think that we should be playing politics with something so serious. If that is the game they want to play, I want no part of it. And that is exactly what is happening.

In other words, rather than to wait for the committee to come out with a report, we have a group that is jumping the gun for votes. That is all it is, plain and simple, and I want no part of it, and anybody else in this House who wants a part of that is playing politics with something so serious that half of you do not know what you are talking about. Thank you very much.

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

Mr. MICHLovic. Mr. Speaker, will the gentleman, Mr. Bittle, stand for interrogation for a short moment?

The SPEAKER. The gentleman, Mr. Bittle, indicates that he will stand for interrogation. The gentleman from Allegheny, Mr. Michlovic, may proceed.

Mr. MICHLovic. Mr. Speaker, if this provision were passed, are we, in any way, jeopardizing the half billion dollars of funding to implement this act under the Federal Resource Conservation and Recovery Act? I want you to be mindful of the severability clause that is already in the act.

Mr. BITTLE. The only way that I can answer that, Mr. Speaker, is to say that we would still possibly be jeopardizing that even if the Federal Government, rather even if the courts did not declare this unconstitutional and the severability did not apply and it was foreign to the EPA regulations, because from thence comes our source of money, not from the courts.

Mr. MICHLovic. Okay. Another question. Has the department, in any way, indicated that it has the expertise to implement this act with this provision in it?

Mr. BITTLE. Mr. Speaker, addressing the gentleman’s question on that, we have been discussing that for some time right here, and there is no way in the world that the Department of Environmental Resources has the expertise to administer the provisions of this amendment. And I do not know how in the world we would ever afford to hire the kind of expertise it would take to administer these provisions.

Mr. MICHLovic. Okay. A brief comment, Mr. Speaker, if you will.

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

Mr. MICHLovic. Mr. Speaker, I reluctantly oppose this amendment because of the responses by Mr. Bittle just now. I understand that nuclear waste is a hazardous waste, like everybody in this room, but I am afraid that it is governed under separate statutes that are Federal and that we should stay out of this area and would do well to do that. I oppose the amendment.

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, when I was up talking earlier on the question of whether or not the amendment was germane, I had my eye pretty much on Mr. Itkin and wondering where he was on this matter. I remember when the Three Mile Island episode took place here in Pennsylvania, I was called, I guess because I was majority leader. I was called and asked certain questions with respect to it. And I had to confess total ignorance, but what I did was to point to Mr. Itkin and I said that he is probably the only person whom I can think of quickly with any expertise in this area.

I do not ordinarily listen to Ivan real closely because he has a great deal to say many times, but this time I tried to listen to
part of it. And as much as I tried, I did not hear entirely what Mr. Itkin had to say, but some of the things he said did register through the din of this hall. And it may very well be that I am going to misquote Mr. Itkin now, so rather than to run that risk, I will paraphrase, and I hope that I do not go too far from the message that I think Mr. Itkin was telling us.

My impression of his remarks was that if this amendment is successful, you will then have to go home to your local hospital and tell them that there is a real question as to where they can dispose of their radioactive materials from their department of radiology. You may have to go back to your local hospital and tell them that they will continue to treat cancer patients with chemotherapy at their own risk; that is the risk of violating the laws of Pennsylvania.

You may have to tell people that they cannot rid themselves of something so simple as a wristwatch with a luminous dial for fear of violating the laws of the Commonwealth of Pennsylvania.

I am told—and Mr. Itkin did not raise this, but I will again look to him for some expertise—if this is accurate, that a dead body is more radioactive than many of the materials that have already been mentioned. I do not know if that is true. If it is, then I suggest that we would create a far greater hazard in Pennsylvania by the strict enforcement of the law as amended by Mr. O'Brien than by voting the amendment down.

I say to you that considering the O'Brien amendment today at the so-called 11th hour, if you will, without the benefit of the study that is necessary to resolve some of these questions raised by Mr. Itkin and other members of this House is foolish. To send a message to Washington, which is the stated purpose of Mr. O'Brien, and, by so sending, creating problems that I do not believe the people of the Commonwealth are ready to face, is a mistake. To move on something as far-reaching as this amendment today and ignore our own committee that has spent 6 or 8 months studying this very subject. I think is an affront to that committee.

I believe that the amendments offered by Mr. O'Brien, although perhaps well motivated, are ill-conceived, offered in haste to a bill that has had a great deal of publicity and I think that it is a mistake to accept them.

I do not believe that there is any person in this House today who believes that the subject that Mr. O'Brien is attempting to address today will not be covered at a later time. If our own committee has spent innumerable thousands of dollars of taxpayers' money holding hearings, if the members of that committee have spent innumerable days and weeks studying this subject, if there recommendations are not forthcoming, then we have wasted a great deal of money and time, and I do not believe that is the case. I believe that they will have recommendations to this General Assembly.

I do not believe that today, without study, without any benefit of research in this area, we should accept Mr. O'Brien's amendment no matter how commendable his stated purpose of quote, sending a message to Washington is, and I would ask for a "no" vote.

The SPEAKER. Does the gentleman from Allegheny, Mr. Itkin, wish to be recognized?

Mr. ITKIN. Yes, Mr. Speaker.

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

Mr. ITKIN. Mr. Speaker, I would say that the author of the amendment has excluded cadavers from being included because he does, in the definition of radioactive waste materials, specifically exclude unprocessed materials as they occur in nature. But with respect to the general point of the majority leader's comments, he has correctly paraphrased them.

We do have in this Commonwealth a tremendous amount of radioactive materials used in the health-care field, which the majority leader has identified. If we were to adopt this amendment, it would conceivably be that there would be no provision made for the permanent storage of the by-products, the waste materials, following the usage of these in the radiological processes in health care.

Therefore, I believe that we should not move hastily in this area. And while I appreciate Mr. O'Brien's intent in dealing with this issue, I think that this particular amendment is far too-oompassing and could develop to be detrimental to the Commonwealth.

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

Mr. B. F. O'BRIEN. Mr. Speaker, I would like to interrogate Ivan Itkin, please.

The SPEAKER. The gentleman, Mr. Itkin, indicates that he will stand for interrogation. The gentleman, Mr. O'Brien, may proceed.

Mr. B. F. O'BRIEN. Mr. Speaker, what you really want to do is to give DER the sole right to determine the site and not have the General Assembly or anyone else have veto power over it. Is this right or wrong?

Mr. ITKIN. I am not suggesting that DER have the sole right. I seriously question when the General Assembly gets involved in approving or disapproving specific sites, because I think that is really, in essence, special law which the constitution specifically prohibits.

We set legislative policy which is supposed to be then administered and enforced by the executive branch of government. That is the nature of our government in Pennsylvania. This is not setting policy. This is approving a specific facility, yes or no, which I think goes far beyond the general legislative policy for Pennsylvania that we are empowered and charged with writing.

Consequently, I think that this would be far better left to the executive branch with respect to specific decisions, individual site selection, but I see no reason why the General Assembly cannot write broad-based public policy as to how the criteria must be selected for that siting process. But when you get before the General Assembly a specific issue as to whether Abington Township should or should not have a radioactive storage facility, I think it goes beyond our constitutional charges and it would be an intrusion into the executive branch of government.

Consequently, I would think that it would be unconstitutional under the Pennsylvania Constitution, but I do not believe that the executive branch of government should have the sole right to make these determinations. We should set down broad policy mandates which they are responsible to follow.
Mr. B. F. O'BRIEN. In other words, your answer is that you do not want the General Assembly: you want DER to have the sole right? Is what you are saying?

Mr. ITKIN. No. I did not say that. I said that I do not think that the General Assembly should have veto power over individual site selection. I do not think that that is—

Mr. B. F. O'BRIEN. Well, who should have the right to determine if we, the General Assembly, want, let us take, Middletown or Berwick to be the site for the permanent nuclear waste of Pennsylvania.

Mr. ITKIN. I did not hear the gentleman's remarks, the question.

The SPEAKER. Will the gentleman rephrase the question?

Mr. B. F. O'BRIEN. I do not want to continually use Middletown, but if the Nuclear Regulatory Commission says that from here on in the Middletown area will be the dumping area for the nuclear waste, who has the right, in Pennsylvania, to supersede DER if they go along with it?

Mr. ITKIN. Whatever by statutory law we decide shall have overriding power, but we should not get into, by resolution or by bill, the individual site selection. We can, by general law, define the processes and procedures and set down broad mandates that such individuals must follow in site selection. And then if for some reason a person is aggrieved by that process, they have the courts to interpret what the policy of the General Assembly was at the time that the act was adopted.

Mr. B. F. O'BRIEN. Mr. Speaker, what right has this General Assembly to get up and to object to the NRC dumping nuclear waste into the Susquehanna River if what you are saying is true? We have no jurisdiction over the NRC at all. This is what you are telling the members of the General Assembly.

Mr. ITKIN. We certainly have the right to comment. We certainly have the right to—

Mr. B. F. O'BRIEN. They are the regulatory body and you—

The SPEAKER. The gentleman will yield. The gentleman will permit the gentleman, Mr. Itkin, to respond to his question. The gentleman may proceed.

Mr. ITKIN. We certainly have the right to object, we certainly have the right to comment and we certainly have the right, by resolution, to develop a consensus or a sense of the General Assembly in a given area. But we do not have the right, by general law, to specify in specific instances whether or not a given facility shall exist or shall not exist. That is far beyond what I think the constitution provides for this General Assembly.

Mr. B. F. O'BRIEN. All right, you just heard it. That is exactly the point I am trying to bring out, exactly.

The SPEAKER. Has the gentleman, Mr. O'Brien, completed his interrogation?

Mr. B. F. O'BRIEN. Yes.

The SPEAKER. The gentleman is in order. If he would like to make a statement, he may proceed.

Mr. B. F. O'BRIEN. What I had Mr. Itkin bring out is exactly what I had been stating before. If we do not enact a law, NRC can come in here and have them do anything they want to do and we have no say. And I say that we have a responsibility to protect our people and, to me, the only way to go is through legislation.

In regard to another member getting up and criticizing me, I have a bill in, and Senator Mellow passed a bill under a moratorium. And both bills had been introduced in May and March on the other side. And the majority leader says that we have other ways of going. We have other ways of going, but I do not want to go to a discharge resolution. This is a serious problem in Pennsylvania, and I am asking you to support it. Let your conscience be your guide.

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

Mr. ZELLER. Mr. Speaker, this is for the second time. If you will bear with me, I think I can get it out.

Mr. Speaker, about 2 sessions ago, I believe it was, I think Mr. Ritter introduced legislation that would have oversight committees look into various departments. To date, I do not know of any of them that have not been operating. As a matter of fact, I do not know of anything that has come back to the floor for action by the General Assembly. I do not know.

That is why I said that this is very popular at this time. It is political and it sounds good because the press has blown it up. Now to get back to what Mr. Ryan said—and be very careful on this one—Mr. Ryan is right in regard to talking about material and persons. They talk about dead bodies and so forth, but that is not the issue as far as what Mr. Itkin said, but there are some live bodies to be concerned about.

Dr. Petr Beckmann of the University of Colorado stated in his report in the investigation of TMI — Three Mile Island—and he is one of the most outstanding nuclear scientists in the country—that the amount of radiation that came out of that plant, you would receive more by sleeping with your wife. That is why, he said, that it is dangerous sleeping with two women.

As a matter of fact, what I am getting at is that we may come to the point where we are going to have problems. In other words, with our wives, so let us kind of slow this thing down a little bit because we are talking about radiation. Mr. Itkin can probably back this up in regard to the amount of radiation that comes out of another person, an individual, and there is more radiation that comes from a woman than came out of that plant. This is a fact. This comes from one of the most noted scientists in the country. So you are treading on very delicate soil here, and I, for one, feel that this is strictly political and should be voted down.

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

Mr. COHEN. Mr. Speaker, under the laws of statutory construction, laws cannot be construed in a way that is obviously ridiculous or obviously absurd.

I do not think that we have to worry, as Mr. Zeller perhaps implied, that this law is going to stop us from sleeping with our wives. I do not think that we have to worry that it is going to stop us from burying dead bodies. I do not think that we have to worry that everything with a tiny drop of radiation, theoretically possibly, somehow is going to be banned as a result of
On the question recurring, 
Will the House agree to the remaining part of the O'Brien amendments?

The following roll call was recorded:

<table>
<thead>
<tr>
<th>Yeas</th>
<th>Nays</th>
</tr>
</thead>
<tbody>
<tr>
<td>82</td>
<td>100</td>
</tr>
</tbody>
</table>

The question was determined in the negative, and the remaining part of the amendments was not agreed to.

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

Mr. W. D. HUTCHINSON offered the following amendments:

Amend Sec. 103, page 6, line 3, by striking out “may” 
Amend Sec. 103, page 6, line 4, by striking out “contribute” and inserting contributes 
Amend Sec. 103, page 6, line 7, by striking out “pose” and inserting poses

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

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

Mr. W. D. HUTCHINSON. Mr. Speaker, all I want to do by this amendment is to delete a modal auxiliary, convert a subjunctive into an indicative, and thus syntactically guard against the over-exercise of an act of bureaucratic administration which will find many ways to extract money from us to protect us against hypothetical hazards, and if you want to know what that means, listen.

As the bill now stands, on page 6, line 3, the definition of “hazardous waste” says material which “may:” (1) contribute to an increase in mortality or . . . morbidity in either an individual or the total population; or (2) pose a present or potential hazard to human health or the environment . . . .

All that I want to do is to say that if they are going to regulate it, it has to be waste which contributes to an increase in mortality and poses that hazard. I urge support of the amendment. Thank you.

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

Mr. BITTLE. Mr. Speaker, although this seems like a very insignificant change, I think that there is a problem with the amendment, and that is, simply, that we have to describe hazardous waste and their handling by the same definitions that the Federal Government has in those Environmental Protection Agency regulations from the Resource Conservation Recovery Act, and if we do not, I think, once again, we hurt our chance of getting that money that we are supposed to get this year. And I think that by changing this definition of what may be or what actually has to be proven to contribute to this, I think that although it is only two words, it substantially changes the definition. I think that that is the problem with Mr. Hutchinson’s amendment. I would ask that it be opposed.

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

Mr. DAVIES. Mr. Speaker, would the maker of the amendment stand for one or two questions of interrogation?

Mr. W. D. HUTCHINSON. Sure.

The SPEAKER. The gentleman, Mr. Hutchinson, indicates that he will, and the gentleman, Mr. Davies, may proceed.
Mr. DAVIES. Mr. Speaker, would this amendment thereby eliminate any potential of two non-toxic wastes combining and then becoming a toxic waste? I am thinking specifically of, let us say, the opposite of that currently in the Schuylkill River. The waste of the west branch neutralizes the waste of the north branch and therefore we get a neutral water in Berks County, which is beneficial. Let us take the opposite of that, sir.

Mr. W. D. HUTCHINSON. One question at a time.

Mr. DAVIES. Let us take the opposite of what we enjoy now in Berks County by two wastes neutralizing each other in the river. Let us take the combination of, let us say, an acidic material with some other material and the two combining and creating a toxic, acidic material. Does your amendment eliminate anyone from that particular potential as far as the dumping of those wastes?

Mr. W. D. HUTCHINSON. No.

Mr. DAVIES. All right, sir. Will you kindly explain to me how you can guarantee me that it does eliminate that particular concern where we would have a material and we would add another material and it would become toxic? You can guarantee me, sir, that this amendment does not? Thank you for the "no." Now would you be kind enough to explain it to me so that I, in my limited ability, can be assured that when I vote for your amendment I do so with clear conscience and complete understanding?

Mr. W. D. HUTCHINSON. With the powers that this bill gives to DER, I cannot guarantee anything, Mr. Speaker, but I would refer you to the definition on page 5 of "hazardous waste", beginning at line 25, which seems to me to include just about anything mixed or unmixed. I really do not think that it affects that problem, Mr. Speaker.

Mr. DAVIES. Thank you, Mr. Speaker. I wish I could express the same confidence as Mr. Hutchinson that it does eliminate that concern, because I do not think that either the Federal Government, in its wisdom in trying to ascertain what is hazardous and what possible combinations could be created on a site and then create, let us say, a fish kill or something like that. We have had too many instances in the Commonwealth, and particularly in my district, some seven in one stream that have gone undetected or unclaimed as to what the original source of that kill was. And I am almost sure that in two of the instances it was a combination of chemicals that actually created that kill. Yet I, as a limnose in the Commonwealth, helped to pay for hundreds of thousands of dead fish in that stream over an interim of, let us say, a decade and yet I have no relief because of these potential combinations. And I really have some concerns about it, the same as the sponsor of the bill and the chairman of the committee. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—96

Bennett, Fryer, Lynch, E. R., Schmitt
Berson, Gallagher, Mackowski, Schweder
Brower, Gannon, Manderino, Serafini
Brandt, Gatski, McCall, Seventy
Brown, George, C., Microzie, Shadding
Capobianco, Giammarco, Milanovich, Shapnik
Cesare, Goodman, Moehlmann, Smith, E.
Cimino, Greenfield, Mrkonie, Steighner
Clark, B., Grieco, Mulline, M. P., Stewart
Coeben, Halverson, Musto, Stutman
Cohen, Harper, Nahill, Sweet
Cole, Hasay, Novak, Taylor, E.
Cosetti, Helfrick, O'Brien, B., Taylor, F.
DeNovo, Horan, O'Keane, Trello
DeWeese, Hutchinson, W., Oliver, Wachob
DiCarlo, Johnson, J., Petrarca, Wargo
Dombrowski, Kanuck, Piekavsky, White
Donatucci, Klingaman, Pitts, Wright, D.
Duffy, Knopper, Pott, Yahnner
Durham, Knight, Fyles, Zitterman

NAYS—85

Anderson, Gosay, McVerry, Smith, L.
Armstrong, Geist, Michlovic, Spencer
Belardci, George, M., Miller, Stairs
Biddle, Gledoek, Mowery, Swift
Burd, Grobel, Murphy, Taddeo
Burns, Grabowski, Noye, Tellek
Ches, Gruppo, O'Brien, D., Thomas
Clark, R., Hayes, S. E., Perzel, Wagner
Cornell, Hoeffel, Peterson, Wiss
Cowell, Hutchinson, A., Picolla, Weidner
Cunningham, Hikin, Pastella, Wengler
Davies, Johnson, E., Polito, Wilson
Davis, Jones, Puearielli, Wilk
DeVerter, Kernick, Punt, Wright, J. L.
Dietz, Kukovich, Reed, Yohn
Dinini, Lashinger, Rhodes, Zeller
Dorr, Lehr, Rocks, Zord
Duccher, R. R., Lettermen, Salvatore
Foster, A., Levi, Scheaffer
Foster, W., Mannmiller, Sertic, Speaker
Gallen, McClatchey, Sieminska
Gambale, McKelvey, Siriani

NOT VOTING—22

Barber, Gray, Madigan, Richardson
Borski, Hayes, D. S., McIntyre, Spitz
Brounies, Irvis, McGonagle, Street
Calzagno, Kowalsky, Pratt, Vroom
Canciulli, Laughlin, Rappaport, Williams
Dumas, Lynch, F.

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?

Bill as amended was agreed to.

Ordered, that the bill as amended be prepared for final passage.

ADDITIONS OF SPONSORS

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, I submit for the record, in accordance with our rules, the following list of additional sponsors:

HB 1, Dietz; HB 340, Levi, II; HB 340, Spitz; HB 340,
On the question,
Will the House agree to the motion?
Motion was agreed to.

BILLS REMOVED FROM TABLE FOR CALENDAR
The SPEAKER. The Chair recognizes the majority leader.
Mr. RYAN. Mr. Speaker, I move that the following bills be removed from the table and put on the active calendar:

HB 266; HR 672; HB 1382; and SB 502.

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

BILLS REMOVED FROM TABLE AND REREFERRED
The SPEAKER. The Chair recognizes the majority leader.
Mr. RYAN. Mr. Speaker, I move that the following bills be removed from the table and rereferred to the Appropriations Committee for the purpose of a fiscal note and an actuarial note, respectively:

HB 340; and HB 1793.

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

HB 1653 RECOMMITTED
The SPEAKER. The Chair recognizes the majority leader.
Mr. RYAN. Mr. Speaker, I move that HB 1653 be recommitted to the Consumer Affairs Committee.

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

SB 274 RECOMMITTED
The SPEAKER. The Chair recognizes the majority leader.
Mr. RYAN. Mr. Speaker, I move that SB 274 be recommitted to the State Government Committee.

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

BILLS REMOVED FROM TABLE FOR CALENDAR
The SPEAKER. The Chair recognizes the majority leader.
Mr. RYAN. Mr. Speaker, I move that the following bills be removed from the table and placed on the active calendar:

HB 1799; and SB 702.

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

BILLS TABLED
The SPEAKER. The Chair recognizes the majority leader.
Mr. RYAN. Mr. Speaker, I move that the following bills be removed from the table:

HB 1; HB 213; and HB 1496.

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

RULES COMMITTEE MEETING
The SPEAKER. The Chair recognizes the majority leader.
Mr. RYAN. Mr. Speaker, I am calling for a quick meeting of the Rules Committee in the room to the left of the rostrum on the declaration of adjournment.
The SPEAKER. The Chair thanks the gentleman.

AGRICULTURE AND RURAL AFFAIRS COMMITTEE MEETING
The SPEAKER. For what purpose does the gentleman from Snyder, Mr. Thomas, rise?
Mr. THOMAS. To announce a brief meeting of the Agriculture Committee upon the declaration of the adjournment in my office, room 151.
The SPEAKER. The Chair thanks the gentleman.

SENATE MESSAGE
ADJOURNMENT RESOLUTION FOR CONCURRENCE
The Senate presented the following resolution for concurrence:

RESOLVED, (the House of Representatives concurring), That when the Senate adjourns this week it reconvene on Tuesday, November 13, 1979 unless sooner recalled by the President Pro Tempore, and when the House of Representatives adjourns this
Ordered, That the clerk present the same to the House of Representatives for its concurrence.

On the question,
Will the House concur in the resolution of the Senate?
Resolution was concurred in.

Ordered, That the clerk inform the Senate accordingly.

COMMUNICATIONS FROM GOVERNOR

The Secretary to the Governor presented the following communications from His Excellency, the Governor:

APPROVAL OF HOUSE BILLS Nos. 353, 439 and 639.
Commonwealth of Pennsylvania
Governor's Office, Harrisburg
October 25, 1979.

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

I have the honor to inform you that I have this day approved and signed House bill No. 353, printer's No. 1068, entitled "An act authorizing the Department of General Services with the approval of the Department of Public Welfare and the Governor, to sell and convey 1.4377 acres, more or less, of land situate in the 12th Ward of the City of Pittsburgh, Allegheny County, Pennsylvania to the Windsor Corporation."

DICK THORNBURGH.
GOVERNOR
October 25, 1979.

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

I have the honor to inform you that I have this day approved and signed House bill No. 439, printer's No. 471, entitled "An act authorizing the Commonwealth of Pennsylvania, acting by and through the Pennsylvania Game Commission, with the approval of the Department of Justice and the Governor, to convey certain Project 70 Lands to the United States of America, acting by and through the United States Army Corps of Engineers, for the Blue Marsh Flood Control Project in Berks County in exchange for certain parcels of land to be used by the Pennsylvania Game Commission in its Blue Marsh Project."

DICK THORNBURGH.
GOVERNOR
October 25, 1979.

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

I have the honor to inform you that I have this day approved and signed House bill No. 639, printer's No. 691, entitled "An act authorizing and directing the Department of General Services, with the approval of the Department of Public Welfare and the Governor to convey to the Township of Upper St. Clair 42.78 acres of land, more or less, situate in the Township of Upper St. Clair, Allegheny County, Commonwealth of Pennsylvania."

DICK THORNBURGH.
GOVERNOR

RESOLUTIONS REPORTED FROM COMMITTEE

HR 122, PN 2067
By Mr. RYAN
The House of Representatives directs and authorizes the Subcommittee on Cities, Counties — First Class of the House Standing Committee on Urban Affairs to examine, study and make a complete investigation into assessment practices and procedures in Philadelphia in connection with the administration and levy of the real property tax.
Rules.

HR 140, PN 2367
By Mr. RYAN
The House of Representatives request the Attorney General and the Department of Environmental Resources to immediately investigate all the circumstances surrounding the Neville Island Park matter.
Rules.

WELCOMES

The SPEAKER. The Chair has the unique distinction of welcoming a Republican member of the North Carolina House of Representatives, one of 15, Representative Harold Brubaker, originally from Mount Joy, Lancaster County.
With him is his sister, also from Mount Joy, Marion Brenner.

The Chair also welcomes Mrs. Sandy Eshelman, daughter of Representative Ed Johnson of Blair County.
And as the guests of Mr. Bill Wachob of Elk County, Debbie Wendel, Kim Franks and Jean Huddell, who are students at Central Pennsylvania Business College.

The Chair also welcomes from Palmyra, Lebanon County, as the guest of the Speaker, Mr. Clifford Mark, a Republican committee member from the borough of Palmyra.

The Chair also welcomes to the hall of the House Mary Joan Burd and Nancy Pott, wives of Jim Burd and George Pott.

The Chair also welcomes to the House, Claudia Austin, the wife of Robb Austin, and Mrs. Klingaman and Mrs. Bowser, wives of Mr. Klingaman and Mr. Bowser.

The Chair welcomes to the hall of the House Audrey Dawida and Brenda Gamble, wives of Mr. Dawida and Mr. Gamble.

The Chair is pleased to recognize not the wife but the husband of a member of this House, Mr. Glenn George, the husband of Peg George.

ADJOURNMENT

Mr. MURPHY moved that this House of Representatives do now adjourn until Tuesday, October 30, 1979, at 11:00 a.m., e.s.t.

On the question,
Will the House agree to the motion?
Motion was agreed to, and at 6:45 p.m., e.s.t. the House adjourned.