COMMONWEALTH OF PENNSYLVANIA

Legislative Journal

TUESDAY, NOVEMBER 24, 1981

SESSION OF 1981 165TH OF THE GENERAL ASSEMBLY No. 74

HOUSE OF REPRESENTATIVES

The House convened at 10 a.m., e.s.t.

THE SPEAKER (MATTHEW J. RYAN) IN THE CHAIR

PRAYER

REV. CHARLES NEISWENDER, JR., chaplain of the House of Representatives and pastor of Tulpehocken Trinity United Church of Christ, Richland, Lebanon County, Pennsylvania, offered the following prayer:

Let us pray:

Heavenly Father, all humanity must choose between what is right and what is wrong; between what is necessary and what is expedient. As lawmakers struggle with that reality, may they be guided by the Biblical principle that whatever is true, whatever is honorable, whatever is pure, lovely, and gracious, may those items be promoted. Cause that standard of guidance to be used in all deliberations, so that honor and peace may dwell among us now and forevermore. In the strong name of Christ, we pray. Amen.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was enunciated by members.)

JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, approval of the Journal for Monday, November 23, 1981, will be postponed until printed. The Chair hears no objection.

JOURNALS APPROVED

The SPEAKER. The Journals of Wednesday, October 21, and Monday, October 26, 1981, are now in print. If there are no corrections to the Journals, without objection, the Journals stand approved. The Chair hears no objection.

HOUSE BILLS INTRODUCED AND REFERRED

No. 2077 By Representatives LASHINGER and SIEMINSKI

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, adding provisions relating to operation of and safety requirements for frozen dessert trucks and providing penalties.

Referred to Committee on TRANSPORTATION, November 23, 1981.

No. 2078 By Representatives WASS, FARGO, DAIKELER, STAIRS, STUBAN, LIVENGOOD, A. K. HUTCHINSON, LETTERMAN, CLYMER, MANMILLER, J. L. WRIGHT, LEVI, PETERSON, SAURMAN, E. H. SMITH and JACKSON

An Act making it unlawful to add a gratuity to a bill for food under certain circumstances and providing a penalty.

Referred to Committee on BUSINESS AND COMMERCE, November 23, 1981.

No. 2079 By Representatives GREENWOOD, WILSON, CLYMER, J. L. WRIGHT, BURNS and CORDISCO

An Act amending the "Tax Reform Code of 1971," approved March 4, 1971 (P. L. 6, No. 2), exempting certain real estate transfers from taxation.

Referred to Committee on FINANCE, November 23, 1981.

No. 2080 By Representatives BRANDT and RITTER

An Act amending the "Pennsylvania Election Code," approved June 3, 1937 (P. L. 1333, No. 320), further providing for the form of the official primary ballot.

Referred to Committee on STATE GOVERNMENT, November 23, 1981.

No. 2081 By Representative MILLER

An Act amending the "Professional Engineers Registration Law," approved May 23, 1945 (P. L. 913, No. 367), exempting certain activities from licensure and registration.

Referred to Committee on PROFESSIONAL LICENSURE, November 23, 1981.

No. 2082 By Representatives PRATT, VAN HORNE, STEIGHNER, MACKOWSKI, DOMBROWSKI, POTT, NOYE and FISCHER

An Act amending Title 24 (Education) of the Pennsylvania Consolidated Statutes, further providing for a cost-of-living increase to annuitants.

Referred to Committee on EDUCATION, November 23, 1981.

No. 2083 By Representatives E. H. SMITH, BOWSER, SIEMINSKI, JOHNSON,

DURHAM, CIMINI, SPITZ, CUNNINGHAM, DeMEDIO, FEE, DeWEESE, MRKONIC and WARGO

An Act amending the "Capital Budget Act for Fiscal Year 1978-1979, Public Improvement Project Itemization Supplement - Department of General Services," approved September 28, 1978 (P. L. 822, No. 161), providing for the nonlapsing of certain Federal funds.

Referred to Committee on APPROPRIATIONS, November 23, 1981.

No. 2084 By Representatives A. C. FOSTER, JR., LEVI, FRYER, SIRIANNI and DeMEDIO

An Act amending "The Second Class Township Code," approved May 1, 1933 (P. L. 103, No. 69), providing for public auction.

Referred to Committee on LOCAL GOVERNMENT, November 23, 1981.

HOUSE RESOLUTION INTRODUCED AND REFERRED

No. 130

(Concurrent) By Representatives CLARK, OLASZ, PETRARCA, CESSAR, LIVENGOOD, VAN HORNE, DUFFY, O'DONNELL, LESCOVITZ and MANDERINO

General Assembly memorialize Congress oppose any reduction of the level of operation of the Allegheny River Navigation System.

Referred to Committee on FEDERAL-STATE RELATIONS, November 23, 1981.

LEAVES OF ABSENCE GRANTED

The SPEAKER. The Chair recognizes the majority whip for the purpose of taking leaves of absence.

Mr. CESSAR. Thank you, Mr. Speaker.

I do request a leave of absence for the gentleman from Delaware, Mr. ALDEN, for today's session.

The SPEAKER. Without objection, leave will be granted. The Chair hears none.

The Chair recognizes the gentleman from Philadelphia, Mr. Pievsky, for the purpose of taking leaves of absence.

Mr. PIEVSKY. Thank you, Mr. Speaker.

I ask leave of absence for the gentleman from Philadelphia, Mr. COHEN, for today's session only. Thank you.

The SPEAKER. Without objection, leave will be granted. The Chair hears no objection.

MASTER ROLL CALL RECORDED

The SPEAKER. The Chair is about to take today's master roll call. Members will proceed to vote.

The following roll call was recorded:

PRESENT—191

Anderson	Fee	Livengood	Rocks
Armstrong	Fischer	Lloyd	Rybak
Arty	Foster, W. W.	Lucyk	Salvatore
Barber	Foster, Jr., A.	McCall	Saurman
Belardi	Frazier	McClatchy	Serafini
Belfanti	Freind	McIntyre	Seventy
Beloff	Fryer	McMonagle	Showers
Berson	Gallagher	McVerry	Shupnik
Bittle	Gallen	Mackowski	Sieminski
Blaum	Gamble	Madigan	Sirianni
Borski	Gannon	Maiale	Smith, B.
Bowser	Geist	Manderino	Smith, E. H.
Boyes	George	Manmiller	Smith, L. E.
Brandt	Gladeck	Marmion	Snyder
Brown	Grabowski	Merry	Spencer
Burd	Gray	Michlovic	Spitz
Burns	Greenwood	Micozzie	Stairs
Caltagirone	Grieco	Miller	Steighner
Cappabianca	Gruitza	Miscevich	Stevens
Cawley	Gruppo	Moehlmann	Stewart
Cessar	Hagarty	Morris	Stuban
Cimini	Haluska	Mowery	Swaim
Civera	Harper	Mrkonic	Sweet
Clark	Hasay	Mullen	Swift
Clymer	Hayes	Murphy	Taddonio
Cochran	Heiser	Nahill	Taylor, E. Z.
Colafella	Hoeffel	Noye	Taylor, F. E.
Cole	Honaman	O'Donnell	Telek
Cordisco	Horgos	Olasz	Tigue
Cornell	Hutchinson, A.	Oliver	Trello
Coslett	Hutchinson, W.	Pendleton	Van Horne
Cowell	Itkin	Perzel	Vroon
Cunningham	Jackson	Peterson	Wachob
DeMedio	Johnson	Petrarca	Wambach
DeVerter	Kanuck	Petrone	Wargo
Daikeler	Kennedy	Phillips	Wass
Davies	Klingaman	Piccola	Wenger
Dawida	Kolter	Pievsky	Weston
Deal	Kowalyshyn	Pistella	Wiggins
Dietz	Kukovich	Pitts	Williams, J. D.
Dininni	Lashinger	Pott	Wilson
Dombrowski	Laughlin	Pratt	Wogan
Donatucci	Lehr	Punt	Wozniak
Dorr	Lescovitz	Rasco	Wright, D. R.
Duffy	Letterman	Reber	Wright, J. L.
Durham	Levi	Richardson	Wright, R. C.
Evans	Levin	Rieger	Zwikl
Fargo	Lewis	Ritter	

ADDITIONS—5

DeWeese	Rappaport	Ryan,
Greenfield	Williams, H.	Speaker

NOT VOTING—0

EXCUSED—6

Alden	Emerson	Irvis	Pucciarelli
Cohen	Fleck		

MEMBERS' PRESENCE RECORDED

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Rappaport, who asks that his name be added to the master roll call, as does the Speaker.

CALENDAR

BILLS AGREED TO ON SECOND CONSIDERATION

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

HB 1196, PN 1331; HB 1200, PN 1335; HB 1205, PN 1697; and **HB 1875, PN 2584.**

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **SB 919, PN 1434**, entitled:

An Act amending the act of May 22, 1933 (P. L. 853, No. 155), entitled "The General County Assessment Law," excluding certain in-ground and above-ground structures and containments in determining farm values.

On the question,

Will the House agree to the bill on third consideration?

Mr. CORDISCO offered the following amendments No. A4899:

Amend Title, page 1, line 11, by removing the period after "values" and inserting

and further providing for conditions relating to reassessment.

Amend Bill, page 5, by inserting between lines 13 and 14

Section 2. The act is amended by adding a section to read:

Section 402.2. Prohibiting Certain Revaluations.—Whenever the Board of Assessors revalues more than fifty per cent of the properties within a municipality in any one year it shall be deemed a reassessment and the reassessed property values shall not be utilized for tax purposes until the entire county is reassessed in accordance with the provisions of this act.

Amend Sec. 2, page 5, line 14, by striking out "2" and inserting

3

On the question,

Will the House agree to the amendments?

AMENDMENTS WITHDRAWN TEMPORARILY

BILL PASSED OVER TEMPORARILY

The SPEAKER. It is the understanding of the Chair, Mr. Cordisco, that this amendment has not been distributed. Accordingly, I would request that the gentleman withdraw his amendment temporarily.

Mr. CORDISCO. I will withdraw the amendment temporarily.

The SPEAKER. The Chair, without objection, passes SB 919 over temporarily. The Chair hears no objection.

WELCOME

The SPEAKER. The Chair is pleased to welcome to the hall of the House today Dr. John Wilke, president of the National Right to Life Committee, and Mrs. Suzanne Glasow, former resident of Pennsylvania and a member of the Governor's Commission for Women. These folks are here today as the guests of Representatives Mullen, Freind, and Cunningham.

BILLS ON THIRD CONSIDERATION CONTINUED

The House proceeded to third consideration of **SB 920, PN 1435**, entitled:

An Act amending the act of May 21, 1943 (P. L. 571, No. 254), entitled, as amended, "The Fourth to Eighth Class County Assessment Law," excluding certain in-ground and above-ground structures and containments in determining farm values.

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—189

Anderson	Fee	Lucyk	Saurman
Armstrong	Fischer	McCall	Serafini
Arty	Foster, W. W.	McClatchy	Seventy
Barber	Foster, Jr., A.	McIntyre	Showers
Belardi	Frazier	McMonagle	Shupnik
Belfanti	Freind	McVerry	Sieminski
Beloff	Fryer	Mackowski	Sirianni
Berson	Gallagher	Madigan	Smith, B.
Bittle	Gallen	Maiale	Smith, E. H.
Blaum	Gamble	Manderino	Smith, L. E.
Borski	Gannon	Manmiller	Snyder
Bowser	Geist	Marmion	Spencer
Boyes	Gladeck	Merry	Spitz
Brandt	Grabowski	Michlovic	Stairs
Brown	Greenwood	Micozzie	Steighner
Burd	Grieco	Miller	Stevens
Burns	Gruitza	Miscevich	Stewart
Caltagirone	Gruppo	Moehlmann	Stuban
Cappabianca	Hagarty	Morris	Swaim
Cawley	Haluska	Mowery	Sweet
Cessar	Harper	Mrkonic	Swift
Cimini	Hasay	Murphy	Taddonio
Civera	Hayes	Nahill	Taylor, E. Z.
Clark	Heiser	Noye	Taylor, F. E.
Clymer	Hoeffel	O'Donnell	Telek
Cochran	Honaman	Olasz	Tigue
Colafella	Horgos	Oliver	Trello
Cole	Hutchinson, A.	Pendleton	Van Horne
Cordisco	Hutchinson, W.	Perzel	Vroon
Cornell	Itkin	Peterson	Wachob
Coslett	Jackson	Petrarca	Wambach
Cowell	Johnson	Petrone	Wargo
Cunningham	Kanuck	Phillips	Wass
DeMedio	Kennedy	Piccola	Wenger
DeVerter	Klingaman	Pievsky	Weston
Daikeler	Kolter	Pistella	Wiggins
Davies	Kowalyshyn	Pitts	Williams, J. D.
Dawida	Kukovich	Pott	Wilson
Deal	Lashinger	Pratt	Wogan
Dietz	Laughlin	Punt	Wozniak
Dininni	Lehr	Rasco	Wright, D. R.
Dombrowski	Lescovitz	Reber	Wright, J. L.
Donatucci	Letterman	Richardson	Wright, R. C.
Dorr	Levi	Rieger	Zwikl
Duffy	Levin	Ritter	
Durham	Lewis	Rocks	Ryan,
Evans	Livengood	Rybak	Speaker
Fargo	Lloyd	Salvatore	

NAYS—0

NOT VOTING—7

DeWeese	Gray	Mullen	Williams, H.
George	Greenfield	Rappaport	

EXCUSED—6

Alden	Emerson	Irvis	Pucciarelli
Cohen	Fleck		

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 the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

MEMBER'S PRESENCE RECORDED

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Hardy Williams, who asks that his name be added to the master roll call.

FILMING PERMISSION GRANTED

The SPEAKER. The Chair has granted permission to channel 11, Pittsburgh, for 10 minutes of silent filming. Channel 11 of Pittsburgh has been granted permission to do 10 minutes of silent filming.

BILLS ON THIRD CONSIDERATION CONTINUED

The House proceeded to third consideration of **HB 1804, PN 2410**, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for the imposition of certain mandatory sentences and authorizing the incurring of debt without approval of the electors to provide additional prison facilities to implement the mandatory sentence provisions.

On the question,

Will the House agree to the bill on third consideration?

Mr. PICCOLA offered the following amendments No. A4874:

Amend Title, page 1, line 3 by inserting a period after "sentences"

Amend Title, page 1, lines 3 through 6 by striking out "and authorizing the" in line 3 and all of lines 4 through 6

Amend Sec. 4, pages 10 through 15, by striking out all of lines 11 through 30 on page 10, all of lines 1 through 30 on pages 11 through 14 and all of lines 1 through 4 on page 15

Amend Sec. 5, page 15, line 5 by striking out "5" and inserting

4

On the question,

Will the House agree to the amendments?

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

Mr. PICCOLA. Thank you, Mr. Speaker.

This amendment would delete from HB 1804 the capital authorizations that are contained at the end of that bill. The reason for doing that is we were attempting to be responsible in our approach to this legislation in providing for the money side of the equation, but the Constitution, unfortunately, Article III, section 3, says that no bill shall contain more than one subject. It is the feeling that if we leave the money portions of the bill in, one or the other would be challenged.

The amendment, as I said, will delete the money portions of the bill and preclude a possible challenge to one or both sections of the bill, that being the capital authorization and the mandatory sentencing features. We will attempt to include in the capital budget a provision for the authorization.

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

Mr. H. WILLIAMS. Mr. Speaker, would the maker of the amendment consent to brief interrogation?

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

Mr. H. WILLIAMS. Mr. Speaker, did I understand you to say that there were two things that you were attempting to remedy by offering the amendment? Am I correct that you gave two reasons?

Mr. PICCOLA. No; there is one reason, Mr. Speaker.

Mr. H. WILLIAMS. Am I correct that your reason is that the capital authorization part of the bill connected with the mandatory sentence part of the bill may have constitutional problems?

Mr. PICCOLA. It is my feeling, and the feeling of those who are proposing this amendment, that combining the capital authorization provision with an amendment to the Judicial Code may be unconstitutional. So we are deleting the capital authorization portion.

Mr. H. WILLIAMS. Mr. Speaker, I note that you are the chief sponsor of this bill. My question to you is: What was the objective and/or philosophy behind combining the mandatory section and the capital authorization section? What was intended to be cohesively achieved when you drafted the sections as you drafted them?

Mr. PICCOLA. The capital authorization, Mr. Speaker, was a responsible approach, in my view, to provide for additional prison cells which will be needed in order to accommodate individuals who will be sentenced under the provisions of HB 1804.

Mr. H. WILLIAMS. Mr. Speaker, you were explaining—and I did not hear it all—that you combined the two because you thought that they properly should be combined for a reason, and I did not get the clear reason.

Mr. PICCOLA. The mandatory sentencing provisions of HB 1804 will necessitate more prison cells in Pennsylvania. It was my feeling that we should do the responsible thing and provide the capital authorization for that aspect of it in the same bill. We attempted to do that, but, unfortunately, the Constitution, and specifically Article III, section 3, speaks against that kind of an approach. So in order to prevent the

mandatory sentencing aspect and/or the capital authorization provisions from being successfully challenged in the courts, I am moving to delete the capital authorization portion from the bill.

Mr. H. WILLIAMS. Mr. Speaker, do I understand in basic terms that with the mandatory sentence, if that became law, that we fully expect to fill our prisons up and therefore would need a lot more space? Am I correct?

Mr. PICCOLA. I think that is a possibility, yes.

Mr. H. WILLIAMS. Okay. And that was your reason for joining the two aspects together. Am I correct?

Mr. PICCOLA. That is correct. I might add as a caveat, if the deterrent aspect of this legislation is successful, perhaps we will have a decline in prison population because there will be fewer offenses. That is my hope.

Mr. H. WILLIAMS. I do agree with the speaker that whereas we can effectuate deterrence, we certainly will need less prisons.

Mr. Speaker, may I ask you about when it was that you discovered that there was a constitutional prohibition in combining these two ideas?

Mr. PICCOLA. Mr. Speaker, was your question as to when?

Mr. H. WILLIAMS. Yes, Mr. Speaker.

Mr. PICCOLA. I was aware of the problem from the inception of the legislation. I was advised by Legislative Reference of the problem in the very broad sense. As the legislation moved through the process, more and more comments on that subject became evident to me, and that is the reason for the move today to delete it, because I fear it is a very serious problem. That is why we are doing it. It is strictly a technical kind of a thing. It is a statutory construction question, and because of that we are attempting to delete the one aspect of the bill.

Mr. H. WILLIAMS. Thank you.

Mr. Speaker, if the mandatory aspect of the bill without the amendment becomes law, just where are we going to put the people whom we expect to go to jail under the mandatory aspect? Just where would it be? What would be the plan to place the thousands of people whom we expect will be incarcerated if the mandatory aspect is in place?

Mr. PICCOLA. The people will be incarcerated; I am sure of that, and I am sure this General Assembly will make the appropriate financial decisions in that regard on another day.

Mr. H. WILLIAMS. So am I correct in assuming that the capitalization aspect you expect for that reason will be acted on at another time?

Mr. PICCOLA. I am confident of that, yes.

Mr. H. WILLIAMS. One final question, Mr. Speaker. If in fact the thrust of this idea moves to make sure that we put a larger number of people in jail, and if we understand that to do that we have to build and expand and improve prison facilities, why can we not do—if that is correct to do—both of those things at the same time, albeit in separate bills? In other words, if we come back next week and we have a mandatory sentence bill and we have a capitalization bill, why would it not be imprudent if we think that that is really on time that we would not do those things together rather than to say we will eliminate this portion and do it later on?

Mr. PICCOLA. Mr. Speaker, first, let me disagree with the intent as stated by the gentleman, Mr. Williams. The intent is not necessarily to put more people in jail just for the sake of putting people in jail. The intent is to deter crime. If that results in more people being detained in jail, that would be its net result, not its intended effect.

Secondly, let me say that upon the effective date of the mandatory sentencing aspects of the bill, there immediately on that day will not be a need, assuming what we are assuming in terms of the effect, for all the cells that are enumerated in the bill currently. Therefore, it is not necessary that the money accompany the bill at the same time.

Mr. H. WILLIAMS. Thank you, Mr. Speaker.

Mr. Speaker, I would like to be recognized at some point to comment on the amendment.

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

Mr. H. WILLIAMS. Mr. Speaker, the speaker in proposing his amendment has spoken about one crystal clear thing, and I support it. He has spoken about deterrence, and I rise to support that idea. And I wonder, when the policy on crime, this very limited program on crime, was offered by the Governor, then by the sponsor and the sponsors of this bill and now the amendment, it seemed to me clear then that someone was saying that in the State of Pennsylvania and all of our cities and counties that we wanted to deter crime, and, therefore, two strong ideas that I have questions about were put together. We are going to mandate certain people be incarcerated under certain conditions, and the scientific, analytical conclusions of people who were concerned and offered that idea said therefore—and all the experts also agree, and it is irrefutable—that we need more prisons and more expansions; that is so. I think to say that we would not connect these two ideas is poppycock, whether we do it today or tomorrow or whether we put it in this bill or whether it is unconstitutional. If we want to say to this State that we are going to take this approach, we have to announce those policies and we have to do them together and we have to do them intelligently, because we have assessed the money from Pennsylvanians that we are going to take. Mr. Speaker, to delay action on that aspect to me merely and simply says that we are going to do it any way we like just so the public will think we are trying to deter crime. Mr. Speaker, I suggest to you respectfully that when the bill was put together, it should have been known then whether or not it was constitutional, but we all make some mistakes, but these are two clear-cut major ideas on crime.

Number two, if in fact in time we are persuaded that to put them together is unconstitutional, okay, but it would seem to me only intelligent and fair to our Commonwealth, and also bedrocking to our policy to actually effectuate deterrence, not to talk about deterrence for two or three or four or five decades. In order to put a message that is clear, in order to create deterrence, it seems to me that our actions ought to be timely and not truncated. If we pass this amendment, we will

wait until someone's pencil says that whatever prisons are required should be written, and by that time conditions will change, and I would fear that the people of this Commonwealth will not hear a clarion bell initiated by this General Assembly saying, this is what we are going to do; this is how we are going to do it; and this is how much money we are going to spend, and we are going to stay on top of it. No, this approach is not just piecemeal; this approach is surface, to absorb and to neutralize the sting felt by our people who are suffering from crime.

In summary, Mr. Speaker, I support deterrence. I support the amendment, because I think this is not well-thought-out, but with those modifications. I thank you.

FILMING PERMISSION GRANTED

The SPEAKER. The Chair has granted permission to Philadelphia's KYW-TV and Pittsburgh's KDKA to silent-film for a period of 10 minutes.

CONSIDERATION OF HB 1804 CONTINUED

The SPEAKER. The Chair recognizes the gentleman from Chester, Mr. Morris.

Mr. MORRIS. Thank you, Mr. Speaker.

I would like to ask Mr. Piccola a few questions, please.

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

Mr. MORRIS. Thank you, Mr. Speaker.

Mr. Speaker, I am afraid I will have to be a little bit repetitive; I apologize. I had a good deal of trouble hearing Mr. Piccola's answers as well as some of Mr. Williams' questions. Also, I think this is a very, very important and crucial amendment and the considerations here make it crucial.

I think I heard Mr. Piccola say—I know I heard him say—that he did recognize a possible constitutional problem. Is that not correct? That is a question actually.

Mr. PICCOLA. Could the gentleman repeat his question? I am not—

The SPEAKER. Will the gentleman, Mr. Morris, repeat his question?

Mr. MORRIS. I will rephrase the question, Mr. Speaker. Is my understanding correct, Mr. Speaker, that you perceived a possible constitutional problem from the beginning and, also, the Reference Bureau made some mention of it, but at that time it did not seem to be sufficiently important to warrant changing the bill in its form?

Mr. PICCOLA. Yes, sir. There was a problem from the statutory construction point of view, yes.

Mr. MORRIS. Did I hear you correctly say it was a purely technical matter involving statutory construction?

Mr. PICCOLA. Yes.

Mr. MORRIS. Thank you.

Now, I think we are all aware here that a capital appropriation is an authorization to borrow money. I believe you referred to that in other words. Is that right, Mr. Speaker?

Mr. PICCOLA. I am sorry, Mr. Speaker, I did not understand the question.

Mr. MORRIS. Well, perhaps it was a leading question.

Mr. Speaker, is it fair to say that a capital appropriation is merely an authorization to the Commonwealth to issue bonds and borrow money?

Mr. PICCOLA. That is my understanding, Mr. Speaker.

Mr. MORRIS. And is it not also true, Mr. Speaker, that such an appropriation may never go into effect or it may, and when it will and so on is entirely in the hands of the executive?

Mr. PICCOLA. Yes, Mr. Speaker, that issue would be determined at a later date.

Mr. MORRIS. So, in fact, Mr. Speaker, is it not so that whether this provision is left in the bill or whether it is taken out, the actual acting upon that appropriation will occur when and as needed, supposing it stays in the bill, that is?

Mr. PICCOLA. That issue is something that would be left for another date, to be determined by the General Assembly at another time.

Mr. MORRIS. I think that is a direct answer to my question.

The question here seems to be the constitutional question, and please advise me whether I am right or wrong on this, Mr. Speaker. In your opinion, there is some slight chance that a court would say that this provision for a capital appropriation is in defiance of the constitutional provision against two subjects in a bill. I believe that is what you are saying. Is that correct?

Mr. PICCOLA. That it may be from a statutory construction point of view, yes.

Mr. MORRIS. That is what I meant. Thank you.

Now, is it also your concern, Mr. Speaker, that a court might consider that this provision was inseparable from the balance of the legislation?

Mr. PICCOLA. I did not understand the last portion of the gentleman's question.

Mr. MORRIS. All right. I will take it in two steps. Mr. Speaker, is it not a fact that the courts and the Statutory Construction Act take the position that one provision of a piece of legislation which might be held unconstitutional will not invalidate the whole legislation unless that provision is so inexorably intertwined and inseparable from the balance of the legislation as to cause the whole legislation to fall for that reason?

Mr. PICCOLA. I think the problem here, Mr. Speaker, is the fact that the courts would not know which portion to sever, because had they stood alone they are clearly constitutional, and if the court would sever them, they would not know which one to disallow, and I think that is where the danger lies.

Mr. MORRIS. Mr. Speaker, I have no other questions.

I would like to speak on the amendment.

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

Mr. MORRIS. Mr. Speaker, I oppose this amendment. I think the original concept is correct. I think the possibilities that we have been discussing here in this little question-and-answer period are very slim of this legislation being declared unconstitutional in its entirety merely because of the capital

appropriation. The money will be provided one way or the other, as Mr. Piccola has said, and if this provision is left in the bill, I do not think it will affect the validity of the mandatory sentencing part of the bill. I think to take it out—and here I am, I guess, repeating something Mr. Williams said—is to sugarcoat the whole thing.

I am going to vote for this bill; I want to vote against this amendment. I want the people to know that we believe that there ought to be more people in jail for longer periods of time than they are now, but I want them also to know that there is a price for that. Thank you, Mr. Speaker.

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

Mr. PENDLETON. Thank you, Mr. Speaker.

There are other practical considerations besides legal questions that need to be brought to the front with regard to this legislation. In Allegheny County we still have unsettled the question of the location of prisons. As you know by now, the Governor has indicated that the Marcy state prison decision had been reversed, and for that reason, in order to make sure we do not legislate Marcy into the mandatory sentences provision and in particular into the capital development section, we need to separate the capital expenditures in this bill from the mandatory sentences provision. This will not in any way prohibit those who want to support the additional building of jail cells in the Commonwealth from supporting it, but it would for sure delay our consideration of the issue of mandatory sentencing because of that unsettled state of affairs with respect to the prison location. For that reason I ask your support for this amendment.

The SPEAKER. The Chair recognizes the gentleman from Cambria, Mr. Haluska.

Mr. HALUSKA. Thank you, Mr. Speaker.

I would like to interrogate Mr. Piccola, please.

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

Mr. HALUSKA. Mr. Speaker, in this particular amendment to delete the capital appropriation, there are some $16 million for the conversion of the Cresson Center, which is a mental retardation center where 85 percent of its patients are those who are severely, profoundly mentally retarded.

Now, we are very much concerned to know, when this is reassigned for capital authorization, are they going to reassign the total package of $112 million or is there a possibility that the $16 million for the Cresson Center would be eliminated? We feel that we need prisons, and we have some 500 acres of ground at the Cresson Center, and we personally feel that if they wanted to build prison cells, they could possibly build on the same premises without destroying a facility that we really need. The reason for this is, if they are closing Marcy, they are going to transfer some 114 patients from Marcy over to Laurelton. They are going to transfer from Ebensburg 40 patients over to Somerset, and if this happens, there will be no facility in the Commonwealth of Pennsylvania to accept mentally retarded residents.

Now, I think this is a very urgent situation that we should give some consideration to and not find ourselves in a position where we could not make provisions for the severe, profound mentally retarded patients, and I think it is sort of putting the cart before the horse until such time as we have provisions to handle these particular residents. I think that we should be positively sure that this allocation will be deleted from this proposal, and I would like your response to that, sir.

Mr. PICCOLA. Mr. Speaker, in response to the gentleman, this amendment would delete the allocations that would be reserved for the conversion of Cresson. The decision on what would happen at Cresson would be made by this General Assembly at a later date, but it would not be contained in HB 1804 if this amendment is adopted.

Mr. HALUSKA. I thank you, Mr. Speaker.

MEMBERS' PRESENCE RECORDED

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Greenfield, who asks that his name be added to the master roll call; and the gentleman from Greene, Mr. DeWeese, who asks that his name be added to the master roll call.

CONSIDERATION OF HB 1804 CONTINUED

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

Mr. H. WILLIAMS. Mr. Speaker, I would request if the speaker would consent to an additional brief interrogation?

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

Mr. H. WILLIAMS. Mr. Speaker, my concern and inquiry at this juncture is as follows: If we take out the money that was to conform with the activity when people go to jail, the question that rises to me is, first of all, where is the money coming from, and do you have an idea of how much will be needed to accommodate the mandatory sentencing part?

Mr. PICCOLA. Mr. Speaker, as I indicated earlier, that decision will be handled by the General Assembly at a later date in a responsible fashion, and I am confident that the necessary funds would be available when that time comes.

Mr. H. WILLIAMS. Mr. Speaker, do you agree that enactment of the mandatory sentencing part will indeed cost some considerable money in terms of incarceration facilities, whatever the amount is?

Mr. PICCOLA. That is my opinion, yes.

Mr. H. WILLIAMS. Okay. Mr. Speaker, and you agree that in our present budget there is no allocation or appropriation to meet the financial requirements of the bill as amended. Is that correct?

Mr. PICCOLA. Mr. Speaker, the bill is not in effect, so there is no necessity to address the question in our present budget.

Mr. H. WILLIAMS. Okay. Well, the bottom line is that there is no appropriation since there has been no necessity. I just want to establish that there are no moneys, substantial moneys, in the State coffers presently to meet the bill as amended with the money out. Am I correct on that? I know it is obvious, but I wanted to ask.

Mr. PICCOLA. The gentleman is correct. There is no capital budget bill before the House at this time. That is correct.

Mr. H. WILLIAMS. Thank you, Mr. Speaker.

PARLIAMENTARY INQUIRY

Mr. H. WILLIAMS. Mr. Speaker, may I—

The SPEAKER. The gentleman is in order and may speak on the amendment.

Mr. H. WILLIAMS. Mr. Speaker, I would like to make an inquiry of the Chair.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. H. WILLIAMS. Mr. Speaker, in view of the fact that it has been agreed that there are substantial money obligations that would be connected with the bill as amended by Representative Piccola, my inquiry is, would it not be necessary for this House and the public to have a fiscal note so that we would know the expenditures of money that would be necessary to carry out this activity? And if not, why not, whether it is capital or otherwise? Page 16, rule 19(a)(1)?

The SPEAKER. It is the opinion of the Chair that there are no fiscal implications that require a fiscal note.

Mr. H. WILLIAMS. Mr. Speaker, a further inquiry. In rule 19(a)(1) it says, "No bill, except a General Appropriation bill or any amendments thereto, which may require an expenditure of Commonwealth funds or funds of any political subdivision,..." et cetera, shall have a fiscal note. And also, it goes on further to say that we are entitled to receive the probable cost of the bill for the fiscal year, projected cost estimates of the program for each of the 5 succeeding fiscal years, et cetera. Now, could the Chair explain to me why the clear statement says, no bill which requires expenditure of Commonwealth funds, et cetera, why this situation as amended would not apply to rule 19(a)(1)? I would just like to know.

The SPEAKER. The question before the House at this time is whether or not the amendment offered by the gentleman, Mr. Piccola, should be agreed to. If it is the gentleman's intention to raise these same questions after this amendment is defeated or agreed to, that would be a different matter, but at the moment the Chair has ruled.

Mr. H. WILLIAMS. Mr. Speaker, I expected that that would be one possible explanation, but a clear reading says, no bill or any amendments thereto. We are on the floor dealing with an amendment, and so the rationale does not apply to the question I asked.

The SPEAKER. The Chair has ruled.

Mr. H. WILLIAMS. Mr. Speaker, may I proceed?

The SPEAKER. The gentleman is in order.

Mr. H. WILLIAMS. Mr. Speaker, I will not further debate the Chair's ruling nor will I appeal the ruling of the Chair, except to remind the Chair and the members of the clear reading and rereading of rule 19(a)(1), which applies both to bills and amendments.

Aside from that, Mr. Speaker, the thrust of my parliamentary inquiry is not technical. It is to say to the offerer of the amendment and to the House members and hopefully translated to the public that the amendment in the capitalization part, first of all, asks for us to approve all the money without submitting that to the public. But what the amendment now does, it violates one of the most fundamental rules, if not in letter, in spirit, not only of the House but of the fiscally responsible champions in this House.

All year long we have been talking about money, and whenever the President starts doing anything, we talk about money. We just sent HB 720 to a committee, and pretty soon it is going to come back, and we are talking about money. We are always talking about taking care of the public's money. Saving money for the taxpayer is as American as apple pie, and so is getting crime off the backs of our citizens, which I, as one, want to do.

The amendment does a very skillful and elusive thing on those bottom-line questions that we all agree on. It says, big program; no money. It also says, we are not going to tell you where the money comes from or how much in advance. It says, all of our rules which say, no program unless you tell us the money in detail, year after year. That is like taking a pig in a poke, and it is not very responsible, nor can it be effective.

The only reason I wanted to make these remarks is that to pass this amendment puts us exactly in that naked position. Now, I am not making my remarks just to oppose. If indeed the whole idea of sentences with crime and the money to pay for that is viable, I ask the Speaker again, why on another day - Monday, Tuesday, Wednesday; I do not care what day - one bill, mandatory sentences, and if we believe that takes care of crime, fine; same day, another bill, here is the money, well-thought-out, fine. The citizens of this State would know we mean business on whatever we do, number one. And number two, we are not going to overcharge them for it for 10 or 15 years, then go broke and find a scapegoat for it.

Mr. Speaker, the amendment is more crucial than anything else we do, because it gives us the opportunity to penetrate on the money, to establish clear-cut policy, and to know what we are doing for all those people we care about. And so there is a way without truncating it in doing it all together and us all knowing exactly what we are doing without violation of the underpinnings that we honor so much - saving money, helping the taxpayer, getting off crime - and they for once would have a chance to understand what we are doing, why we are doing it, and also to feel a little bit more secure in the fact that the State, as the Governor announced, is following a policy that may work.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—154

Anderson	Durham	Lescovitz	Ritter
Armstrong	Fargo	Levi	Rocks
Arty	Fee	Lewis	Salvatore
Belardi	Foster, Jr., A.	Lloyd	Saurman
Berson	Frazier	McCall	Serafini
Bittle	Freind	McClatchy	Shupnik
Blaum	Fryer	McVerry	Sieminski
Bowser	Gallagher	Mackowski	Smith, B.
Boyes	Gallen	Madigan	Smith, E. H.

Brandt	Gamble	Maiale	Smith, L. E.
Brown	Gannon	Manderino	Snyder
Burd	Geist	Manmiller	Spencer
Caltagirone	George	Marmion	Spitz
Cappabianca	Gladeck	Merry	Steighner
Cawley	Greenwood	Michlovic	Stevens
Cessar	Grieco	Micozzie	Stewart
Cimini	Gruitza	Moehlmann	Sweet
Civera	Gruppo	Mowery	Swift
Clark	Hagarty	Mrkonic	Taddonio
Clymer	Haluska	Mullen	Taylor, E. Z.
Cochran	Harper	Nahill	Telek
Colafella	Hasay	Noye	Tigue
Cole	Hayes	O'Donnell	Van Horne
Cordisco	Heiser	Oliver	Vroon
Cornell	Hoeffel	Pendleton	Wambach
Coslett	Honaman	Perzel	Wargo
Cowell	Horgos	Peterson	Wass
Cunningham	Hutchinson, W.	Petrarca	Wenger
DeMedio	Itkin	Petrone	Weston
DeVerter	Jackson	Phillips	Williams, H.
DeWeese	Johnson	Piccola	Wilson
Daikeler	Kanuck	Pievsky	Wogan
Davies	Kennedy	Pistella	Wozniak
Dawida	Klingaman	Pitts	Wright, D. R.
Dietz	Kolter	Pott	Wright, J. L.
Dininni	Kukovich	Pratt	Zwikl
Dombrowski	Lashinger	Punt	
Dorr	Laughlin	Rasco	Ryan,
Duffy	Lehr	Reber	Speaker

NAYS—39

Barber	Hutchinson, A.	Morris	Stairs
Belfanti	Kowalyshyn	Murphy	Stuban
Beloff	Letterman	Olasz	Swaim
Borski	Levin	Rappaport	Taylor, F. E.
Deal	Livengood	Richardson	Trello
Donatucci	Lucyk	Rieger	Wachob
Evans	McIntyre	Rybak	Wiggins
Fischer	McMonagle	Seventy	Williams, J. D.
Grabowski	Miller	Showers	Wright, R. C.
Greenfield	Miscevich	Sirianni	

NOT VOTING—3

Burns	Foster, W. W.	Gray

EXCUSED—6

Alden	Emerson	Irvis	Pucciarelli
Cohen	Fleck		

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

REMARKS ON VOTE

The SPEAKER. The Chair recognizes the lady from Susquehanna, Miss Sirianni. For what purpose does the lady rise?

Miss SIRIANNI. Mr. Speaker, I would like the record to show that I voted "yes" instead of "no" on amendment A4874 to HB 1804.

The SPEAKER. The remarks of the lady will be spread upon the record.

CONSIDERATION OF HB 1804 CONTINUED

On the question,

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

Mr. KUKOVICH offered the following amendments No. A4860:

Amend Sec. 3 (Sec. 9714), page 5, lines 29 and 30, by striking out "(A) (RELATING TO ARSON)," and inserting

(a) (relating to endangering persons),

Amend Sec. 3 (Sec. 9714), page 6, lines 1 through 6, by striking out "or attempt" in line 1, all of lines 2 through 5 and "human life," in line 6

Amend Sec. 3 (Sec. 9714), page 6, line 10, by inserting after "contrary."

Any person who is convicted of aggravated assault in which the offender intentionally, knowingly or recklessly causes serious bodily injury to another under circumstances manifesting extreme indifference to the value of human life shall, if they have previously been convicted of a crime of violence as specified in subsection (b), be sentenced to a minimum sentence of at least four years of total confinement notwithstanding any other provision of this title or other statute to the contrary.

Amend Sec. 3 (Sec. 9714), page 8, by inserting between lines 16 and 17

(f) Attempts.—Any person convicted of attempting any of the offenses enumerated in subsection (a) shall, if they have previously been convicted of a crime of violence as specified in subsection (b), be sentenced to a minimum sentence of at least two and one-half years of total confinement regardless of the fact that the attempt was not completed.

On the question,

Will the House agree to the amendments?

AMENDMENTS WITHDRAWN

The SPEAKER. Will the gentleman, Mr. Kukovich, advise the Chair if he is withdrawing amendment 4859?

Mr. KUKOVICH. No, Mr. Speaker. I will offer that one next.

The SPEAKER. Would the gentleman withdraw this amendment and offer 4859 at this time? Would that inconvenience the gentleman?

Mr. KUKOVICH. No; that will be all right, Mr. Speaker.

The SPEAKER. It is the understanding of the Chair the gentleman withdraws amendment 4860 and offers the following amendment which the clerk will read.

On the question recurring,

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

Mr. KUKOVICH offered the following amendment No. A4859:

Amend Bill, page 10, by inserting between lines 10 and 11

§ 9717. Aggravating and mitigating circumstances.

(a) Aggravating circumstances.—The court shall consider the following aggravating circumstances when imposing any mandating minimum sentence:

(1) Offender inflicted a serious bodily injury upon the victim, unless such action is an element of the offense.

(2) Offender is sentenced in accordance with section 9712 (relating to all other cases) and has prior felony convictions.

(3) The offense was committed on public transportation property including vehicles, station, terminal, waiting area, passageways or other facility used by a person, firm, corporation, municipality, municipal authority or port authority in rendering passenger transportation services to the public.

(b) Mitigating circumstances.—The court shall consider the following mitigating circumstances when imposing any mandatory minimum sentence:

(1) Victim intentionally provoked the offender.

(2) The offender's participation in the offense was relatively unimportant to the commission of the crime.

(3) The capacity of the offender to appreciate the criminality of his conduct or to confirm his conduct to the requirement of law was substantially impaired.

(c) Increasing sentence.—The court shall impose an additional consecutive one year sentence to total confinement on any offender sentenced under any mandatory sentencing statute wherein the court finds beyond a reasonable doubt any of the aggravating circumstances enumerated in this section.

(d) Reducing sentence.—The court shall reduce any mandatory minimum sentence of total confinement by one year wherein the court finds by a preponderance of the evidence any of the mitigating circumstances enumerated in this section.

On the question,

Will the House agree to the amendment?

POINT OF ORDER

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

Mr. H. WILLIAMS. Mr. Speaker, for a point of order and a point of parliamentary appropriateness.

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

Mr. H. WILLIAMS. Mr. Speaker, the point of order is, the readiness for any amendments to the bill as it is, in view of the fact that rule 19(a)(1), regarding a fiscal note, is violated in that there is none attached, my observation would be that it would be out of order to proceed in view of that rule. And the Speaker, a few minutes ago, said just that, I think.

The SPEAKER. The Chair corrects the gentleman. The Speaker did not say just that. The Speaker said the gentleman may raise the point at a later time in connection with the bill.

Is the gentleman, Mr. Williams, suggesting that the amendment offered by Mr. Kukovich requires a fiscal note?

Mr. H. WILLIAMS. No. Mr. Speaker, my observation is that in my raising the point of order that his amendment is out of order, since I have responded to your request to raise the fiscal note question at this time before we proceed at all, that his amendment would be out of order pending the resolution of the fiscal note question.

I might add, Mr. Speaker, while you are reading that, we have read that rule a thousand times.

The SPEAKER. It is the opinion of the Chair there are no fiscal implications to the bill as it appears before the House in its amended form.

RULING OF CHAIR APPEALED

Mr. H. WILLIAMS. Mr. Speaker, I would like to appeal the ruling of the Chair and ask the Chair if, in that appeal, I would be entitled to make comments or if I would be offered latitude.

The SPEAKER. Offer a what?

Mr. H. WILLIAMS. I appeal the ruling of the Chair, and I ask whether under that rule it is proper for me to debate that or comment on that, and if not, would the Speaker grant me latitude to make a few brief remarks?

The SPEAKER. It would first be necessary for the gentleman to have a second with respect to the appeal of the Chair's ruling.

Mr. H. WILLIAMS. I ask for a second.

The SPEAKER. Well, you better get one yourself. I am not going to do it.

Mr. H. WILLIAMS. I am publicly asking for one. That is the best way to do it.

The SPEAKER. The gentleman, Mr. Morris, seconds the appeal.

Mr. H. WILLIAMS. I appreciate the kind gentleman from Chester County. He is always right.

The SPEAKER. The question before the House is the appeal of Mr. Williams from the ruling of the Chair. On that question, the Chair recognizes the gentleman, Mr. Williams.

Mr. H. WILLIAMS. Thank you, Mr. Speaker.

Mr. Speaker, I would very, very, very seldom appeal the ruling of the Chair because of the difficulty of running this House, and I respect that Chair as an office, but more especially this Speaker, I think, is very effective, incisive, intelligent, and keeps us out of a lot of extraneous matters, and I appreciate that, and I think it is to the efficiency of this particular Chair. But in this instance, Mr. Speaker, and sometimes all of us are wrong, and for the added reason that I really do believe fundamentally that it is wrong no matter what we do rulewise or otherwise not to face the bottom line on something as serious as crime and money, we established rule 19(a)(1) so we would not fall humanly prey to the anxiety of the moment or the politics of the time or hysteria, so that we would know what we are spending.

I read rule 19(a) which says, for everybody who has not read it, "No bill, except a General Appropriation bill or any amendments thereto, which may require an expenditure of Commonwealth funds..." will be acted upon without a fiscal note. Now, I do not know what schools we all went to, but it seems to me that that is pretty clear.

Mr. Speaker, I also suggest to you that the record of this House is also very clear. Mr. Piccola said many, many times in our discussion and interrogation, and common sense would dictate, that if any bill requires funds of the Commonwealth, this is it. As a matter of fact, the Governor and the Speaker say it is $112 million, and some others say in the long run $250 million. If that is not spending the Commonwealth's money, I do not know what is. And if it is not going to spend any money or if it is going to be spent another way, I repeat, that piece of legislation should be on the books now. Thank you, Mr. Speaker.

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

Mr. DeWEESE. Mr. Speaker, I would like to question Mr. Piccola on rule 19(a) as it relates to this question.

The SPEAKER. The gentleman is in order. The gentleman, Mr. Piccola, consents to interrogation.

Mr. DeWEESE. Mr. Speaker, according to rule 19(a), we are not allowed to spend any money without a fiscal note. The gentleman from Philadelphia, Mr. Williams, has raised a legitimate parliamentary point. I cannot see how we can waiver on this point, and I would like for you to enlighten me, my colleague, Mr. Williams, and those of us who care about the rules. Thank you.

Mr. PICCOLA. I care about the rules, Mr. Speaker. I agree with rule 19(a), and I agree with the Speaker, and I would urge that the House uphold his ruling.

The SPEAKER. Does the gentleman, Mr. DeWeese, desire recognition?

Mr. DeWEESE. Mr. Speaker, I am continuing with my interrogation. I do not think that recognition is necessary, with all due respect.

Mr. Speaker, do you agree with the speaker, Mr. Williams, or the Speaker of the House?

Mr. PICCOLA. On this particular question, with the Speaker of the House.

Mr. DeWEESE. I think it is only proper, sir, that you enlighten us as to your reasoning. How do you interpret rule 19(a)? We are talking about a fiscal note; we are talking about an appeal of a rule, and this is a very important appeal of a rule, an appeal of a rule that deals with $112 million.

Mr. PICCOLA. My interpretation of the rule is identical to the Speaker's interpretation of the rule. I do not know how to elaborate on that any further.

The SPEAKER. The question before the House is, will the House sustain the ruling of the Chair? Those in favor of sustaining the Chair's ruling will vote "aye"; those opposed will vote "no."

On the question,

Will the House sustain the ruling of the Chair?

The following roll call was recorded:

YEAS—112

Anderson	Fargo	McVerry	Sirianni
Armstrong	Fischer	Mackowski	Smith, B.
Arty	Foster, W. W.	Madigan	Smith, E. H.
Belardi	Foster, Jr., A.	Maiale	Smith, L. E.
Bittle	*Frazier*	Manmiller	Snyder
Blaum	Freind	Marmion	Spencer
Borski	Gallen	Merry	Spitz
Bowser	Gannon	Micozzie	Stairs
Boyes	*Geist*	Miller	Steighner
Brandt	Gladeck	Moehlmann	Stevens
Burd	Greenwood	Mowery	Swift
Caltagirone	Grieco	Nahill	Taddonio
Cawley	*Gruppo*	Noye	Taylor, E. Z.
Cessar	Hagarty	Perzel	Telek
Cimini	Hasay	Peterson	Tigue
Civera	Hayes	Phillips	Van Horne
Clymer	*Heiser*	Piccola	Vroon
Cochran	Honaman	Pitts	Wass
Cordisco	Hutchinson, W.	Pott	Wenger
Cornell	Jackson	Pratt	Weston
Coslett	Johnson	Punt	Wilson
Cunningham	Kanuck	Rasco	Wogan
DeVerter	Kennedy	Reber	Wright, D. R.
Daikeler	Klingaman	Rocks	Wright, J. L.
Davies	Lashinger	Salvatore	Wright, R. C.
Dietz	Lehr	Saurman	
Dininni	Levi	Serafini	Ryan,
Dorr	*Lewis*	*Sieminski*	*Speaker*
Durham	McClatchy		

NAYS—73

Barber	Fryer	Livengood	Rappaport
Belfanti	Gallagher	Lloyd	Richardson
Beloff	Gamble	McCall	Rieger
Berson	George	McIntyre	Ritter
Brown	Grabowski	McMonagle	Rybak
Cappabianca	Greenfield	Manderino	Seventy
Clark	Gruitza	Michlovic	Showers
Colafella	Haluska	Miscevich	Shupnik
Cole	Harper	Morris	Stewart
Cowell	Hoeffel	Mrkonic	Swaim
DeMedio	Horgos	Mullen	Sweet
DeWeese	Hutchinson, A.	Murphy	Trello
Dawida	Kolter	Olasz	Wachob
Deal	Kowalyshyn	Oliver	Wargo
Dombrowski	Kukovich	Pendleton	Wiggins
Donatucci	Lescovitz	Petrarca	Williams, H.
Duffy	Letterman	Pievsky	Williams, J. D.
Evans	Levin	Pistella	Zwikl
Fee			

NOT VOTING—11

Burns	Laughlin	Petrone	Wambach
Gray	Lucyk	Stuban	Wozniak
Itkin	O'Donnell	Taylor, F. E.	

EXCUSED—6

Alden	Emerson	Irvis	Pucciarelli
Cohen	Fleck		

The question was determined in the affirmative, and the ruling of the Chair was sustained.

On the question recurring,

Will the House agree to the amendment?

FILMING PERMISSION GRANTED

The SPEAKER. The Chair gives permission at this time to channel 6 of Philadelphia to do 10 minutes of silent filming.

REMARKS ON VOTE

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

Mr. WAMBACH. Mr. Speaker, my switch jammed on that last vote on the appeal of the ruling of the Chair, and I support the Speaker of the House on that vote.

The SPEAKER. The gentleman is very wise.

The remarks of the gentleman will be spread upon the record.

CONSIDERATION OF HB 1804 CONTINUED

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

Mr. KUKOVICH. Thank you, Mr. Speaker.

Amendment 4859 does something new to the bill by adding aggravating and mitigating circumstances. Mr. Speaker, I have spoken on this floor before about disparity of sentencing and how we need to limit judicial discretion. Now, there is a difference between putting some presumptive parameters on

judicial discretion and mandating across the board the minimum penalty. What I am suggesting in this amendment is that we have to look at each of these crimes, each of these defendants, on a case-by-case basis.

The amendment lists three aggravating and three mitigating circumstances. Now, under the bill there is a minimum mandatory of 5 years. What I am suggesting in this amendment is that the prosecuting attorney could argue those aggravating circumstances and, if proven, the judge could increase the penalty 1 year. Conversely, defense counsel could argue mitigating circumstances and the judge, if proven, could decrease the sentence 1 year.

I think this is a reasonable and responsible change. It will not weaken at all the mandatory provisions; on the contrary, maybe even improve the constitutional standards of the bill. For those reasons I would appreciate an affirmative vote.

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

Mr. PICCOLA. Thank you, Mr. Speaker.

I would urge a negative vote on the Kukovich amendment. The purpose of HB 1804 is certainty of sentences, and this amendment would totally destroy that purpose. It would involve the court in all kinds of factfinding to see whether mitigating or aggravating circumstances are involved, and it would totally destroy the purpose of the bill. I would oppose it.

The SPEAKER. The Chair recognizes the gentleman from Tioga, Mr. Spencer.

Mr. SPENCER. Thank you, Mr. Speaker.

I would likewise urge a negative vote on this amendment. The Sentencing Commission guidelines, which will be before the General Assembly shortly, have been issued, and the Sentencing Commission takes into consideration aggravating and mitigating circumstances. Mr. Piccola is absolutely correct that in this mandatory sentence, what we want to do is send a message loud and clear to those criminals that they are going to get a sure sentence if they commit a crime with a firearm regardless of the weakness of our judiciary system. Thank you.

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

Mr. GRUITZA. Mr. Speaker, I rise to support the Kukovich amendment, and I would urge my fellow members to do the same.

We are not totally undermining anything with this amendment. I think that this is a well-thought-out and a good amendment. We have sent a message to the courts and to our constituents back home that we are going to get tough on crime, and we are mandating these sentences, but I think that we need to allow some room in there for consideration of the aggravating or mitigating circumstances.

I disagree, Mr. Speaker, that this totally undermines this program. On the contrary, I think it enhances it. It allows the court some leeway in dealing with aggravating situations or with mitigating situations. I think that it would be a very wise move to pass this amendment, because if we do not, we are going to get a stampede back here in a few years when these sentences start coming down, and the courts are going to be screaming and yelling because they do not have any discretion for some of these unusual cases that are going to be before them. I think that this is a good way of still sending a message that we are going to be tough on crime with mandatory sentences. We are going to be giving that mandatory, instead of 5 years, maybe in some unusual situations a 4-year term, and on the other hand, possibly a 6-year sentence for aggravating situations. I think it is a good amendment, and I would urge its support.

The SPEAKER. The Chair recognizes the gentleman from Washington, Mr. Sweet.

Mr. SWEET. Mr. Speaker, I rise to oppose the Kukovich amendment. I think that, bottom line, you have got to decide whether or not you want to be for mandatory sentencing. Once you have made the decision that you are, then this bill provides a mandatory 5-year minimum. I think to start adding aggravating and mitigating circumstances and to start tinkering with the concept muddies the whole issue. The point of this bill is very clear, that if you commit any one of the enumerated crimes, you are going to get at least 5 years. Once you start talking about aggravating and mitigating circumstances, you cloud the issue, you fuzz it, and the public relations impact and the dramatic impact that is being attempted to be made here will be lost. I think the amendment would be a bad idea, and I urge my colleagues to vote "no."

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

Mr. EVANS. Mr. Speaker, I would have to disagree with my colleague from Washington, Representative Sweet, being that if it was as clear cut and cut dry as Representative Sweet has expressed, I could understand having mandatory sentencing. But I think the fact of the matter is that you do need some discretion, and in the instance of Representative Kukovich's amendment, that interest is expressed.

I would hope that all my colleagues would support Representative Kukovich's amendment, primarily because it gives some discretion, and I myself think you need that type of discretion when you are talking about aggravated assault. Again, I support Representative Kukovich.

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

Mr. REBER. Thank you, Mr. Speaker.

Would the maker of the amendment stand for brief interrogation?

The SPEAKER. The gentleman, Mr. Kukovich, indicates he will. The gentleman, Mr. Reber, may begin.

Mr. REBER. Mr. Speaker, in paragraph (b)(2) of your proposed amendment, there is language, "The offender's participation in the offense was relatively unimportant to the commission of the crime." I direct your attention to the language "relatively unimportant." Could you please define what that particular language will import to the court and how it should be interpreted?

Mr. KUKOVICH. Mr. Speaker, that language conforms with the death penalty statute of this State, and that is where the language was taken from.

Mr. REBER. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—33

Barber	Hoeffel	Michlovic	Stewart
Berson	Itkin	Miscevich	Swaim
DeWeese	Kukovich	Oliver	Tigue
Dawida	Laughlin	Pendleton	Van Horne
Deal	Lloyd	Petrarca	Wachob
Evans	McVerry	Pistella	Wiggins
Gruitza	Maiale	Richardson	Williams, J. D.
Haluska	Manderino	Seventy	Wozniak
Harper			

NAYS—159

Anderson	Fee	Lewis	Salvatore
Armstrong	Fischer	Livengood	Saurman
Arty	Foster, W. W.	Lucyk	Serafini
Belardi	Foster, Jr., A.	McCall	Showers
Belfanti	Frazier	McClatchy	Shupnik
Bittle	Freind	McIntyre	Sieminski
Blaum	Fryer	McMonagle	Sirianni
Borski	Gallagher	Mackowski	Smith, B.
Bowser	Gallen	Madigan	Smith, E. H.
Boyes	Gamble	Manmiller	Smith, L. E.
Brandt	Gannon	Marmion	Snyder
Brown	Geist	Merry	Spencer
Burd	George	Micozzie	Spitz
Caltagirone	Gladeck	Miller	Stairs
Cappabianca	Grabowski	Moehlmann	Steighner
Cawley	Greenfield	Morris	Stevens
Cessar	Greenwood	Mowery	Stuban
Cimini	Grieco	Mrkonic	Sweet
Civera	Gruppo	Mullen	Swift
Clark	Hagarty	Murphy	Taddonio
Clymer	Hasay	Nahill	Taylor, E. Z.
Cochran	Hayes	Noye	Taylor, F. E.
Colafella	Heiser	O'Donnell	Telek
Cole	Honaman	Olasz	Trello
Cordisco	Horgos	Perzel	Vroon
Cornell	Hutchinson, A.	Peterson	Wambach
Coslett	Hutchinson, W.	Petrone	Wargo
Cowell	Jackson	Phillips	Wass
Cunningham	Johnson	Piccola	Wenger
DeMedio	Kanuck	Pievsky	Weston
DeVerter	Kennedy	Pott	Williams, H.
Daikeler	Klingaman	Pratt	Wilson
Davies	Kolter	Punt	Wogan
Dietz	Kowalyshyn	Rappaport	Wright, D. R.
Dininni	Lashinger	Rasco	Wright, J. L.
Dombrowski	Lehr	Reber	Wright, R. C.
Donatucci	Lescovitz	Rieger	Zwikl
Dorr	Letterman	Ritter	
Duffy	Levi	Rocks	Ryan,
Durham	Levin	Rybak	Speaker
Fargo			

NOT VOTING—4

Beloff	Burns	Gray	Pitts

EXCUSED—6

Alden	Emerson	Irvis	Pucciarelli
Cohen	Fleck		

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

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

Mr. KUKOVICH offered the following amendments No. A4860:

Amend Sec. 3 (Sec. 9714), page 5, lines 29 and 30, by striking out "(A) (RELATING TO ARSON)," and inserting

(a) (relating to endangering persons),

Amend Sec. 3 (Sec. 9714), page 6, lines 1 through 6, by striking out "or attempt" in line 1, all of lines 2 through 5 and "human life," in line 6

Amend Sec. 3 (Sec. 9714), page 6, line 10, by inserting after "contrary."

Any person who is convicted of aggravated assault in which the offender intentionally, knowingly or recklessly causes serious bodily injury to another under circumstances manifesting extreme indifference to the value of human life shall, if they have previously been convicted of a crime of violence as specified in subsection (b), be sentenced to a minimum sentence of at least four years of total confinement notwithstanding any other provision of this title or other statute to the contrary.

Amend Sec. 3 (Sec. 9714), page 8, by inserting between lines 16 and 17

(f) Attempts.—Any person convicted of attempting any of the offenses enumerated in subsection (a) shall, if they have previously been convicted of a crime of violence as specified in subsection (b), be sentenced to a minimum sentence of at least two and one-half years of total confinement regardless of the fact that the attempt was not completed.

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

REMARKS ON VOTE

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

Mr. H. WILLIAMS. Mr. Speaker, I got mixed up on my switches on the last vote on the Kukovich amendment A4859. I intended to vote in the affirmative rather than the negative. I would like to be recorded as such.

The SPEAKER. The remarks of the gentleman will be spread upon the record.

CONSIDERATION OF HB 1804 CONTINUED

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

Mr. KUKOVICH. Mr. Speaker, I think this amendment is a little less controversial than the previous one. It does two things. In the first part of the amendment—this is 4860—it takes the offense of aggravated assault and makes the mandatory minimum 4 years as opposed to the mandatory minimum of 5 years in the other listed crimes. The reason for doing that is that aggravated assault is a lesser felony than the other ones listed. I just want to try to be reasonable in conforming that to the rest of the Crimes Code and suggest also that aggravated assault might not even be a proper felony to have in that list. However, I did not go so far as to try to eliminate it, because I think I understand the tone of the General Assembly on this issue. But aggravated assault, as those who have practiced some criminal law realize, oftentimes is an offense that is overcharged, and it would be terrible if we have a lot of cases

brought before the bench in our various counties that do not really include the elements of aggravated assault but end up sentencing people on a 5-year minimum. I think it is a little more reasonable to make it a 4-year minimum, keeping in mind again that it is the certainty of the punishment, and that certainty still remains whether it is 5 years or 4 years.

Mr. Speaker, the second part of the amendment at the bottom of the page goes to one of the major problems with the bill, and the bill includes not only the commission of those listed crimes, those serious felonies, but also the attempt to commit one of those serious felonies. So if someone does not commit arson, for example, but is convicted of an attempt to do so, they would still be sentenced to a 5-year minimum. I think that is a little too much, Mr. Speaker. I have arbitrarily lowered that to 2 1/2 years for those convicted of an attempt but who did not actually follow through and commit the crime. I think that makes this bill a little more reasonable, and I would appreciate your support.

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

Mr. PICCOLA. Mr. Speaker, I would again oppose the adoption of this amendment. Mr. Kukovich indicates that he feels that aggravated assault is a lesser felony and that it is deserving of a lesser mandatory sentence. I suggest you tell that to the senior citizen in your district who is mugged and ask if they think it is a lesser felony.

I think this is just an attempt, both parts of the amendment, to water down the provisions of the mandatory sentencing bill, and I would ask that the amendment be defeated.

The SPEAKER. The Chair recognizes the gentleman from Tioga, Mr. Spencer.

Mr. SPENCER. Thank you, Mr. Speaker.

I would also urge a "no" vote on the amendment. Mr. Kukovich, Mr. Speaker, is losing sight of the fact that one of the purposes of this bill is to deter criminals from using firearms, so conceivably in a rape case in which a person is charged with rape and aggravated assault using a firearm, the jury will only convict him of aggravated assault, and under this particular amendment he would only get the lesser sentence.

Again, we want to make sureness and swiftness of the mandatory crime known to all persons, and this would weaken the bill. I urge a "no" vote on the amendment. Thank you.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—34

Barber	Harper	O'Donnell	Telek
Cole	Itkin	Oliver	Tigue
DeWeese	Kolter	Pendleton	Van Horne
Dawida	Kukovich	Petrarca	Wachob
Deal	Laughlin	Pistella	Wiggins
Dombrowski	Lloyd	Richardson	Williams, H.
Evans	Manderino	Stewart	Williams, J. D.
Gruitza	Michlovic	Swaim	Wozniak
Haluska	Miller		

NAYS—158

Anderson	Fee	Lewis	Rocks
Armstrong	Fischer	Livengood	Rybak
Arty	Foster, W. W.	Lucyk	Salvatore
Belardi	Foster, Jr., A.	McCall	Saurman
Belfanti	Frazier	McClatchy	Serafini
Beloff	Freind	McIntyre	Seventy
Bittle	Fryer	McMonagle	Showers
Blaum	Gallagher	McVerry	Shupnik
Borski	Gallen	Mackowski	Sieminski
Bowser	Gamble	Madigan	Strianni
Boyes	Gannon	Maiale	Smith, B.
Brandt	Geist	Manmiller	Smith, E. H.
Brown	George	Marmion	Smith, L. E.
Burd	Gladeck	Merry	Snyder
Caltagirone	Grabowski	Micozzie	Spencer
Cappabianca	Greenfield	Miscevich	Spitz
Cawley	Greenwood	Moehlmann	Stairs
Cessar	Grieco	Morris	Steighner
Cimini	Gruppo	Mowery	Stevens
Civera	Hagarty	Mrkonic	Stuban
Clark	Hasay	Mullen	Sweet
Clymer	Hayes	Murphy	Swift
Cochran	Heiser	Nahill	Taddonio
Colafella	Hoeffel	Noye	Taylor, E. Z.
Cordisco	Honaman	Olasz	Trello
Cornell	Horgos	Perzel	Vroon
Coslett	Hutchinson, A.	Peterson	Wambach
Cowell	Hutchinson, W.	Petrone	Wargo
Cunningham	Jackson	Phillips	Wass
DeMedio	Johnson	Piccola	Wenger
DeVerter	Kanuck	Pievsky	Weston
Daikeler	Kennedy	Pitts	Wilson
Davies	Klingaman	Pott	Wogan
Dietz	Kowalyshyn	Pratt	Wright, D. R.
Dininni	Lashinger	Punt	Wright, J. L.
Donatucci	Lehr	Rappaport	Wright, R. C.
Dorr	Lescovitz	Rasco	Zwikl
Duffy	Letterman	Reber	
Durham	Levi	Rieger	Ryan,
Fargo	Levin	Ritter	Speaker

NOT VOTING—4

Berson	Burns	Gray	Taylor, F. E.

EXCUSED—6

Alden	Emerson	Irvis	Pucciarelli
Cohen	Fleck		

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

On the question recurring,

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

Mr. H. WILLIAMS offered the following amendments No. A4887:

Amend Bill, page 15, by inserting between lines 4 and 5

Section 5. The provisions of this act relating to mandatory sentencing shall not apply until the Secretary of the Commonwealth certifies to the General Assembly that the following actions have been completed:

(1) Students in all of the junior and senior high schools of the Commonwealth have been provided with four sessions relating to the mandatory sentencing provisions of this act. Each session shall be at least one hour in duration and the sessions shall be conducted by school officials in conjunction with the district attorney of the county in which the school is located.

(2) Copies of this act have been posted for at least two months in every junior and senior high school and every city hall in the Commonwealth.

(3) The provisions of this act relating to mandatory sentencing have been published in a newspaper of general circulation in every city of the first class and every county of the Commonwealth.

Amend Sec. 5, page 15, line 5, by striking out "5" and inserting

6

On the question,

Will the House agree to the amendments?

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

Mr. H. WILLIAMS. Mr. Speaker, may I interrogate the prime sponsor?

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

Mr. H. WILLIAMS. Mr. Speaker, in section 9712(a) on page 2, it says, "Any person who is convicted..." and goes on to talk about the act. Now, would "any person" include young people, age 14, 15, or the like, or is there any limit to the people we are talking about?

Mr. PICCOLA. It would only apply to individuals who are tried as adults, not tried under the juvenile section of the law.

Mr. H. WILLIAMS. Okay. And that comes about because of a translation in the law that does not appear in this bill. Is that correct? In other words, it does not say in this bill that it only applies to those tried as adults, but because of some other laws in some other books, that is so. Is that correct?

Mr. PICCOLA. Because the act that this bill is amending applies to adult offenders.

Mr. H. WILLIAMS. Okay. So if a person who is 14 is tried as an adult, this act would apply to him or her as well. Is that correct?

Mr. PICCOLA. Yes. If an individual 14 years of age commits a crime that is of such a nature that he is tried as an adult, then the provisions of this bill would apply.

Mr. H. WILLIAMS. Thank you, Mr. Speaker.

Mr. Speaker, may I speak on the amendment?

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

Mr. H. WILLIAMS. Thank you.

This amendment, Mr. Speaker, is in precise conformity with the wishes of the advocates of this bill. I listened very closely in committee. I listened very closely to the comments on the last amendments, and I heard Representative Spencer say, we want to send them a message. I heard Representative Sweet, I think, say, we wanted to be dramatic and the impact not lost. And I heard somebody say, we have to make up our minds whether we are going to have this or not.

Well, it is certainly true that the best way to achieve a deterrent is for those persons who may fall into that category to know about it. As a matter of fact, studies have shown that most folks who commit crimes do not really know, talking about new people in crime, and we never stop it, because folks do not know.

This amendment says very clearly—

PARLIAMENTARY INQUIRY

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

Mr. BROWN. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. BROWN. Does this amendment need a fiscal note since it requires expenditures?

Mr. H. WILLIAMS. It needs the same note, Mr. Speaker, that the bill needs, and we are piggybacking on that elusive note.

The SPEAKER. The gentleman, Mr. Williams, will yield.

Mr. H. WILLIAMS. I am sorry, Mr. Speaker. I could not resist.

The SPEAKER. The Chair recognizes the gentleman from Montgomery, Mr. McClatchy, the chairman of the Appropriations Committee.

Mr. McCLATCHY. Mr. Speaker, in regard to this discussion of whether this amendment needs a fiscal note, it is our interpretation it does not as the cost will be minimal, if any.

Mr. BROWN. What will the cost be, Mr. Speaker, if I could? Newspaper ads, courses in every high school, junior high schools.

Mr. McCLATCHY. I said minimal, if any. You could do it in many various ways. Use your own imagination on how to save money.

Mr. BROWN. Thank you for that very informative answer, Mr. Speaker.

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

Mr. H. WILLIAMS. Mr. Speaker, before the inquiry I was trying to say that this amendment mainly talks about children - your children, my children, your grandchildren, my grandchildren.

I want to mention something I read in the Washington Post yesterday, and if you pick it up, you will know that it is an accurate story. There was a murder of a young man who was the husband of a young woman, who was 18. The persons involved in that, one was a multimillionaire lawyer's son, and somehow the son of the lawyer, who went to Shippensburg or somewhere in Pennsylvania, just quit school, went back home and connected with another guy he admired who was okay, too, and they got connected with someone else. There were about five people involved, white, black, all young people from ages 18 to 25; the bride was 25. They killed her husband and she was in on it. A really weird story. But the story talked about one thing, and that was why; why these young kids did that. They are serving 15, 20, and life terms now; every one of them potentially productive Americans, youngsters who, the study showed, all needed something, or they took time to look, because apparently they did not have that direction.

The point I am making is that in our society, our crime is predictable and self-vegetating. Some children who will shortly become adults, and because we have failed to provide any rudders, your children, my children, white kids and black kids, grown adults and Asians, too, are going to come along and are going to do the crimes we are talking about. That is

predictable. The point I am making is the least we can do as a policy—and I would hope improve on this—is to make the knowledge and the message you want to send to those criminals, because most of the people you are talking about are not yet in the system. They have an absolute moral and legal right to know, and we have an obligation to make sure that they know.

This amendment says merely that those children, before they get exposed, get 4 hours at some time where they are told what the law is - if you do that, that is what happens - and that this information is posted where it belongs so that children will know before they become those people, those criminals, those enemies to us, would know so that they could avoid and we can deter crime, which is our bottom line.

So the amendment is very simple. It does not debate philosophy; it does not debate money. It merely says, do we really care to take a simple step with our children that I predict, if the philosophy of this bill is correct, will inform more people who will grow at a certain time or later into these kinds of crimes. I would ask support of this amendment as an expression, collectively, of Republicans and Democrats and Pennsylvanians to really send a message so that it gets heard before the time comes we are responding by some piece of legislation to solve an even greater problem. Thank you, Mr. Speaker.

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

Mr. GLADECK. Would the gentleman, Mr. Williams, stand for brief interrogation, please?

The SPEAKER. The gentleman indicates he will. The gentleman, Mr. Gladeck, may proceed.

Mr. GLADECK. Mr. Speaker, could you tell me in section (1) of the amendment just how you would propose that the DA of the county in question would provide for the classes for the students? In other words, what idea, what is your intent with that language?

Mr. H. WILLIAMS. Mr. Speaker, I have seen extremely creative DA's, and they politic very well. All I am saying is the basic politic here is to deter crime, and they have programs, they have all sorts of programs where they go and they tell those potential criminals, in this case children, how it is. They have all the facts, they have all the figures, and they are always complaining and saying we want to stop crime to their mothers and fathers, and I would think that if someone is intelligent and political enough to achieve the office of prosecutor, that he has enough creativity to conduct a program with a captive audience. So I would leave that flexible, but I have no objection to any guide that would be suggested.

Mr. GLADECK. No; I just wanted to clarify a point. In other words, an assistant DA could go out and hold either small seminars for the students or the DA himself could go out and hold a general assembly with the students in question and therefore explain the provisions of the act. Correct? Or in any other way that they would like to do it?

Mr. H. WILLIAMS. Yes. Correct.

Mr. GLADECK. Mr. Speaker, basically I agree with the amendment. I think that the speaker has hit on a chord that we in the House of Representatives ought to be more aware of, and that is, where the crime originates. I am a little bit hesitant about the third section of the amendment relating to the fact that it would have to be published in a newspaper of general circulation in every city in the Commonwealth. But I believe that Mr. Williams' amendment is a good one, and I think that with the proper administration it may have the desired effect, which would be to educate students, and Mr. Williams is absolutely correct when he says that they are the future criminals just as they are the future legislators and senators and Presidents in our Nation. And perhaps if it is administered correctly, it would have the desired effect of educating those individuals as to what would happen if they did in fact commit a crime. So with that I would like to ask all of you to join me in supporting Mr. Williams' amendment. Thank you.

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

Mr. SAURMAN. Mr. Speaker, I rise to support the Williams amendment. We do indeed need to send a message to our criminals, and I think that we have not done it. What we are passing here in mandatory sentences will say something to them, but they have to hear it.

All of us know that those who want us to act in one way or the other regarding legislation have been in touch with us. If we pass this bill and put it into the Journal and do not put it in front of the public, we are missing an opportunity to get this message across. It may cost money; it may require some initiative on the part of the district attorneys, but that is going to be far less expensive than the cost of the crime which we are trying to prevent.

The use of a gun in a crime is inexcusable. It is not an accident; it is done intentionally by a criminal, and we have to let that criminal know that we are no longer going to put up with that, we are going to do something very definitely and he knows what it is that is going to be done, but we have to make certain that that word is put before him in every way possible, using every avenue of information available to us. I ask your support of the Williams amendment. Thank you.

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

Mr. PICCOLA. Thank you, Mr. Speaker.

I would request the House, in very strong terms request the House, to defeat the Williams amendment. This is just another attempt to either delay or totally overcome the mandatory sentencing provisions of this bill.

If you would look closely in subsection (1) of the amendment, it requires that four sessions be given to the students. It may take a school district several years to come up with four sessions for students, and right there we are talking about a delay. You are talking about a school district's curriculum, and there are 505 school districts in this Commonwealth. Any defense attorney worth his salt is going to raise not only that but every other aspect of this amendment to overcome the mandatory sentencing aspects of the legislation.

This is just an attempt to require some bureaucratic machination before the provisions of this bill would take effect, and the vastness of the Commonwealth and the

vastness of our educational system would probably make compliance with this amendment—100 percent compliance at any rate—virtually impossible, and that would defeat the entire purpose of the bill. So if you do not want the bill to go into effect, then you vote for the amendment, but if you want to see a way of getting around this bill, this mandatory sentencing bill, a technicality if you will, which are used in courtrooms these days, then I would suggest that you oppose this amendment, and I would urge that you do that. Thank you.

The SPEAKER. Does the gentleman, Mr. Richardson, desire recognition?

Mr. RICHARDSON. Yes, sir.

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

Mr. RICHARDSON. Mr. Speaker, I rise to support the Williams amendment, and I do so for several reasons.

It always amazes me to come here to this House to hear folks talk about how we want to deal with crime and we want to be hard on crime and we want to make sure that we deter crime in this Commonwealth, but when an amendment comes up that deals directly with our young people and says that we want to deal with the root cause of crime and that we want to make sure that that message is sent loud and clear to the young people, basically who are the ones who early in life get involved in crime, because young people are only a product of that which they see—they cannot be doing any other crime unless they get an opportunity to see it, whether it be on TV, whether they see it in this legislature, whether they see it in Washington, regardless of where they see it; at some point they get it fixed in their minds that that is the life that they should lead—nobody wants to talk about helping that youngster at an early age in life. We want to say just lock them up, throw away the key, and let the result be as it may. But here is an amendment that speaks directly to dealing with our young people, and we are afraid to tackle it like we should.

We are saying only very clearly that here is an opportunity to send a message to each and every school district so that the information can be put out there that if you commit these crimes, this is what is going to happen to you. It is an opportunity to deal with the problem on an ongoing basis, where the school district will be able to relate the problem to the youngster by having the local DA or other persons who are involved make sure that this bill, which is going to pass overwhelmingly today, is dealt with at the level where young people are. It seems to me that the proponents of the bill are saying no, we do not want to deal with that because now we are treading on treacherous ground, that there is a delay tactic involved in this. It is no delay tactic to get out whatever any school district wants to any school in a matter of minutes, if they want to get it out. It all depends on how much you put into something. What you put into something is what you get out of it.

While it seems as though it is a joke to some, I feel this is the heart of where the bill really lies. Young people need direction, young people need some encouragement, but also at the same time young people need discipline, and the thing is that if they are not told and the information is not given to them, whom do they have to rely on? Now we are saying as responsible adults, here is an opportunity for each and every legislator, man and woman, to recognize that these problems have to be explained. In more areas than not, you will note that young people follow a trend. If they see somebody drinking wine on the corner, they will think it is okay for them to do that; if they see people smoking a joint on the corner, they will think it is okay to do that, until somebody says no, you are not allowed to do it. And if we are going to enforce a law, there must be some vehicle of enforcement. A vehicle of enforcement is in Representative Williams' amendment today. It speaks directly to the students in junior high and high school.

As to the problem about carrying guns, when I used to work with young people before I came to the legislature, one of the responsibilities we had was trying to help stop what they called at that time gang warfare, and it seems to me that the only way you can deal with it is put people out in the streets to work with young people every day and have seminars and lessons to run it down to them why it is important for them not to conflict against one another and shoot up one another, stab one another. And if you do not think it starts at that age, then where do you think it starts?

If people are concerned about the future directions of our young people, then why are we afraid to tackle this amendment? I say to the members of this House that we are dealing with a very, very serious situation, a powder keg situation. Many of the young people whom you see right in front of you have an opportunity today, by sitting on this floor, of being pages. Well, we are going to turn that around and tell them that we are not going to be able to deal with the problem because we are going to turn our backs on making sure that other peers such as them get a message. All we are saying is, give the opportunity for these young people to hear and see what it is like, what this mandatory sentencing is going to mean, instead of just sending a message to the criminal justice system. Let us make sure that our young people know, those who are going to be the ones who are going to eventually wind up in the slammer if we do not give them some direction and pass this amendment. I ask for support on the Hardy Williams amendment.

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

Mr. SPITZ. Mr. Speaker, I would rise in opposition to the amendment. I think that everything that has been said with respect to getting information out to the schools and out to the young people is very well intentioned, and perhaps that should happen. Hopefully the present Crime Commission, the Attorney General, the school districts, all of us would do our bit to ensure that this information is there. That is one thing. Putting a mandate into the language of the statute, however, is something else, and it switches who is wearing the shoes.

There is a reason that we make individuals responsible for their own actions, and the burden rests on them to obey the law. When we in a statute switch a burden onto government, be it the school districts or anyone else, to provide information, we are at the same time providing potential defenses. We will miss those individuals who do not go to school who are

committing the crimes. We will miss individuals who do not go to school on a regular basis. What if an individual commits a crime and does not receive the information or missed school the day that it was taught? All of these areas are clouds on the statute that need not be there, and I would suggest that we oppose the amendments, not put them into the law. Pass the law the way that we are intending, and then work on getting voluntary-type information but not statutory law information out to the schools.

The SPEAKER. The Chair recognizes the gentleman from Tioga, Mr. Spencer.

Mr. SPENCER. Thank you, Mr. Speaker.

I just want to point out that the motives, I believe, of Representative Williams are proper, but the way he has drafted his amendment would completely nullify mandatory sentencing until the Secretary of the Commonwealth certifies to us that all these provisions have been complied with, and that is a defense lawyer's loophole. If the mandatory sentencing shall not apply because of these conditions, you are rendering the bill inoperative. For those reasons I would request a negative vote. Thank you.

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

Mr. EVANS. I rise to support Representative Williams' amendment. I do not think, Mr. Speaker, that we can be too concerned with worrying about whom we do miss in school. I think the goal is to be accomplished by sending a message, and a loud, clear message, that we are concerned about crime, and that could only happen if we take an aggressive approach with that, and that is through our schools. I express that we here should be very clear that the only way people are going to know that we are interested in deterring crime is by sending a message, and that message must be loud and clear. So I would support Representative Williams in his amendment, because he attempts through that process to let people know that we are going on record against and deterring crime.

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

Mr. H. WILLIAMS. Mr. Speaker, I wanted to make a request on the amendment in that there appear to be several members who want to act on the concept and have expressed to me that if there were some basic, minimal changes relating to the fact of making sure that this program is mandated to happen, number one, and number two, that the dependency or the applicability of the mandatory provisions does not have to pend with that, that they would like to be able to exercise that option. My request, therefore, would be, of the House, the Speaker, and the prime sponsor, if you would allow me to redraft this in accordance with that idea, and then when it is drafted, we could act on it.

The SPEAKER. The Chair suggests you address your questions to either the prime sponsor or to the majority leader.

Mr. H. WILLIAMS. Mr. Speaker, I guess all I am asking anybody, and you, is, I have talked with the prime sponsor on this idea, maybe a little bit differently from what I am talking now, and I only want the members to have the opportunity to vote and to respond to a concept that they think may have merit.

Mr. Speaker, I hesitate to make further comment on the amendment, but I do so because I believe there is a misunderstanding or a deliberate attempt to confuse the issues here. The prime sponsor said that this effort to give our children some notice is an effort to delay. I suggest to the House that the bottom line of everybody here, including the prime sponsor of this bill, is one word that we all agree on; that is, deterrence. If it took 3 weeks instead of 2 to deter all that crime, I for one am willing to do it. If it took 6 months instead of 1 month to succeed, I would do it, and to give kids a chance, I would do it. Deterrence, getting the job done, deterring crime is the objective.

Now, maybe the speaker suggests that with this amendment I want to delay the main bill. I will be crystal clear, quite honest, and will discuss it later and be consistent: I am opposed to the bill. I do not want to delay the bill; I want to defeat the bill. However, understanding that you might want to pass the bill, I want to give my kids, your kids, and those kids a chance. If we are going to attack some unknown criminals, thinking we are attacking an enemy, rather than to deter, educate, and give our kids a chance, then what are we talking about? So the idea of delay has nothing to do with this amendment. I do not want to delay; I want to defeat the bill. I want us to take a few minutes so our kids will understand.

Number two, the question of lawyers, good defense lawyers, was raised. That is always a red herring, and I for too long have sat down and seen how we identify lawyers. What about farmers? What about insurance people? What about legislators? What about teachers? What about cops? I mean, lawyers have made this country - Presidents, mayors; they wrote the constitution we all talk about. What is wrong with a lawyer? We burn the same midnight oil and all of that. Lawyers go to war; lawyers get Purple Hearts; lawyers die in defense of their country; lawyers defend the Constitution.

The SPEAKER. Will the gentleman yield?

I am inclined to agree with everything the gentleman is saying, but the question before the House is the adoption of the Williams amendment. Would the gentleman keep his remarks pointed in that direction?

Mr. H. WILLIAMS. Mr. Speaker, I certainly will.

And a lawyer drafted this and a lawyer drafted the bill we are talking about, and when you read it, it may be right or wrong, but a lawyer did it. My point is this: We all have some common sense and we have read a lot of bills, and the bill clearly says that the Secretary of the Commonwealth certifies that we did it, and if we cannot educate kids in four sessions, if we cannot do something as simple as that, what is so big about doing that? We cannot give four sessions to children? And we are talking about putting a bunch of criminals who are smarter than us in jail? It is very simple. He certifies it, and we do it. I do not care how smart the lawyer is, you know they are going to do what they do anyway, but there is nothing in the plain meaning of this that we have to be afraid of some lawyer in order to inform our children. How dare that be? If that is the kind of situation we are in, we might as well not legislate.

I am only saying all that to say that I do not know how pure the sponsors want this bill to be, but it is not pure without this. And to suggest there are some motives or some devices where this would be defective, I guarantee you, as a lawyer, it is airtight, and no dumb lawyer or smart lawyer can get around it, and I do not think judges are so wishy-washy that they are going to allow it.

Now, I have made an attempt nevertheless to say or to accommodate this bill or amendment in any way, just so it gets done. That is not agreeable, so let it stand on its face. All I want is for the kids to get some notice and understand; that is all. That is not complicated. We are willing to improve it so that happens. So now we have the amendment before us as it is, and it is airtight and it is clean and it is pure.

I would like to urge seriously that the House support the amendment for one very simple reason when we reflect, and that is to provide a vehicle so there will be some understanding and some deterrent among the young people before they become the young adults who take us over. And God forbid that some of them go to jail, because they do not know, for a long time and become the very professionals, because in jail that is what you will become. Thank you, Mr. Speaker.

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

Mr. DEAL. Mr. Speaker, I rise to support the Williams amendment. I am well aware that crime is rampant in the Commonwealth of Pennsylvania, and I am well aware that our constituents are crying out for some immediate relief, and I think we all as legislators share that concern, but I do believe when people elect us to come to this great hall, they do so with the hope that they have elected the best that they had presented to them during election time. And in doing so they expect us to use some compassion and common sense while we are in this hall. While I am in support of doing something, I do believe that one of the key points ought to be the prevention of crime.

I think what my colleague, Representative Williams, has in mind might appear to some as a delay action. If I thought for one moment for the protection of the people in the Commonwealth of Pennsylvania that someone would deliberately try to ward off this important legislation, I would oppose it. But I for one, with the experiences I have had in law enforcement—again, I would like to mention—believe one of the key things ought to be in our minds, how do we prevent crime? How do we come forward with something to cause young people or even middle-aged or older people not to want to get involved?

I am not quite ready to pass a bill—and you know what happens to most of these bills. Even some of us do not even know what is in the bill shortly after it is passed and have some real questions about why it is being passed. But, Mr. Speaker, if we took a few moments to support this amendment, this amendment in itself may well be some form of prevention and may help to ward off some of the young people becoming involved in some of the crimes and some of the costs that they would have to pay if they were involved.

Mr. Speaker, I would hope that you really give consideration to this amendment. I know that there is a move to get this bill through and some of you have the numbers. Why do we not today make a bill so that it will have the ingredients that we can all go out feeling that we as a body passed this legislation. And I pray that you will consider my few remarks, though I know some of you have long made a decision. But please, Mr. Speaker, make it possible that we can all as a body, Republicans, Democrats, brothers, and sisters, leave here with this bill united so that the people can see that we together were deeply concerned about the constituents throughout the Commonwealth of Pennsylvania. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Bucks, Mr. Cordisco, on the question of whether or not the House should adopt the amendments offered by the gentleman, Mr. Williams.

Mr. CORDISCO. Mr. Speaker, in listening to the remarks of the sponsor of this particular amendment, I am indeed convinced that the only thing that the speaker is attempting to do is to delay this proposal before us today. I think that in reviewing his remarks, the best example we can give our young children, as far as crime is concerned, is to put the criminals behind bars.

I think many times the young people in the community and often through the media see constantly these people being convicted and then released back into the community, and I do not believe, by giving them four pieces of instruction in four various sessions, that this is going to enlighten our young people as to the mandatory sentences in deterring crime in Pennsylvania.

If the gentleman's remarks are sincere, then I would ask him to continue with his research and put together a package which will not be so vague and—

The SPEAKER. Will the gentleman yield?

The gentleman, Mr. Cordisco, unintentionally would appear to be impugning the motives of the gentleman, Mr. Williams. I know that is not the gentleman's intentions, but on a reading of the Journal it could be construed that way. I would ask the gentleman not to make reference to the motives of the gentleman, Mr. Williams.

Mr. CORDISCO. I beg your forgiveness, Mr. Speaker.

Mr. Speaker, I am asking for a "no" vote on this amendment, because I do not believe that it is airtight. I believe it to be very vague, and I also believe that if we all are concerned about the young people in Pennsylvania, let us do it in a direct fashion and not approve this particular amendment. Thank you, Mr. Speaker.

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

Mr. J. D. WILLIAMS. Mr. Speaker, I rise in support of Mr. Hardy Williams' amendment.

I come from a district that is crime-ridden. Mr. Speaker, in the past couple of weeks, I have been working with the young people in my district in the high schools in reference to crime. We have a very serious crime problem in Philadelphia, and in working with those young people who have committed themselves to working with me, we have begun to try to solve some of the problems that we have in crime in Philadelphia, and I support this bill.

I think, Mr. Speaker, what we have to look at is in the State of Pennsylvania we have no preventive crime programs. It seems to me that this Commonwealth is willing in Philadelphia alone to spend $35 million a year to house people in prison. It seems to me that this body is willing to go along with mandatory sentencing, but no one is willing to try to prevent crime. I think that is a priority. I think it is mandatory that we try to prevent crime and to implement programs that will do so. Therefore, Mr. Speaker, I rise in support of Mr. Williams' amendment.

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

Mr. PICCOLA. Thank you, Mr. Speaker.

Again, I strongly urge the House to defeat this amendment. Please look at the amendment closely and you will see that there is absolutely nothing in the amendment that forces the school districts, the city governments, the township governments, what have you, to do what Mr. Williams says has to be done before the provisions of the mandatory sentencing act would go into effect. Therefore, one school district, one unelected city hall manager, one unelected high school principal or junior high school principal could circumvent and undermine the entire actions of this General Assembly and prevent the effectiveness of the mandatory sentencing provision.

I would urge that this House defeat the amendment, because if this is inserted into this law, you will totally undermine mandatory sentencing.

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

Mr. SAURMAN. Mr. Speaker, my remarks in support of the Williams amendment were, I think, appropriate. However, I am convinced that in its present form the amendment can be used to defeat the purpose of the mandatory sentencing, which is the main objective obviously of the bill. I would suggest that the purposes described in the amendment be pursued in another piece of legislation to be considered at a subsequent time and would therefore request that this amendment, as it now stands, be defeated but that its purpose be supported in the future. Thank you.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—43

Barber	Gruitza	Maiale	Van Horne
Belfanti	Haluska	Manderino	Wachob
Beloff	Harper	Miller	Wambach
Cawley	Itkin	Mullen	Wiggins
DeWeese	Kolter	Murphy	Williams, H.
Dawida	Kukovich	Oliver	Williams, J. D.
Deal	Lashinger	Pendleton	Wozniak
Dombrowski	Laughlin	Pistella	Wright, D. R.
Evans	Levin	Pratt	Wright, R. C.
Fee	Livengood	Richardson	Zwikl
Fischer	Lloyd	Stewart	

NAYS—149

Anderson	Fargo	Lucyk	Saurman
Armstrong	Foster, W. W.	McCall	Serafini
Arty	Foster, Jr., A.	McClatchy	Seventy
Belardi	Frazier	McMonagle	Showers
Bittle	Freind	McVerry	Shupnik
Blaum	Fryer	Mackowski	Sieminski
Borski	Gallagher	Madigan	Sirianni
Bowser	Gallen	Manmiller	Smith, B.
Boyes	Gamble	Marmion	Smith, E. H.
Brandt	Gannon	Merry	Smith, L. E.
Brown	Geist	Michlovic	Snyder
Burd	George	Micozzie	Spencer
Burns	Gladeck	Miscevich	Spitz
Caltagirone	Grabowski	Moehlmann	Stairs
Cappabianca	Greenfield	Morris	Steighner
Cessar	Greenwood	Mowery	Stevens
Cimini	Grieco	Mrkonic	Stuban
Civera	Gruppo	Nahill	Swaim
Clark	Hagarty	Noye	Sweet
Clymer	Hasay	Olasz	Swift
Cochran	Hayes	Perzel	Taddonio
Colafella	Heiser	Peterson	Taylor, E. Z.
Cole	Hoeffel	Petrarca	Taylor, F. E.
Cordisco	Honaman	Petrone	Telek
Cornell	Horgos	Phillips	Tigue
Coslett	Hutchinson, A.	Piccola	Trello
Cowell	Hutchinson, W.	Pievsky	Vroon
Cunningham	Jackson	Pitts	Wargo
DeMedio	Johnson	Pott	Wass
DeVerter	Kanuck	Punt	Wenger
Daikeler	Kennedy	Rappaport	Weston
Davies	Klingaman	Rasco	Wilson
Dietz	Kowalyshyn	Reber	Wogan
Dininni	Lehr	Rieger	Wright, J. L.
Donatucci	Lescovitz	Ritter	
Dorr	Letterman	Rocks	Ryan, Speaker
Duffy	Levi	Rybak	
Durham	Lewis	Salvatore	

NOT VOTING—4

Berson	Gray	McIntyre	O'Donnell

EXCUSED—6

Alden	Emerson	Irvis	Pucciarelli
Cohen	Fleck		

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

On the question recurring,

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

Bill as amended was agreed to.

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

The question is, shall the bill pass finally?

MOTION TO PLACE BILL ON FINAL PASSAGE POSTPONED CALENDAR

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

Mr. H. WILLIAMS. Mr. Speaker, the amendment we just voted on and the substance of that amendment generally appeared to be something that we all wanted to do. We were not able to work out the details. I have agreed to conform the amendment to meet all the objections that were raised by the prime sponsor, as redrafted by Mr. Saurman, and the objection is that they will not do it. We can draw it to make them do it. I would like to do that now, and I would request that the bill be passed over temporarily so that the amendment can be redrafted and we can meet our obligations for our children in airtight terms.

The SPEAKER. The proper motion would be to place the bill on the final passage postponed calendar.

Mr. H. WILLIAMS. Mr. Speaker, I would move to place the bill on the final passage postponed calendar.

The SPEAKER. The question before the House is the motion by the gentleman from Philadelphia, Mr. Hardy Williams, that HB 1804, together with amendments, be placed upon the final passage postponed calendar.

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

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

Mr. PICCOLA. Mr. Speaker, I would oppose that motion. It is unforeseen to me what language can be arrived at that would be acceptable to be inserted into this provision of the law. The concept that Mr. Williams is talking about belongs in an education bill. This is not an education bill.

By placing such educational mandates in a mandatory sentencing bill, whether or not they are complied with, you are still giving defense attorneys an opportunity to challenge mandatory sentencing, and you are going to potentially undermine the whole purpose of the bill. So I cannot see any possible amendment along these lines that would be acceptable and still maintain the integrity of mandatory sentencing. So I think to postpone this issue another day, even another hour, would be frivolous, and I would oppose the motion.

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

Mr. EVANS. Mr. Speaker, I would rise to support the postponement motion. I think it is very clear that this General Assembly should truly have the opportunity to have a bill that all of us can possibly support. I think for too long we have had a tendency to rush and ramrod legislation through, and I would hope that the prime sponsor of this legislation would reconsider his thoughts and give us an opportunity to make some necessary corrections. And I would hope that each and every one of us would support Representative Williams in his postponement motion in terms of giving him a chance of coming up with his amendment. If it is only as a courtesy, I would hope you consider it.

The SPEAKER. The Chair recognizes the gentleman from Washington, Mr. Fischer.

Mr. FISCHER. Mr. Speaker, I, like a lot of other people, agree with Mr. Williams in his concept, and I would be very happy to cosponsor a bill with him that would perhaps come to our committee and give it the fullest consideration and perhaps bring it before this body as soon as we could. Mr. Speaker, I would be very happy to cosponsor that with you.

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

Mr. H. WILLIAMS. Mr. Speaker, I do appreciate all of the support, the cosponsorship, for an idea whose time has come just as apparently many feel mandatory sentencing is an idea whose time has come. I ask, what are we afraid of, especially when it concerns children?

There is an old preacher who talks about saving kids and raising kids. There used to be a time when we raised the kids and saved the people. Now we are talking about saving the kids, we have gotten so bad at raising the people. That is all I would like to say.

I know that Mr. Piccola is also a lawyer, and I am a lawyer, and we talk like lawyers sometimes. Please excuse me if I do that sometimes. But I do listen to common sense, and Mr. Cordisco says, it is vague, and Mr. Piccola says, you know, some defense attorney, if we change this— You wait until you look at that act. You wait until you look at that act.

It seems to me Mr. Piccola says that we are talking about education and it should be somewhere else. What are we talking about if we are talking about deterrence? We are talking about educating everybody as to what to expect if you do something, and if we are going to pass a mandatory sentence and no one knows about it, you have not done a darn, cotton-picking thing. Whatever kind of word you say, it seems to me that is educating, information or whatever you want to call it. But why can we not take time to raise the children by information?

Mr. Speaker, we have been debating the idea, and I only want to request one simple thing, up or down, and that is a lot of people are concerned—and many, many, many times in my 10 years here, you said, well, okay, take a little time and draw your amendment up or down, and the members of this House said, look, let us accommodate what they may think is defective. I want to draw an amendment that says—

The SPEAKER. Will the gentleman yield?

Will the gentleman stick to the motion before the House, which is the motion to place the bill on the final passage postponed calendar.

Mr. H. WILLIAMS. My apologies, Mr. Speaker.

I was merely trying to say that the matter is not very difficult. I have tried to accommodate the prime sponsor and many other members to get exactly what we want, and it is very simple, very, very simple. It is not a difference of philosophy. It would not take the mandatory part and make it depend on the other part. It just says that we are going to do the other part. Nothing hairy about that. And I merely, Mr. Speaker, am simply asking the good graces of the Speaker and the House to have that diplomatic latitude or whatever it is so that we can act on an extremely important concept.

REMARKS ON VOTE

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

Mr. RAPPAPORT. Mr. Speaker, if I may, inadvertently on the Williams amendment to HB 1804, I was recorded in the negative. I would like to be recorded in the affirmative. Thank you, sir.

The SPEAKER. The remarks of the gentleman will be spread upon the record.

CONSIDERATION OF HB 1804 CONTINUED

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

The following roll call was recorded:

YEAS—48

Barber	Deal	Lloyd	Richardson
Belfanti	Dombrowski	Lucyk	Rieger
Beloff	Duffy	McCall	Shupnik
Berson	Evans	McIntyre	Stewart
Bittle	Haluska	Maiale	Tigue
Blaum	Harper	Manderino	Wachob
Cappabianca	Hutchinson, A.	Mullen	Wargo
Cawley	Itkin	Murphy	Wiggins
Cole	Kukovich	Oliver	Williams, H.
DeMedio	Laughlin	Pendleton	Williams, J. D.
DeWeese	Levin	Pistella	Wozniak
Dawida	Livengood	Rappaport	Wright, R. C.

NAYS—147

Anderson	Freind	McMonagle	Serafini
Armstrong	Fryer	McVerry	Seventy
Arty	Gallagher	Mackowski	Showers
Belardi	Gallen	Madigan	Sieminski
Borski	Gamble	Manmiller	Sirianni
Bowser	Gannon	Marmion	Smith, B.
Boyes	Geist	Merry	Smith, E. H.
Brandt	George	Michlovic	Smith, L. E.
Brown	Gladeck	Micozzie	Snyder
Burd	Grabowski	Miller	Spencer
Burns	Greenfield	Miscevich	Spitz
Caltagirone	Greenwood	Moehlmann	Stairs
Cessar	Grieco	Morris	Steighner
Cimini	Gruitza	Mowery	Stevens
Civera	Gruppo	Mrkonic	Stuban
Clark	Hagarty	Nahill	Swaim
Clymer	Hasay	Noye	Sweet
Cochran	Hayes	O'Donnell	Swift
Colafella	Heiser	Olasz	Taddonio
Cordisco	Hoeffel	Perzel	Taylor, E. Z.
Cornell	Honaman	Peterson	Taylor, F. E.
Coslett	Horgos	Petrarca	Telek
Cowell	Hutchinson, W.	Petrone	Trello
Cunningham	Jackson	Phillips	Van Horne
DeVerter	Johnson	Piccola	Vroon
Daikeler	Kanuck	Pievsky	Wambach
Davies	Kennedy	Pitts	Wass
Dietz	Klingaman	Pott	Wenger
Dininni	Kolter	Pratt	Weston
Donatucci	Kowalyshyn	Punt	Wilson
Dorr	Lashinger	Rasco	Wogan
Durham	Lehr	Reber	Wright, D. R.
Fargo	Lescovitz	Ritter	Wright, J. L.
Fee	Letterman	Rocks	Zwikl
Fischer	Levi	Rybak	
Foster, W. W.	Lewis	Salvatore	Ryan,
Foster, Jr., A.	McClatchy	Saurman	Speaker
Frazier			

NOT VOTING—1

Gray

EXCUSED—6

Alden	Emerson	Irvis	Pucciarelli
Cohen	Fleck		

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

On the question recurring,

Shall the bill pass finally?

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

Mr. RICHARDSON. Mr. Speaker, I would like to be recognized on final passage of this bill.

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

Mr. RICHARDSON. Mr. Speaker, I rise in opposition to HB 1804. There were several attempts to try and deal specifically with the problems concerning crime, as it is running rampant in this Commonwealth of Pennsylvania. One of the things that is missing in HB 1804 that was very skillfully and very articulately placed before this House was an attempt made by Representative Kukovich and Representative Williams to talk about the social aspect and social ills that exist. Nowhere in this bill do we talk about a deterrence of crime in the eyesight of those being able to look at where we are talking about locking up individuals and throwing away the key as opposed to dealing with the root cause of crime and where the root cause of crime comes from. It is always strange to me that we are very quick to deal with building bigger and better institutions in this Commonwealth and locking people up as we are not concerned with trying to find out how we are going to deal with the root cause of crime that spawns all this in the first place.

I have watched this country, and I have watched how people in this country have witnessed crime from the very inception, and it seems to me that we do not want to deal with that, because it is more expedient to break before we go on Thanksgiving vacation to talk about how we can posture ourselves in such a way that we are going to demand now that we deal with mandatory sentencing. There will not be any cutting across any lines, and we are going to make sure that everybody who commits the same crime is going to get those years that are demanded under this bill. But there is only one problem: Justice does not work that way in this country. It does not work that way for those people of color who have had a problem for years in and years out.

Nowhere in this bill do we deal with the violent crime that exists within this country when it talks about going to war, nor do we talk about those individual persons in this Commonwealth who may have a mitigating circumstance that a judge needs to look at and say, perhaps we should not deal with the situation because there are some other situations that have prevailed that make me want to look at it in a different light. We do not look at it in this light in this bill, and the one amendment that was used was the whole case in point dealing with Representative Williams when he talked about our children. Now, how far and low can you go if you are talking about that you agree with the concept and you are willing to support another bill, another piece of legislation, but do not deal with the fact that in any attempt to deal on the floor of this House, we have always temporarily passed over a piece of legislation to give a member an opportunity to prepare an amendment for a bill. But there is a rush because there are some individuals in this Commonwealth whom the Governor wants to get to, saying that we are going to deal with crime. But yet and still, we took out the money part of this bill that was going to deal specifically with helping fix up the institutions that need rehabilitation. We have taken that out altogether. We are saying that because this may be used by lawyers to be used as the deterrent to stop this bill from being passed.

Approximately 90 percent of those convicted of felonies and probably a larger portion of misdemeanors plead guilty either on their own initiative or they plead for negotiations, a plea bargaining. Thus, only a few offenders does the criminal justice system concern itself with, with formal procedures to be determined. For all offenders sentencing is a crucial concern.

There are essentially three aspects of sentencing that are dependent on what happens here in the hall of this House. One is the articulation of goals of the sentencing process. It is my view that we have done this but in a very negative way. We have not really addressed ourselves to that point. What we have said is mandatory minimum sentencing will act as a deterrence to crime. Have we proven this? The answer to the question is, no, we have not. To give an example, going back to the times of Queen Elizabeth, they used to have, in the Market Hall Square, hangings. What they did was they hung these pickpockets who were brought to this Market Square, and eventually every week there were more hangings as a result of this pickpocketing. What they saw was that there were people who would set themselves up in the audience outside in front of where these hangings were taking place to have their pockets picked so that they could see another hanging. So it never really deterred crime, and that is actual case history going back to Queen Elizabeth.

We are not concerned with deterring crime. All we are concerned about is locking people up and throwing away the key and not dealing with any aspects of rehabilitation.

Number two, the second aspect of sentencing, authorization of a variety of sentencing alternatives. There are no alternatives. Mr. Speaker—and I do not see it—there has not been a proven point made yet by any of those members who have spoken that mandatory sentencing is a viable long-range alternative.

Number three, the third aspect is the articulation of the general criteria to be used in determining sentencing. It would seem to me that the power of the State should not be exercised over an individual without some social useful purpose.

Mr. Speaker, I believe that what we are talking about is locking up people who may or may not be guilty of crimes. For an example, in the city of Philadelphia, if a cop does not like you in Philadelphia and you are dealing with a crime, they can plant a gun on you. They can constantly berate you to the point that you are provoked into a situation where a cop will beat you up. You are charged with aggravated assault and battery on a police officer and carrying a concealed deadly weapon that has been placed on you. But none of these aspects are dealt with in this bill, because all we want to do is just rush the bill through this House of Representatives.

Mr. Speaker, this bill does not serve any useful social purpose other than locking up those who are incarcerated for a longer period of time, and then specifically saying that we will be spending more taxpayers' money while we will not educate to deter crime. If there is anything that needs to be focused on, it is that we are talking about spending more money to build better and bigger institutions but not talking about how we are going to curb crime within our communities.

Young people are still a product of that which they see. It has not changed and it never will. There are a whole lot of things that are going on. You know, we look at ABSCAM and we look at people who talk about crime and what is considered punitive. You are taking all the punitive action that you can. All we have talked about is punitive, punitive action, punitive action, but we have not talked about any action dealing with the problems that really, really begin and start crime from the very beginning.

This country is built on violence, built on crime. In the history of this country, we will find that there has been nothing but lynchings and killings going on that have been supported by the same individuals who support this kind of legislation over and over again, like the killings by the members of the Ku Klux Klan who have lynched and killed many black and white persons, lynched them, hung them from a tree. We are telling our folks today that we cannot get involved in where is the root cause of crime because that is not the problem. We only want to deal with the surface part of crime, and that is to make sure that each and every individual who comes in front of a courtroom we are going to give mandatory sentencing to, and that is going to be the answer to our situation.

I share this one point in closing, that this bill will come back to haunt us, that this bill will be taken as an abuse to be able to be used for all of those who are indigents of the criminal justice system. The only thing I see in this bill is that there is no justice, but just us.

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

Mr. KUKOVICH. Thank you, Mr. Speaker.

I know that I am not going to be able to sway any votes on this bill. I am opposed to the bill, and the reason I am speaking is that it is not going to be a very popular vote, and I would like to protect myself on the record a little bit. I am not sure if any of the other members have read some of the major treatises on penology and crime prevention over the last few years. I have. I am aware that this bill is mostly public relations.

Last September there was a meeting held by the Pennsylvania Commission on Crime and Delinquency in Strawberry Square which I attended. I did not see any other legislators there, but there were about 40 or 50 individuals from Pennsylvania who are the criminal justice professionals. Not one of those individuals said that longer sentences would reduce the crime rate. Most of the experts, Mr. Speaker, have said that mandatory sentencing, and the facts have borne out in States such as New York which has mandatory sentencing, that that has not reduced the crime rate.

I had offered before some of the most conservative amendments I could think of to try to make it just a little bit more reasonable. I could tell by the vote that that was not going to be the case, that this chamber would try to come up with something reasonable but would prefer to have something that would look popular, although it will not solve the problem.

Mr. Speaker, there are other problems with this bill. There are some constitutional problems. I think Mr. Levin has some proposed legislation that deals with mandatory sentencing with firearms. I would cosponsor that legislation. I think it is reasonable, and I also think it is constitutional.

Mr. Speaker, I would just draw your attention to some of the special reports that have been done by this chamber. In 1976 a task force made up of the Judiciary Committee showed that if they took aggravated assault, for example, and made it a 1-year mandatory sentence, we would increase our prison population by 1,500 to 2,000 people a year. Now, we are doing that here, only making it a 5-year mandatory sentence with no response as to how to deal with that prison overcrowding. One of the recommendations of that special task force was that if they do go to mandatory sentencing, it had to contain some key elements to make it viable. One of those key elements had to do with mitigating circumstances. I guess not too many of the members read that report and what the experts found.

Mr. Speaker, I am going to vote against this bill because it is a facade. I am sure the Governor will find it useful when he runs for reelection, but it is not going to solve the problem of crime. It is not going to reduce the crime rate, and I refuse to vote for a bill that is a facade. I would ask for any of those members who do feel the same way to have the courage to vote "no" on HB 1804.

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

Mr. LEVIN. Thank you, Mr. Speaker.

I am distressed that I have to stand here after all this time and finally get to the bill. It seems that unfortunately no one wanted to talk about what was in the bill. Most of the conversations you had had to do with policy decisions and not with the language of the bill. The bill very simply makes a very significant attempt to avoid a constitutional problem, and the sponsors of the bill understood it very well, and I would hope that you would just take a slight moment to hear it, because I believe it is clearly unconstitutional.

The bill provides that the sentence shall be 5 years. It does not provide that that is part of the crime, and the difference is that they have removed the burden of proof. Under our constitutional system, when you are going to sentence someone to 5 years, you must prove beyond a reasonable doubt that he did that which you said he did. This bill attempts to avoid it as a constitutional problem by saying that the judge shall hear it and he shall decide by a preponderance of the evidence. That is, in my opinion, a defective approach. It will come back to haunt the sponsors of this bill, and it will fail in the long run to survive the test of constitutionality. The very simple proper approach is what I have circulated on the floor and I would hope that some of you would join me in.

I approve of mandatory sentences provided they are going to be effective. The problem with the 5-year sentencing provision is, it is going to be a PR (public relations) gesture and not effective. The way to solve it is a bill that we had before and that I have in front of me now and I would hope that you would join in. If anyone is convicted of a crime during which he was in possession of a firearm, he is going to go to jail for 1 year, period. I do not care what crime it is. If anyone is going to go out—

The SPEAKER. The gentleman will yield.

The question before the House is final passage of HB 1804, not a bill that is about to be introduced.

Mr. LEVIN. I am telling you, Mr. Speaker, why my proposal is superior to the proposal in this bill and why mine is constitutional, and I would hope—I have one more sentence, Mr. Speaker—I would have the latitude to finish, and I will be done. All right?

I am proposing quite simply an effective remedy - 1 year in jail if you use a gun in a crime; if you fire it, 2 years in jail. That is effective. It has to be proved in a courtroom; it is part of the regular procedure; it does not run into a constitutional prohibition. I know you are going to pass this bill today, but I would hope you would join with my bill and have it available when this bill is declared unconstitutional.

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

Mr. H. WILLIAMS. Mr. Speaker, I would like, first of all, to ask the prime sponsor if he would consent to interrogation?

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

Mr. H. WILLIAMS. Mr. Speaker, under this bill there is the question of rape as one of the offenses, that if you commit rape and a firearm is visibly displayed, you get a mandatory 5 years. If a middle-class youngster, age 17, would have consensual intercourse with a female middle-class person, age 16—normally that would be statutory rather than forceable rape—and let us say that a firearm was displayed but not used, Mr. Speaker, would not that young man, if an overanxious cop came upon the scene of that affair, be entitled to arrest, that 17-year-old young man, for rape under these provisions in view of the fact that there is nothing that says forceable or other kind of rape? Would not that young man be subjected to the provisions of this act? If not, why not?

Mr. PICCOLA. Mr. Speaker, the provisions for statutory rape in the Commonwealth are age 14, not age 16, so the whole premise of your question falls. Maybe you would like to pose another hypothetical question.

Mr. H. WILLIAMS. Well, make it 15 and 14, you know. I merely want to say young people, you know, nice young people who have intercourse consensually.

Mr. PICCOLA. In addition, the question that you are posing, I believe, is aimed at statutory rape, and that is a different offense than rape. It is a different offense. Statutory rape is not included in this bill.

Mr. H. WILLIAMS. Mr. Speaker, I understand clearly that forceable rape and statutory rape are distinct different concepts and charges. The bill says "rape"; it does not say forceable or otherwise, and I want to understand why, if it is rape, both of which are violations of the law, why those two middle-class young people would not be guilty, or the one of them not be guilty, or subjected to this sentence.

Mr. PICCOLA. Mr. Speaker, the intent of the bill is clear. It says "rape." The Crimes Code, section 3121, defines "rape." Section 3122 is entitled "Statutory rape," and it defines that. There is no ambiguity there.

Mr. H. WILLIAMS. Okay. Mr. Speaker, you agree that if a firearm is not involved in this first section, the whole thing does not apply, and, therefore, a firearm displayed is the bedrock, single thing here that makes the section applicable. Is that correct?

Mr. PICCOLA. What section are you referring to, Mr. Speaker?

Mr. H. WILLIAMS. I am referring to 9712.

Mr. PICCOLA. Yes; that is correct. "Display of firearms" are the operative words.

Mr. H. WILLIAMS. The act says if you commit certain offenses connected with a gun, then it also says an attempt to commit any of these crimes is also covered. Is that true in that section?

Mr. PICCOLA. Yes, Mr. Speaker.

Mr. H. WILLIAMS. Mr. Speaker, since the gun is the important part of that section and it says if the person visibly displayed a firearm during the commission of the offense, how can you commit the offense of an attempt to commit the offense? In other words, how can an attempt ever come into place if it depends on a gun during the commission of something, since an attempt to commit something indicates that there was no commission? Can you explain to me how the drafters of this bill want to tell the public that you are also going to give 5 years for attempt, when in fact it all depends on whether or not there was a gun during the commission when, by definition, an attempt to commit indicates there was no commission? I just want to know how you intend to ever convict anybody under this section of attempt.

Mr. PICCOLA. Very simply, an attempt is an offense. An attempt to do one of the offenses is in itself an offense.

Mr. H. WILLIAMS. We understand that.

Mr. PICCOLA. That is the total answer.

Mr. H. WILLIAMS. Mr. Speaker, just a further question so no member of this House will be deluded. Everybody understands that every one of these violations is a violation of law, including an attempt. The only difference with this bill is that where you use a firearm you get 5 years. My question is, since it says during the commission with a firearm these things come into play, how in the world can that come into play when an attempt is to commit, when the other says during the commission, which says it was done? I do not understand, and I challenge you to soundly, intelligently, and legally tell this House and this public how in fact you can ever convict anybody for attempt the way this bill is drafted. Your first answer merely says it is a crime. They are all crimes. That does not answer my question.

Mr. PICCOLA. If the offense is attempted and a firearm is displayed, you fall under the provisions of this act and the mandatory sentencing would apply.

Mr. H. WILLIAMS. All right. I will stop my question on that point, but my challenge remains on the record.

Mr. Speaker, we have agreed that the gun is the bedrock of this thing, and it says here three things: It says that when a gun is used in these offenses, then the sentence would be 5 years; and it says that if the judge refuses to call this mechanism into play and does not sentence, the Commonwealth can appeal; it also says that any evidence can be submitted by preponderance of the evidence. The hypothetical I want to ask you is this: Let us say the district attorney charges a person with aggravated assault under the provisions of this act and a judge finds a person guilty of aggravated assault but does not impose 5 years. Do you have my hypothetical so far?

Mr. PICCOLA. I think so.

Mr. H. WILLIAMS. Are you saying that if the district attorney charges that and the judge says you are guilty of aggravated assault, that the mandatory sentence of 5 years must be imposed?

Mr. PICCOLA. If a firearm has been displayed in the commission of that offense, yes.

Mr. H. WILLIAMS. Who is to tell, Mr. Speaker? Who is to tell whether anybody proved that a firearm was displayed? How can you tell that, Mr. Speaker? I would hope that each and every person in this House would pay attention to that question, because the fancy defense attorneys he has been talking about are going to tell you and ask that question. Who will tell by proof whether or not a firearm was displayed? You have agreed that that is the fundamental issue in this section. Who will tell that?

Mr. PICCOLA. I will quote from the bill, Mr. Speaker: "The court shall consider any evidence presented at trial and shall afford the Commonwealth and the defendant an opportunity to present any necessary additional evidence and shall determine, by a preponderance of the evidence, if this section is applicable." And "this section" means the section dealing with 5-year mandatory sentences.

Mr. H. WILLIAMS. Mr. Speaker, suppose a judge was sitting on the case—you know, those weak judges we have been talking about—and the Commonwealth says, this young fellow hit that old man on the head and he pulled out a gun and he waved it, and we are here to prove that, and we want him to get 5 years. The judge listens for 2 days, and the judge decides in his own mind that that young fellow did hit that old man but that some other people who do not like him, based on the evidence, lied about the gun. And in that judge's mind, he is guilty of aggravated assault and battery, but there is no proof beyond a reasonable doubt of a gun. Does a judge have to tell you or anybody or put anything on the record that he decided that there was no gun, even though the boy committed aggravated assault and battery? Does a judge have to tell anybody that? He has still found aggravated assault and battery, but in his own mind, as the finder of fact, he has decided there was no gun.

Mr. PICCOLA. I would presume any fair judge would make up his mind based upon the evidence presented, and that evidence is placed on a record, and from that record you should be able to determine whether the provisions of the act apply.

Mr. H. WILLIAMS. Mr. Speaker, this bill does not require, nor do I think it should— It does not say anything about the judge having to put on the record that he decided aggravated assault because the boy did hit the man with his fist but that he did not have a gun. The judge does not have to put that on the record according to this legislation. All he has to do is decide the case. After that point, are you suggesting that there can be an additional trial at which the district attorney can say, well, judge, I want to prove by a preponderance of the evidence a civil standard; I want to prove that there was a gun. Are you suggesting that that can happen?

Mr. PICCOLA. I would suggest that any judge would want a decision that he made backed up by some evidence on the record, and if he felt that the evidence was not there, he would cross-examine. The judge may cross-examine a witness to determine whether he feels he is telling the truth, and I think a judge will have evidence on the record to base his decision upon or he risks being overturned in a higher court. All judges do that.

Mr. H. WILLIAMS. Mr. Speaker, I do not think you understand my question. Let us say that I am the judge, you are the prosecutor, and Mr. Manderino is the defense attorney. You both put evidence on the record. Mr. Manderino puts 20 people on there who say that your witnesses have for years done certain things, and they do not like your guy, the young fellow, and they are all preachers. I am the judge, and I listen. I do not have to interfere in this case; I am the judge. I am not the prosecutor; I am not the defense attorney. Not only do I believe Mr. Manderino's witnesses; I say, my God, why are they trying to do this to that fellow? Of course there was no gun, Reverend so-and-so, Monsignor so-and-so. And I decide, but you did hit the old man; you are guilty of aggravated assault and battery, and I will do what I want with you, in my own mind. In a situation like that—and I say not guilty —there is no appeal, no Constitution, no right, nowhere in our law an appeal to that decision, because a judge sat as a jury, none whatsoever.

The difficulty I am trying to address to you, Mr. Speaker, is this: There is no way to tell whether or not the judge in his mind found that there was a gun or there was not a gun, no way in this legislation. What do I do? If the boy is a Republican Senator's son, do I say in my mind I did not find a gun? If he is a Democratic Senator's son, do I say I did find a gun? You know, if he is Chinese, do I say this? If he is Roman, do I say that? I mean, we are talking about we do not want to put power in the judges to control us, and I am suggesting to you that this bill—and I want to know the answer to it— Let us try this, Mr. Speaker. Let us say the jury hears the case, you know, all those people we do not have confidence in, all our peers. They hear the case; same facts, Monsignor testifies for Jim, you know, and the preacher testifies for Jim, and so forth and so on. They say, wow, why did they ever bring this case against that guy? Same evidence; we find him guilty of aggravated assault and battery. Who can tell, and where can they tell what they found, with or without a gun? Would you please tell me that?

Mr. PICCOLA. For the life of me, I am not sure exactly what you are getting at, Mr. Speaker, but the judge—

Mr. H. WILLIAMS. I will try to make it simple. I do not want to confuse—

Mr. PICCOLA. —the judge in a sentencing case today places upon the record his reasons for imposing the sentence that he does. Sentences can be appealed. Any judge who does not put adequate reasons on the record for a sentence risks being overturned, and the same kinds of provisions will apply to this aspect of the law when it becomes part of the law. You are overlooking a very simple fact, the very simple nature of what we are trying to establish here, whether or not a firearm was displayed. It is not a very complicated thing to figure out.

Mr. H. WILLIAMS. Mr. Speaker, I am suggesting to you that precisely what you are after, you do not have in this legislation, and I am trying to find out where it is.

Your response that judges can be overturned on sentences misses the boat. When a judge makes a finding under the circumstances that I described, he does not have to tell you anything except those things that are in present law. Young fellow, you committed a crime, aggravated assault and battery, I give you 2 days and you can go home, and you have a nice family, and all that. That is what he has to do. That is all he has to do.

This bills calls a different offense into question. That is the point. This bill calls into question an offense with a weapon and calls for certain sentences. The difficulty that I am wrestling with is, if a jury or judge finds an offense with or without a gun, they do not have to say it to anybody, nowhere in this record.

Mr. PICCOLA. Mr. Speaker, as I indicated, though, under the rules of criminal procedure, a judge is required to put his reasons for sentencing on the record. I cite specifically rule 1405.

Mr. H. WILLIAMS. Mr. Speaker, I tell you and I suggest to you and your assistant, a judge is not required to say anything about mandatory sentence under any rule in that book or our laws. In addition to that, I am suggesting to you that your bill does not require that. There is nowhere in our law where the judge has to say, I found you guilty of aggravated assault and battery with a gun or without it. Nowhere.

I will move on, Mr. Speaker. I will move on.

Mr. Speaker, you agree, according to our Constitution and the laws of this State and most States, that in a criminal case the prosecutor has to prove a case beyond a reasonable doubt. There is no question about that being in the Constitution and equal protection and all that. There is no question about that. Is that right, Mr. Speaker?

Mr. PICCOLA. Yes.

Mr. H. WILLIAMS. Mr. Speaker, the way this bill is drafted, let us say a judge finds a verdict of guilty of assault and battery, aggravated assault and battery, or one of the other crimes, or a jury finds that, and let us say that, as I said before, in their minds they have said that there was no gun but there was aggravated assault, and on page 2 of the bill it allows the court to consider any evidence, any additional evidence, and shall determine by a preponderance of the evi-

dence if this section is applicable. Now, Mr. Speaker, if a judge, sitting as a jury, or a jury finds a person guilty of aggravated assault and battery, and in their minds there was not sufficient evidence beyond a reasonable doubt for finding it was with a gun, would this section permit an additional hearing where the Commonwealth could, by a preponderance of the evidence—and for those who do not know what that is, that is a civil standard which is a lot less than the criminal standards—would that not allow someone, by a preponderance of the evidence, to prove that there was a gun displayed rather than beyond a reasonable doubt, the way it is written?

Mr. PICCOLA. The way it is written, Mr. Speaker, is that the court would consider evidence presented at trial and, in addition, provide that both the Commonwealth and the defendant provide additional necessary evidence to determine whether the provisions of this act would apply.

Mr. H. WILLIAMS. Mr. Speaker, that is my point. Let us say after trial the burden of proof by the standard we used is not sufficient in the judge's mind or in the jury's mind, and this act calls into place an additional hearing. Then the Commonwealth wants to prove—by a preponderance of the evidence, judge; by a preponderance of the evidence, jury; a lighter standard, not much more proof—that by that standard there was a gun. My question is, does it not allow the additional hearing to establish that there was a gun?

FILMING PERMISSION GRANTED

The SPEAKER. Will the gentleman yield for a moment?

The Chair advises the members of the House that it is giving permission at this time to WCAU, channel 10 TV, of Philadelphia, to do 10 minutes of silent filming.

CONSIDERATION OF HB 1804 CONTINUED

The SPEAKER. The gentleman, Mr. Williams, may proceed.

Mr. H. WILLIAMS. Mr. Speaker, did you understand my last question?

Mr. PICCOLA. No, I did not.

Mr. H. WILLIAMS. Okay. My question is this: At trial, a judge in his mind or a jury in their minds say, well, they did not prove a gun beyond a reasonable doubt, a higher standard. Under this bill there is an additional hearing you can have to decide whether the section is applicable. And the Commonwealth says, okay, I do not have to prove as much now; it is by a much lower standard, preponderance of the evidence. Is this bill intended to allow the Commonwealth at the additional hearing to present a lower standard of evidence as to whether or not there was a gun? And if not, why not?

Mr. PICCOLA. The bill provides that the court would determine, by a preponderance of the evidence, whether the provisions of the act apply.

Mr. H. WILLIAMS. We have agreed from the start that the single most fundamental if not the whole provision depends solely on the existence of the display of a firearm. We have agreed with that. Correct?

Mr. PICCOLA. Yes, Mr. Speaker.

Mr. H. WILLIAMS. So, Mr. Speaker, in effect, whether or not the provisions of the act apply depends solely on whether or not a gun was displayed, assuming those other crimes were committed. Is that not correct?

Mr. PICCOLA. The beyond-a-reasonable-doubt standard would apply as to the guilt or innocence of the defendant. The preponderance of the evidence only applies on the sentencing aspect.

If you have a constitutional problem with that, then I would suggest you cosponsor Mr. Levin's bill, which he alluded to earlier. I do not have a constitutional problem with that.

Mr. H. WILLIAMS. Mr. Speaker, I am not really concerned about whether you do or do not, and I would assume that you would not. I merely want to find out from you if you understand that the bill that you have drafted in multiple respects directly flies in the face of what I understand. Now, maybe I am wrong. I just want to know your rationale; that is all I want to know. If the gun is the key thing, all the judge in the additional hearing has to decide, really, is whether it applies because there was a gun. If there was not a gun, you know, it would not apply. Correct?

Mr. PICCOLA. It is the key thing only as it applies to sentencing, not as to whether or not the offense was committed.

Mr. H. WILLIAMS. Would you tell me, if in a case with a gun the judge says, okay, brother, you are guilty of murder, you are guilty of rape, when the DA has charged him with a gun, and the judge says, okay, you are guilty because it was proved, you know, why is an additional hearing necessary if they have already proved that there was a murder or rape and they have already proved that there was a gun displayed? What would an additional hearing be for? Why do you need an additional hearing? Would you please tell me that?

Mr. PICCOLA. In that particular hypothetical, I see no particular reason for any additional evidence. I think it is clear. It would be clear from the evidence produced at trial, as the bill says.

Mr. H. WILLIAMS. Mr. Speaker, I think we are getting somewhere. If he was convicted and all those things applied, could you tell me when, exactly when, the additional hearing would apply, since you and I agree, if they have convicted the guy, he had a gun, he committed a rape, they do not have to have any hearing because it was all proved? What other circumstances then would an additional hearing be for that is in this very important bill? I just would like to know.

Mr. PICCOLA. I find it difficult to imagine a hypothetical where another full-blown hearing would be required to determine the applicability of this provision.

Mr. H. WILLIAMS. I can think of one. May I give you a question on one? And that one is where I, the judge, in my mind have decided that it is aggravated assault and battery and in my mind there was no gun. I say, you are convicted of aggravated assault and battery, and after a couple of weeks now I am ready to sentence you. I am ready to sentence you today. The district attorney says, oh, judge, I am so happy that you found him guilty of aggravated assault and battery,

because you know, judge, it has got to be 5 years, and it might be 10. So I am so happy, judge, that you are going to do that. And the judge looks at you and says, what is wrong with you, young fellow? Are you kidding? I would like you to know I am going to give him 2 years. And the DA says, well, judge, I thought that, you know, we proved he had a gun. The judge says, look, I am not going to tell you why I decided. So the DA says, well, I want an additional hearing. The judge says, pray tell why? And he says, well, because apparently, judge, you do not think we proved the gun was there. The judge says, off the record, that is right. And he says, in this law I have an additional right to present any evidence, and I want to insist on my right to prove that by a preponderance of the evidence, and this bill says by a preponderance of the evidence, I now can prove there was a gun, and he goes to jail for 5 years. The judge says, well, I do not know, but the DA says, it is right here in writing. And the DA would be right.

My question, Mr. Speaker, is, is it not so that under this bill the DA, under those circumstances, would have the right to go in for an additional hearing to prove by a preponderance of the evidence that there was a gun?

Mr. PICCOLA. I cannot imagine any district attorney not producing all the evidence he has on this particular point when he knows that there is a mandatory sentencing law in effect. He is going to get all the evidence that he possibly can on the record, during trial, as to the weapon that is being used, the firearm that is being used. So I cannot foresee any hypothetical where some kind of full-blown hearing on this issue is going to be necessary.

The provisions are in there to provide for such instances, primarily in fairness to the defendant.

Mr. H. WILLIAMS. Mr. Speaker, let us say that the judge is intellectually fair and honest. The DA says, judge, it is in the law, and the judge says, look, I agree with you; what it says in the law—

The SPEAKER. The Chair cautions the gentleman, Mr. Williams, that the nature of his interrogation appears to be argumentative, which, of course, is not permitted under interrogation. I would request of the two gentlemen involved in the joint interrogation that they restrict it to that which is permitted under the rules.

Mr. H. WILLIAMS. Mr. Speaker, on page 2, section (b), indicating proof at sentencing, it says the Commonwealth is to give notice to the defendant that they are proceeding under the act, but says that "The applicability of this section shall be determined at sentencing."

Mr. Speaker, if the defendant does not know whether or not the act is going to apply until after he has been tried, do you not think there is some constitutional question of equal protection of the law or some other constitutional question that might in fact raise double jeopardy or equal protection that would make this bill fatal, defunct, and void?

Mr. PICCOLA. We have provided that, Mr. Speaker. The notice requirements are in that section, and the court will provide as to what those notice requirements will be by rule of court.

Mr. H. WILLIAMS. Mr. Speaker, my question once again has been avoided in that I am asking, when the act says it will be determined after he is tried and sentenced as to whether the act applies, would that not raise some constitutional question? I am not talking about the fact that he was notified by the DA, but the fact that the law says it will not be determined until after that.

Mr. PICCOLA. I do not think it raises any constitutional questions.

Mr. H. WILLIAMS. Mr. Speaker, just two final questions here.

Is it your intent, Mr. Speaker, in this bill, generally, when a gun is charged, to require the courts to find by a preponderance of the evidence that the defendant is guilty or not guilty? Is that your intent?

Mr. PICCOLA. No, Mr. Speaker. The guilt or innocence standard of beyond a reasonable doubt is not being touched one bit in this bill.

Mr. H. WILLIAMS. Okay.

Mr. Speaker, do you view the crime of, let us say, rape with a gun, as is in here, carrying a 5-year mandatory, different—

Mr. PICCOLA. Is the question, do I consider the crime of rape different?

Mr. H. WILLIAMS. I did not finish my question. I am sorry. I thought you were interrupted.

Of all the offenses listed in this section, Mr. Speaker, would you agree that they are all distinctly different crimes and presently appear on the books?

Mr. PICCOLA. Are you referring to section 9712?

Mr. H. WILLIAMS. Yes, sir.

Mr. PICCOLA. They are different; they are different crimes; they are all violent crimes.

Mr. H. WILLIAMS. It is patently obvious. Thank you, Mr. Speaker.

Mr. Speaker, I would like to comment on the bill.

The SPEAKER. The Chair recognizes the gentleman, Mr. Williams, on final passage.

The Chair would remind this gentleman and the other members who intend to speak on this bill that the cafeteria closes in 23 minutes.

The gentleman is in order and may proceed.

Mr. H. WILLIAMS. Mr. Speaker, would you want to recess to eat and come back?

The SPEAKER. No; we will stay here until we finish it.

Mr. H. WILLIAMS. Mr. Speaker, I would like to make a few brief remarks on this bill.

I think we are faced with a very, very serious proposition whether you are for or against it, and I would just like to make my own observations. Someone said in talking today that we know you are going to pass this bill. I do not believe you are going to pass this bill. I do not believe it. The reason is very simple. All the remarks that have been made in favor of the bill, such as we are going to get tough; we are going to send them a message; the other things are too vague; and all that— This bill, if it passes, I will guarantee you and take everybody to the cafeteria at whatever time, will not ever see the light of day to put one person in jail. It is defective and fatal. That is a fact.

If we want to do an act like that and once again have the public think that we are getting tough on crime, that is okay. The bill is terribly, badly drafted to accomplish the result.

It is clear for anyone who knows that the burden of proof in a criminal case is beyond a reasonable doubt. Section 9712, and the other section, changes that, and it is unheard of.

I tried to give a couple of examples, and I guarantee you that a lot of lawyers more brilliant than I can think of many, many more. Do we want a piece of legislation that would subject someone whom you like, who indeed might have hit someone in a fit of rage or in a private fight where someone says a gun is displayed, to depend on whether or not it is on a judge's mind and you do not know, or on a district attorney's prosecution?

I ask you another thing. If you just pay attention to the words in here, it says when a firearm is visibly displayed. Now, there are some times when a firearm may be seen, may be shown; I do not know. But there is nothing in this bill to tell us what the display is supposed to be like.

Let us say a sheriff or a cop, because he has a private fight with someone and has his gun showing, punches him in the mouth. That is a private fight. His gun is displayed, and he committed aggravated assault and battery. Is a cop exempt from this?

POINT OF ORDER

The SPEAKER. The Chair recognizes the lady from Susquehanna, Miss Sirianni.

Miss SIRIANNI. Point of order, Mr. Speaker.

The SPEAKER. What is the lady's point of order?

Miss SIRIANNI. Mr. Speaker, is it in order for me to move the previous question?

The SPEAKER. A motion to move the previous question is in order.

PREVIOUS QUESTION MOVED

Miss SIRIANNI. Mr. Speaker, I move the previous question.

The SPEAKER. The motion before the floor is the motion of the lady, Miss Sirianni, to move the previous question. The lady has made the motion. The motion requires 20 seconds.

I would ask that any member who wishes to be one of the 20, that they rise in place. Any member standing, I assume, is seconding the motion of the lady, Miss Sirianni. The gentleman, Mr. Clymer; the gentleman, Mr. Greenwood; the gentleman, Mr. Stuban; the gentleman, Mr. Cordisco; the gentleman, Mr. Showers; the gentleman, Mr. Serafini; the gentleman, Mr. Johnson; the gentleman, Mr. Hasay; the lady, Mrs. Durham; the gentleman, Mr. Dietz; the gentleman, Mr. Brown; the gentleman, Mr. Wozniak; the gentleman, Mr. Punt; the gentleman, Mr. Kennedy; the gentleman, Mr. Foster; the gentleman, Mr. Dininni; the gentleman, Mr. Smith; the gentleman, Mr. Manmiller; the gentleman, Mr. Wass; and the lady, Mrs. Taylor. It would appear that the Chair has read the names of 20 of the members.

The question before the House is as follows: As many as are in favor of ordering the previous question on HB 1804 will vote in the affirmative; those opposed will vote in the negative. This is not debatable. The members will proceed to vote.

On the question,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—113

Anderson	Fargo	McClatchy	Sirianni
Armstrong	Fischer	McMonagle	Smith, E. H.
Arty	Foster, W. W.	Mackowski	Smith, L. E.
Belardi	Frazier	Madigan	Snyder
Blaum	Freind	Manmiller	Spencer
Bowser	Gallen	Marmion	Stairs
Brown	Gamble	Micozzie	Steighner
Burd	Geist	Miscevich	Stevens
Caltagirone	Gladeck	Mowery	Stewart
Cappabianca	Grabowski	Mrkonic	Stuban
Cawley	Greenwood	Nahill	Swift
Cessar	Grieco	Noye	Taddonio
Cimini	Gruppo	Olasz	Taylor, E. Z.
Civera	Hagarty	Perzel	Telek
Clymer	Hasay	Peterson	Tigue
Cochran	Hayes	Petrone	Trello
Colafella	Heiser	Phillips	Van Horne
Cordisco	Honaman	Pitts	Vroon
Cornell	Horgos	Pott	Wass
Coslett	Hutchinson, A.	Pratt	Wenger
Cowell	Jackson	Punt	Weston
Cunningham	Johnson	Rasco	Wilson
Daikeler	Kanuck	Rybak	Wogan
Davies	Kennedy	Salvatore	Wright, J. L.
Dietz	Klingaman	Saurman	Zwikl
Dininni	Kowalyshyn	Serafini	
Dombrowski	Lashinger	Seventy	Ryan,
Duffy	Lehr	Showers	Speaker
Durham	Lewis	Sieminski	

NAYS—78

Barber	Fryer	McCall	Richardson
Belfanti	Gallagher	McIntyre	Rieger
Beloff	Gannon	McVerry	Ritter
Berson	George	Manderino	Rocks
Bittle	Greenfield	Merry	Shupnik
Borski	Gruitza	Michlovic	Smith, B.
Boyes	Haluska	Miller	Spitz
Brandt	Harper	Moehlmann	Swaim
Clark	Hoeffel	Morris	Sweet
Cole	Itkin	Mullen	Taylor, F. E.
DeMedio	Kolter	Murphy	Wachob
DeVerter	Kukovich	Oliver	Wambach
DeWeese	Laughlin	Pendleton	Wargo
Dawida	Lescovitz	Petrarca	Wiggins
Deal	Letterman	Piccola	Williams, H.
Donatucci	Levi	Pievsky	Williams, J. D.
Dorr	Levin	Pistella	Wozniak
Evans	Livengood	Rappaport	Wright, D. R.
Fee	Lloyd	Reber	Wright, R. C.
Foster, Jr., A.	Lucyk		

NOT VOTING—5

Burns	Hutchinson, W.	Maiale	O'Donnell
Gray			

EXCUSED—6

Alden	Emerson	Irvis	Pucciarelli
Cohen	Fleck		

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

On the question recurring,

Shall the bill pass finally?

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

YEAS—177

Anderson	Foster, W. W.	Lucyk	Salvatore
Armstrong	Foster, Jr., A.	McCall	Saurman
Arty	Frazier	McClatchy	Serafini
Belardi	Freind	McIntyre	Seventy
Belfanti	Fryer	McMonagle	Showers
Beloff	Gallagher	McVerry	Shupnik
Bittle	Gallen	Mackowski	Sieminski
Blaum	Gamble	Madigan	Sirianni
Borski	Gannon	Maiale	Smith, B.
Bowser	Geist	Manmiller	Smith, E. H.
Boyes	George	Marmion	Smith, L. E.
Brandt	Gladeck	Merry	Snyder
Brown	Grabowski	Michlovic	Spencer
Burd	Greenfield	Micozzie	Spitz
Caltagirone	Greenwood	Miller	Stairs
Cappabianca	Grieco	Miscevich	Steighner
Cawley	Gruitza	Moehlmann	Stevens
Cessar	Gruppo	Morris	Stewart
Cimini	Hagarty	Mowery	Stuban
Civera	Haluska	Mrkonic	Swaim
Clark	Hasay	Mullen	Sweet
Clymer	Hayes	Murphy	Taddonio
Cochran	Heiser	Nahill	Taylor, E. Z.
Colafella	Hoeffel	Noye	Taylor, F. E.
Cole	Honaman	O'Donnell	Telek
Cordisco	Horgos	Olasz	Tigue
Cornell	Hutchinson, A.	Pendleton	Trello
Coslett	Hutchinson, W.	Perzel	Van Horne
Cowell	Itkin	Peterson	Vroon
Cunningham	Jackson	Petrarca	Wambach
DeMedio	Johnson	Petrone	Wargo
DeVerter	Kanuck	Phillips	Wass
Daikeler	Kennedy	Piccola	Wenger
Davies	Klingaman	Pievsky	Weston
Dawida	Kolter	Pistella	Wilson
Dietz	Kowalyshyn	Pitts	Wogan
Dininni	Lashinger	Pott	Wozniak
Dombrowski	Laughlin	Pratt	Wright, D. R.
Donatucci	Lehr	Punt	Wright, J. L.
Dorr	Lescovitz	Rasco	Wright, R. C.
Duffy	Letterman	Reber	Zwikl
Durham	Levi	Rieger	
Fargo	Lewis	Ritter	Ryan,
Fee	Livengood	Rocks	Speaker
Fischer	Lloyd	Rybak	

NAYS—17

Barber	Harper	Oliver	Wachob
Berson	Kukovich	Rappaport	Wiggins
DeWeese	Levin	Richardson	Williams, H.
Deal	Manderino	Swift	Williams, J. D.
Evans			

NOT VOTING—2

Burns	Gray

EXCUSED—6

Alden	Emerson	Irvis	Pucciarelli
Cohen	Fleck		

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.

STATEMENT BY MR. H. WILLIAMS

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

Mr. H. WILLIAMS. Mr. Speaker, I rise to a request for personal privilege to make a comment.

The SPEAKER. The gentleman seeks unanimous consent to make a statement. The Chair hears no objection. The gentleman may proceed.

Mr. H. WILLIAMS. Mr. Speaker, our action on the last bill was a very, very important matter for this Commonwealth. I am very disappointed that for those of us who feel that that is something that should be done, to desire to refuse to hear the debate can very well mean that we missed something in the process aside from our right and our duty to come here to debate the issues.

I just want the House to know that I am personally very disappointed in my status as one of your members on an issue that, since the time it was in committee, has been of concern to me and, I know, to you. And if that is the precedent that we will follow, it will guarantee that we will just cut off debate, whether it is abortion or some other issue. And I just want the record to be clear that I for one am not a coward to an idea. I think actions that cut off debate indicate an insecurity in an idea, rather than strength in an idea. So I take the vote to cut off debate, Mr. Speaker, as a vote in favor of the ideas that I was putting forth, and I thank you for your vote.

ANNOUNCEMENT BY MR. FREIND

The SPEAKER. The Chair recognizes the gentleman from Delaware, Mr. Freind, for the purpose of making an announcement.

I would ask that all of the members listen carefully to the remarks of the gentleman, Mr. Freind.

Mr. FREIND. Thank you, Mr. Speaker.

As we all probably know, after we break and come back from caucus, in all likelihood we will call up the amendment to SB 742, which is the prolife amendment.

The purpose of this announcement is to tell everyone—and we have told this to a number of members who desire to have amendments; we have told this to them personally—if that amendment passes, we will move to suspend the rules so that anyone else who desires to have amendments introduced may do so. We have checked with Legislative Reference, and they can handle that, as we have told any number of members already, and they have sent amendments up. If you have amendments which are up there or you want to send them up, just make sure you tell Legislative Reference that they draft the amendment to SB 742 as if amendment 4911 had passed. Obviously, if the amendment does not pass, all the other amendments are irrelevant. They can do that. We feel it is important that everybody has the opportunity to have a say here, so we will move to suspend the rules, and if that is successful, everyone can offer their amendments. Thank you, Mr. Speaker.

REPUBLICAN CAUCUS AND RULES COMMITTEE MEETING

The SPEAKER. The Chair recognizes the majority leader in connection with making an announcement.

Mr. HAYES. We will return to the floor at 3:30. The Republican caucus chairman has asked that there be a Republican caucus commencing promptly at 3 p.m.

There will be a meeting of the Rules Committee at the call of the recess in my office. Thank you.

BUSINESS AND COMMERCE COMMITTEE MEETING

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

Mr. L. E. SMITH. Mr. Speaker, I want to alert the members of the Business and Commerce Committee that the recessed meeting from last Tuesday will reconvene at 3 o'clock in room 401.

DEMOCRATIC CAUCUS

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

Mr. O'DONNELL. Mr. Speaker, there will be a Democratic caucus beginning promptly at 3 p.m., whether anybody is there or not. The subject matter will be horse racing and abortion, and we are starting exactly at 3. Thank you.

REMARKS ON VOTE

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

Mr. DOMBROWSKI. Thank you, Mr. Speaker.

On the vote to move the previous question, I was erroneously recorded in the affirmative. Please have the record indicate I would like to be recorded in the negative.

The SPEAKER. The remarks of the gentleman will be spread upon the record.

STATEMENT BY MR. RICHARDSON

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

Mr. RICHARDSON. Mr. Speaker, I would like to have unanimous consent to address the House.

The SPEAKER. The Chair hears no objection. The gentleman may proceed.

Mr. RICHARDSON. I think that a very bad precedent was set here this morning in relationship to the passing of HB 1804, and I want to be on record to note that it seems to me that when we have had other controversial bills that have needed the enlightenment and also the wisdom and knowledge and articulation of other members on matters that concerned them, no one has been cut off from debate. And it seems to me that in setting this precedent today, I hope that that same situation does not come back at a similar point in time to haunt those same individuals who stood up and denied the right for others to have a right to speak on this floor today.

RECESS

The SPEAKER. Without objection, this House will stand in recess until 3:30 p.m. The Chair hears no objection.

AFTER RECESS

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

CALENDAR RESUMED

CONSIDERATION OF SB 919 RESUMED

On the question recurring,

Will the House agree to the bill on third consideration?

Mr. CORDISCO offered the following amendments No. A4899:

Amend Title, page 1, line 11, by removing the period after "values" and inserting

and *further providing for conditions relating* to reassessment.

Amend Bill, page 5, by inserting between lines 13 and 14

Section 2. The act is amended by adding a section to read:

Section 402.2. Prohibiting Certain Revaluations.—Whenever the Board of Assessors revalues more than fifty per cent of the properties within a municipality in any one year it shall be deemed a reassessment and the reassessed property values shall not be utilized for tax purposes until the entire county is reassessed in accordance with the provisions of this act.

Amend Sec. 2, page 5, line 14, by striking out "2" and inserting

3

On the question,

Will the House agree to the amendments?

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

Mr. CORDISCO. Mr. Speaker, basically all this amendment attempts to do is prohibit the county from using the revaluation process as a substitute for reassessment, and all we are doing is seeking uniformity within the county. Thank you.

I ask for an affirmative vote.

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

Mr. A. C. FOSTER. Thank you, Mr. Speaker.

I rise to support the gentleman's amendment. We had intended to consider the bill dealing with the same thing in our committee, but this will be a much speedier process and will achieve the gentleman's wishes within the time frame that he wishes. I support the amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—186

Anderson	Fischer	Lloyd	Saurman
Armstrong	Foster, W. W.	Lucyk	Serafini
Arty	Foster, Jr., A.	McCall	Seventy
Belardi	Frazier	McClatchy	Showers
Belfanti	Freind	McIntyre	Shupnik
Beloff	Fryer	McMonagle	Sieminski
Berson	Gallagher	McVerry	Sirianni
Bittle	Gallen	Mackowski	Smith, B.
Blaum	Gamble	Madigan	Smith, E. H.
Borski	Gannon	Maiale	Smith, L. E.
Bowser	Geist	Manderino	Snyder
Boyes	George	Manmiller	Spencer
Brandt	Gladeck	Marmion	Spitz
Brown	Grabowski	Merry	Stairs
Burd	Greenfield	Micozzie	Steighner
Burns	Greenwood	Miller	Stevens
Caltagirone	Grieco	Miscevich	Stewart
Cappabianca	Gruitza	Moehlmann	Stuban
Cawley	Gruppo	Morris	Swaim
Cessar	Hagarty	Mowery	Sweet
Cimini	Haluska	Mrkonic	Swift
Civera	Hasay	Mullen	Taddonio
Clark	Hayes	Murphy	Taylor, E. Z.
Clymer	Heiser	Nahill	Taylor, F. E.
Cochran	Hoeffel	Noye	Telek
Colafella	Honaman	O'Donnell	Tigue
Cole	Horgos	Olasz	Trello
Cordisco	Hutchinson, A.	Oliver	Van Horne
Cornell	Hutchinson, W.	Pendleton	Vroon
Cowell	Itkin	Perzel	Wachob
Cunningham	Jackson	Peterson	Wambach
DeMedio	Johnson	Petrarca	Wargo
DeVerter	Kanuck	Phillips	Wass
Daikeler	Kennedy	Piccola	Wenger
Davies	Klingaman	Pievsky	Weston
Dawida	Kolter	Pistella	Williams, H.
Deal	Kowalyshyn	Pott	Williams, J. D.
Dietz	Kukovich	Pratt	Wilson
Dininni	Lashinger	Punt	Wogan
Dombrowski	Laughlin	Rasco	Wozniak
Donatucci	Lehr	Reber	Wright, D. R.
Dorr	Lescovitz	Richardson	Wright, J. L.
Duffy	Letterman	Rieger	Wright, R. C.
Durham	Levi	Ritter	Zwikl
Evans	Levin	Rocks	
Fargo	Lewis	Rybak	Ryan,
Fee	Livengood	Salvatore	Speaker

NAYS—0

NOT VOTING—10

Barber	Gray	Petrone	Rappaport
Coslett	Harper	Pitts	Wiggins
DeWeese	Michlovic		

EXCUSED—6

Alden	Emerson	Irvis	Pucciarelli
Cohen	Fleck		

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

On the question,

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

Bill as amended was agreed to.

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

The question is, shall the bill pass finally?

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

YEAS—193

Anderson	Fischer	McCall	Saurman
Armstrong	Foster, W. W.	McClatchy	Serafini
Arty	Foster, Jr., A.	McIntyre	Seventy
Barber	Frazier	McMonagle	Showers
Belardi	Freind	McVerry	Shupnik
Belfanti	Fryer	Mackowski	Sieminski
Beloff	Gallagher	Madigan	Sirianni
Berson	Gallen	Maiale	Smith, B.
Bittle	Gamble	Manderino	Smith, E. H.
Blaum	Gannon	Manmiller	Smith, L. E.
Borski	Geist	Marmion	Snyder
Bowser	George	Merry	Spencer
Boyes	Gladeck	Michlovic	Spitz
Brandt	Grabowski	Micozzie	Stairs
Brown	Greenfield	Miller	Steighner
Burd	Greenwood	Miscevich	Stevens
Burns	Grieco	Moehlmann	Stewart
Caltagirone	Gruitza	Morris	Stuban
Cappabianca	Gruppo	Mowery	Swaim
Cawley	Hagarty	Mrkonic	Sweet
Cessar	Haluska	Mullen	Swift
Cimini	Hasay	Murphy	Taddonio
Civera	Hayes	Nahill	Taylor, E. Z.
Clark	Heiser	Noye	Taylor, F. E.
Clymer	Hoeffel	O'Donnell	Telek
Cochran	Honaman	Olasz	Tigue
Colafella	Horgos	Oliver	Trello
Cole	Hutchinson, A.	Pendleton	Van Horne
Cordisco	Hutchinson, W.	Perzel	Vroon
Cornell	Itkin	Peterson	Wachob
Coslett	Jackson	Petrarca	Wambach
Cowell	Johnson	Petrone	Wargo
Cunningham	Kanuck	Phillips	Wass
DeMedio	Kennedy	Piccola	Wenger
DeVerter	Klingaman	Pievsky	Weston
Daikeler	Kolter	Pistella	Wiggins
Davies	Kowalyshyn	Pitts	Williams, H.
Dawida	Kukovich	Pott	Williams, J. D.
Deal	Lashinger	Pratt	Wilson
Dietz	Laughlin	Punt	Wogan
Dininni	Lehr	Rappaport	Wozniak
Dombrowski	Lescovitz	Rasco	Wright, D. R.
Donatucci	Letterman	Reber	Wright, J. L.
Dorr	Levi	Richardson	Wright, R. C.
Duffy	Levin	Rieger	Zwikl
Durham	Lewis	Ritter	
Evans	Livengood	Rocks	Ryan,
Fargo	Lloyd	Rybak	Speaker
Fee	Lucyk	Salvatore	

NAYS—0

NOT VOTING—3

DeWeese	Gray	Harper

EXCUSED—6

Alden	Emerson	Irvis	Pucciarelli
Cohen	Fleck		

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 the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

WELCOMES

The SPEAKER. The Chair is pleased to welcome to the hall of the House today Michael Morgan, the program director of

the Kencrest Community Living Arrangement facility, here today as the guest of Representative Fran Weston.

The Chair is also pleased to welcome to the hall of the House today the Reverend Albert Kovacs, the Reverend William McCall, and Mrs. Flora Rebert, here today as the guests of the Berks County delegation.

STATEMENT BY MAJORITY LEADER

The SPEAKER. The Chair recognizes the majority leader in connection with SB 742.

Mr. HAYES. Thank you, Mr. Speaker.

SB 742 and amendments to that legislation will be scheduled for a vote Tuesday, December 8, a date certain. We will convene at 10 a.m. on that day rather than our conventional 11 a.m., so that those persons who have an interest in that legislation with regard to abortion control may bring to the floor of this House their amendments.

The reason for the taking of this time should not be interpreted by anyone as there not being enough votes or that there is the need for more time to whip up support for whatever idea may be contained in amendment.

The House Committee on Health and Welfare is to be commended by this House of Representatives for the fine fashion in which they considered those bills dealing with abortion control. Those who have a continuing interest in this legislation would like the House of Representatives to consider their viewpoints. It is my understanding and it is their spoken word that they have changed the language of those bills and have incorporated those changes in amendments which they have circulated today. The proponents of those amendments realize that genuine questions have been asked and it may not be possible within the time constraints of this evening to get answers to the questions which have been asked. It is not that the proponents do not have the information, but rather those who are asking the questions have asked for a bit more time in terms of legislative days so that they can properly prepare themselves for a vote finally on those amendments.

I would ask that those who have amendments to SB 742 have them delivered to my office by next Thursday, 4:30 p.m., so that I can prepare for distribution to this House of Representatives those amendments which will be offered to SB 742, and so we can properly meet on those amendments so there is no doubt in anyone's mind as to what they are voting on. I believe that those who have brought this issue to the House of Representatives today have been gentlemanly in offering to this House more time so that consideration can be given to their amendment and any other amendment which individual Representatives may want to offer.

BILL PASSED OVER

Mr. HAYES. At this time, Mr. Speaker, I request that SB 742 be gone over for the day. Thank you, Mr. Speaker.

The SPEAKER. Without objection, SB 742, PN 1132, will be passed over—

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

Mr. LETTERMAN. Mr. Speaker, I have an amendment which is of great concern to many people in Pennsylvania to this bill. I want to ask a question concerning that.

I have an amendment that—

The SPEAKER. Will the gentleman yield to permit the Chair to finish that portion of the calendar, which was that, without objection, SB 742 would be passed over for the day. The Chair hears no objection.

The Chair recognizes the gentleman, Mr. Letterman.

Mr. LETTERMAN. Mr. Speaker, I have an amendment which is a definite safeguard concerning the athletic departments in the State of Pennsylvania concerning wrestling and boxing in our colleges and in our high schools. I would ask that my amendment be considered first for this reason, that if for any reason the amendments presented would fail to strike out the language, my amendments would be there for the safeguard of the scholastic wrestling and boxing and the collegiate wrestling and boxing in the State of Pennsylvania. I would ask that this be considered first among all amendments.

The SPEAKER. I suggest that the gentleman consult with the majority leader on that question.

For the benefit of all of the members, I would appreciate your attention. It will require a suspension of the rules for the members to amend the amendment to be offered by Mr. Freind to SB 742. On the assumption that that suspension will take place, when ordering your amendments they should be ordered to PN A4911. Reference Bureau will be advised of this also.

PARLIAMENTARY INQUIRY

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

Mr. RITTER. Mr. Speaker, parliamentary inquiry.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. RITTER. The amendment that is being circulated by Mr. Freind does not have any line numbers on the amendment. So if you wanted to amend the Freind amendment, in what fashion would we amend a line number that is not there?

The SPEAKER. The Legislative Reference Bureau has advised the Chair that the Freind amendment is already in the computer with the lines and pages in it. The Chair has a copy of it. It is the understanding of the Chair that Reference Bureau is prepared to draft amendments, as I have previously stated. If you advise the Reference Bureau exactly what you want done, they tell us they are able to do that.

Mr. RITTER. Thank you, Mr. Speaker.

BILLS ON THIRD CONSIDERATION CONTINUED

The House proceeded to third consideration of **SB 795, PN 843**, entitled:

An Act amending the act of November 22, 1978 (P. L. 1166, No. 274), entitled "Pennsylvania Commission on Crime and Delinquency Law," revising the membership, quorum, powers and duties of the commission, further providing for advisory

committees, further providing for the termination of the commission and making a repeal.

On the question,

Will the House agree to the bill on third consideration?

Mr. HOEFFEL offered the following amendments No. A3875:

Amend Title, page 1, line 8, by striking out "and" and inserting a comma

Amend Title, page 1, line 9, by inserting after "making"
an appropriation and

Amend Sec. 6, page 10, line 24, by inserting after "amended"
and a section is added

Amend Sec. 6, page 11, by inserting between lines 4 and 5

Section 12.1. Assistance to Citizen Crime Prevention Programs.

(a) Assistance to local agencies.—The commission shall have the power and duty to review and approve applications for technical and financial assistance to local and State law enforcement agencies as provided in this section.

(b) Applications for assistance.—Any local law enforcement agency may by itself or in cooperation with other law enforcement agencies apply for technical and financial assistance to the commission as set forth in this section.

(c) State police.—The State police agency may apply for technical and financial assistance for those areas in the State wherein they provide the primary law enforcement function in lieu of no local law enforcement agency.

(d) Nature of assistance.—The technical and financial assistance the commission shall provide under this section shall be:

(1) Funding 50% of the cost for police officers for a two year period who are assigned on a full time basis on developing and implementing community crime prevention programs in conjunction with local citizens.

(2) Providing initial and ongoing training for police officers assigned on a full time basis on developing and implementing community crime prevention programs.

(3) Providing educational and training materials and such technology equipment including but not limited to property identification equipment so as to prevent duplication of materials and equipment by State and local law enforcement agencies.

(4) Assisting State and local law enforcement agencies in developing applications for assistance from the commission.

(e) Content of applications.—All applications for assistance from the commission for citizens crime prevention programs as provided for in this section shall include the following:

(1) A plan by the applicant which is approved by the funding authority of the applicant and by a citizen advisory group comprised of not less than ten citizens in the locale to be serviced by the applicant.

(2) The plan shall include a review of the types of programs to be implemented by the law enforcement agency jointly with the direct participation of the local citizens.

(3) The plan shall indicate the nature and extent of citizen involvement in the proposed programs.

(4) The plan shall include a specific review of the nature and types of crimes that the programs are designed to impact upon and the desired impact the programs hope to achieve.

(5) The plan shall include the nature and extent of participation by citizens operating businesses in the community and the programs directed toward impacting upon crimes directed at such businesses.

(6) The plan shall include assurances by the applicant that it will submit semi-annual reports on the progress of their programs to the commission and comply with such additional requirement as set forth by the commission and agreed to be the applicant.

(f) Rules and regulations.—The commission may in the manner provided by law promulgate regulations and additional application and reporting requirements for the purpose of carrying out this section so long as they do not conflict with this act.

(g) Appropriation.—In addition to whatever funds the commission may have available, the commission may grant financial assistance specifically provided for in any appropriation effective on and after July 1, 1982.

Amend Sec. 8, page 11, line 10, by removing the period after "immediately" and inserting

, except for section 12.1 which shall take effect July 1, 1982.

On the question,

Will the House agree to the amendments?

FILMING PERMISSION GRANTED

The SPEAKER. I call to the attention of the members that television cameras have been granted permission for 10 minutes of silent filming.

CONSIDERATION OF SB 795 CONTINUED

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

Mr. HOEFFEL. Thank you, Mr. Speaker.

SB 795 extends the life of the Pennsylvania Commission on Crime and Delinquency 4 years. My amendment would give to that commission some new authority to help create citizens crime prevention programs in our local communities. The amendment would provide financial assistance to local agencies, meaning police departments at the local level and the State Police in those areas that do not have local police departments, to work with citizens groups to provide programs such as the town watches that have worked successfully in Montgomery County and I know in other parts of the State. The assistance would be channeled through the Commission on Crime and Delinquency to the local police departments directly. The financial assistance would not go to the citizens groups but would rather go to the police departments who in turn would work with the citizens groups. For example, my amendment would permit funding of half the cost of police officers who were assigned full time to work with citizens crime groups to try to promote and develop crime prevention programs at the local level.

There would also be a provision for the Commission on Crime and Delinquency to fund some technical assistance that again would be given to the police departments, which in turn would be made available to citizens groups which would qualify.

The idea behind this amendment is to help deal with the problems of crime, particularly crimes of vandalism and racial and religious harassment. At the local level, town watch programs have worked very successfully in my community and I know in other communities, have pulled people together in suburban areas, encouraged them to take some responsibility for the safety of their own communities, to work with the police departments of the local areas to help make our communities safer.

I think you all know that such programs are not designed as vigilante groups. There are no weapons carried by these town watch volunteers; there are no arrests made by them. They are simply patrolling their neighborhoods to keep an eye on things, and if a problem arises, they notify the police.

I think it is something we ought to be encouraging at the State level. The Governor has proposed a mandatory sentencing program, which we voted on today. He has focused his attention on the punishment for crime, and I think that is appropriate. But I think that at the same time as we are increasing the severity of punishment for various crimes, it is a wise thing for us to do to try to create some deterrence at the local level to the extent that we can to help prevent crime from happening in the first place. So I ask for an affirmative vote. Thank you.

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

Mr. PICCOLA. Thank you, Mr. Speaker.

I would request the House to vote in the negative on this amendment. The House Judiciary Committee rejected this amendment in committee, and it is my recollection the rationale was— First of all, SB 795 is merely an extension bill to extend the life of the commission. What Representative Hoeffel is proposing is a new program to be administered by the commission.

There is a great deal of difference of opinion as to the effectiveness of some of the citizens crime prevention programs. In some areas they are successful. In other parts of the Commonwealth they are not so successful. There would be some questions raised as to the effectiveness of the money that would be proposed to be spent. I would prefer that such a proposal come down to us in separate legislation so that we can more effectively evaluate the success or failure of citizen crime prevention programs and that this not be included in this bill. So I would ask for a negative vote.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—96

Barber	Fee	Lucyk	Ritter
Belfanti	Fryer	McCall	Rybak
Beloff	Gallagher	McIntyre	Seventy
Berson	Gamble	McMonagle	Showers
Blaum	George	Maiale	Shupnik
Borski	Grabowski	Manderino	Steighner
Brown	Greenfield	Michlovic	Stewart
Caltagirone	Gruitza	Miscevich	Stuban
Cappabianca	Haluska	Morris	Swaim
Cawley	Harper	Mrkonic	Sweet
Clark	Hoeffel	Mullen	Taylor, F. E.
Colafella	Horgos	Murphy	Tigue
Cole	Hutchinson, A.	O'Donnell	Trello
Cordisco	Itkin	Olasz	Van Horne
Cornell	Klingaman	Oliver	Wachob
Cowell	Kolter	Pendleton	Wambach
DeMedio	Kowalyshyn	Petrarca	Wargo
DeWeese	Kukovich	Petrone	Wiggins
Dawida	Laughlin	Pievsky	Williams, H.
Deal	Lescovitz	Pistella	Williams, J. D.
Dombrowski	Letterman	Pratt	Wozniak
Donatucci	Levin	Rappaport	Wright, D. R.
Duffy	Livengood	Richardson	Wright, J. L.
Evans	Lloyd	Rieger	Zwikl

NAYS—99

Anderson	Foster, W. W.	McClatchy	Serafini
Armstrong	Foster, Jr., A.	McVerry	Sieminski
Arty	Frazier	Mackowski	Sirianni
Belardi	Freind	Madigan	Smith, B.
Bittle	Gallen	Manmiller	Smith, E. H.
Bowser	Gannon	Marmion	Smith, L. E.
Boyes	Geist	Merry	Snyder
Brandt	Gladeck	Micozzie	Spencer
Burd	Greenwood	Miller	Spitz
Burns	Grieco	Moehlmann	Stairs
Cessar	Gruppo	Mowery	Stevens
Cimini	Hagarty	Nahill	Swift
Civera	Hasay	Noye	Taddonio
Clymer	Hayes	Perzel	Taylor, E. Z.
Cochran	Heiser	Peterson	Telek
Coslett	Honaman	Phillips	Vroon
Cunningham	Hutchinson, W.	Piccola	Wass
DeVerter	Jackson	Pitts	Wenger
Daikeler	Johnson	Pott	Weston
Davies	Kanuck	Punt	Wilson
Dietz	Kennedy	Rasco	Wogan
Dininni	Lashinger	Reber	Wright, R. C.
Dorr	Lehr	Rocks	
Durham	Levi	Salvatore	Ryan,
Fargo	Lewis	Saurman	Speaker
Fischer			

NOT VOTING—1

Gray

EXCUSED—6

Alden	Emerson	Irvis	Pucciarelli
Cohen	Fleck		

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

On the question recurring,

Will the House agree to the bill on third consideration?

Bill was agreed to.

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

The question is, shall the bill pass finally?

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

YEAS—192

Anderson	Fischer	Lucyk	Salvatore
Armstrong	Foster, W. W.	McCall	Saurman
Arty	Foster, Jr., A.	McClatchy	Serafini
Belardi	Frazier	McIntyre	Seventy
Belfanti	Freind	McMonagle	Showers
Beloff	Fryer	McVerry	Shupnik
Berson	Gallagher	Mackowski	Sieminski
Bittle	Gallen	Madigan	Smith, B.
Blaum	Gamble	Maiale	Smith, E. H.
Borski	Gannon	Manmiller	Smith, L. E.
Bowser	Geist	Marmion	Snyder
Boyes	George	Merry	Spencer
Brandt	Gladeck	Michlovic	Spitz
Brown	Grabowski	Micozzie	Stairs
Burd	Greenfield	Miller	Steighner
Burns	Greenwood	Miscevich	Stevens
Caltagirone	Grieco	Moehlmann	Stewart
Cappabianca	Gruitza	Morris	Stuban
Cawley	Gruppo	Mowery	Swaim
Cessar	Hagarty	Mrkonic	Sweet
Cimini	Haluska	Mullen	Swift
Civera	Harper	Murphy	Taddonio
Clark	Hasay	Nahill	Taylor, E. Z.
Clymer	Hayes	Noye	Taylor, F. E.
Cochran	Heiser	O'Donnell	Telek

Colafella	Hoeffel	Olasz	Tigue
Cole	Honaman	Oliver	Trello
Cordisco	Horgos	Pendleton	Van Horne
Cornell	Hutchinson, A.	Perzel	Vroon
Coslett	Hutchinson, W.	Peterson	Wachob
Cowell	Itkin	Petrarca	Wambach
Cunningham	Jackson	Petrone	Wargo
DeMedio	Johnson	Phillips	Wass
DeVerter	Kanuck	Piccola	Wenger
DeWeese	Kennedy	Pievsky	Weston
Daikeler	Klingaman	Pistella	Wiggins
Davies	Kolter	Pitts	Williams, H.
Dawida	Kowalyshyn	Pott	Williams, J. D.
Deal	Kukovich	Pratt	Wilson
Dietz	Lashinger	Punt	Wogan
Dininni	Laughlin	Rappaport	Wozniak
Dombrowski	Lehr	Rasco	Wright, D. R.
Donatucci	Lescovitz	Reber	Wright, J. L.
Dorr	Letterman	Richardson	Wright, R. C.
Duffy	Levi	Rieger	Zwikl
Durham	Levin	Ritter	
Evans	Lewis	Rocks	Ryan,
Fargo	Livengood	Rybak	Speaker
Fee	Lloyd		

NAYS—0

NOT VOTING—4

Barber	Gray	Manderino	Sirianni

EXCUSED—6

Alden	Emerson	Irvis	Pucciarelli
Cohen	Fleck		

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 the information that the House has passed the same without amendment.

REMARKS ON VOTE

The SPEAKER. The Chair recognizes the lady from Susquehanna, Miss Sirianni. For what purpose does the lady rise?

Miss SIRIANNI. Mr. Speaker, I would like to be recorded in the affirmative on SB 795.

The SPEAKER. The remarks of the lady will be spread upon the record.

BILLS ON THIRD CONSIDERATION CONTINUED

The House proceeded to third consideration of **SB 962, PN 1431**, entitled:

An Act providing for the regulation of pari-mutuel thoroughbred horse racing and harness horse racing activities; imposing certain taxes and providing for the disposition of funds from pari-mutuel tickets.

On the question,

Will the House agree to the bill on third consideration?

Mr. MANDERINO offered the following amendments No. A4537:

Amend Sec. 222, page 42, lines 7 through 16, by striking out all of said lines and inserting

(2) An amount equivalent to three-tenths of one percent of the amount wagered each racing day at harness horse race meetings shall be paid by the Harness Racing Commission from the Harness Racing Fund through the Department of Revenue for credit to the Pennsylvania Sire Stakes Fund. An amount equivalent to one-tenth of one percent of the amount wagered each day shall be divided among licensed corporations that conduct harness horse race meetings under this act, in direct proportion to the rate by which each licensed corporation generated the fund moneys during the previous year, to be used solely for purses to the horsemen beginning on January 1, 1982. The amount to be credited to the Pennsylvania Sire Stakes Fund shall be increased to five-tenths of one percent and the amount to be divided among licensed corporations to be used for purses shall be increased to two-tenths of one percent beginning on January 1, 1983. And then finally on January 1, 1984 and thereafter to eight-tenths of one percent for credit to the Pennsylvania Sire Stakes Fund and shall remain two-tenths of one percent to be divided among licensed corporations to be used for purses.

Amend Sec. 224, page 49, line 9, by striking out "85%" and inserting

75%

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the minority whip.

Mr. MANDERINO. Mr. Speaker, needless to say, SB 962 in itself is a very difficult bill for anyone to understand and follow and be sure that they would know what racing interests are benefiting and to what degree a racing interest was benefiting under the provisions as written in the bill. Some of the provisions in the bill are easier to understand than others.

The amendment that I offer is no more capable of being easily understood than the bill itself, but I will attempt to portray to the people of the House the reasons that I am offering the amendment and the effect of the amendment.

Now, I am sure that almost everybody in this House of Representatives has been lobbied by one interest or another concerning the Manderino amendments to SB 962. I am sure that whoever you talked to said, be against the Manderino amendments, and I am equally sure that those people who talked to you to be against my amendments did not explain to you what the amendments did, because if you understood what the amendments did, it is very difficult to be against them, except in certain instances that I will point out.

The whole idea of SB 962 is to reduce the State's income from horse racing and harness racing in Pennsylvania, and take that reduced share, that loss of revenue to the Commonwealth, take that loss of revenue, that savings that is taken from the bettor's pocket, and redistribute it to the racing interests in Pennsylvania. The breeders get a distribution. Those are the people who have studhorses and broodmares and raise horses for sale in the racing industry.

Now, there are about three large breeders in Pennsylvania: Hanover Shoe Farms, Lana Lobell, and Hempt Farms outside of Harrisburg. That is about the extent of the large breeders in Pennsylvania. There are other breeders, but by and large, when we are talking sire stakes quality, we are talking about the horses, the colts, and the fillies that come from those farms.

This particular bill raises the money that Pennsylvania contributes to the sire stakes program by 340 percent—340 percent. The cry is that the industry is hurting, and the industry has to be helped or the industry will die, and to a large extent that is true, but there are three segments of this industry. There are the breeders. There are the horsemen who work the tracks and work the training, and they employ the grooms, and they put on the races. They are the second aspect of racing. And the third is the tracks where the horsemen perform. And, Mr. Speaker, there is no question in my mind that the racing industry is hurting. The tracks are in trouble with large plants and capital investments and declining handle, and they pay the purses. And the horsemen are not doing very well, but there is one segment of the industry that is prospering, and that segment is the breeders.

Mr. Speaker, I have an article from Hoof Beats magazine of November 1981, and what the article speaks to is the advantages that the breeders have been given by the new Federal tax law enacted by the Reagan administration in Washington. I want to quote from that article, because it is very important to understand that this is the trade magazine of the industry that we are talking about, the breeders. They talk about the changes in depreciation remaining the most significant modification in the Federal law. "Most business assets received a reduced write off period. The horse breeder also will generally receive a shorter depreciation period, but the owner of a racehorse is left with either the same write off period or a longer one, depending on the age of the horse...." Now, this again is the comment I want to get to: "This is a real paradox, for the racing side of the horse industry is the one in the poorer economic health, and the breeding side is the more prosperous." Now, this is their magazine: "...the breeding side is the more prosperous."

In this bill, instead of helping the horsemen who are out there starving and unable to buy feed and keep the show going and keep the tellers employed at the track—I am talking about that part of the industry that the trade magazine itself acknowledges to be in poor financial condition—we take the breeders who have moved their operation from Pennsylvania into the State of New York and into the State of New Jersey, not because they are not making money but because it is more lucrative for them to breed and have their farms in the surrounding States. So what we are trying to do in this bill, according to the people who want to raise the breeders fund by some 340 percent, is to compete with New York and compete with New Jersey. Well, there is no way that we in Pennsylvania are ever going to compete with the tracks in New Jersey, the Meadowlands, and New York. Our metropolitan population around Philadelphia and Pittsburgh just will not support the kind of program of racing that they have in those States, so we are beating our heads up against the wall. The breeders know it, but they are playing us against New York and New Jersey just so that the horses, instead of selling for a $40,000 average at the Harrisburg sales, will soon begin selling for a $70,000 average at the Harrisburg sales because of what we do in this bill.

Now, what I am trying to do is redistribute the money by not allowing the breeders to receive a 340-percent increase. They are presently receiving from the bettors' money 0.5 percent of the handle. That is what they are presently receiving in the Sire Stakes Fund. This bill will eventually put in the Sire Stakes Fund 1.7 percent of the handle, and I say it is 340 percent of what it is now. I simply want them to get 1.5 percent. I want it to be only a 300-percent increase in the sire stakes, and that $400,000—and that is what it comes to in dollars—I want to go to the horsemen who are only going up by less than a half a percent in this bill on the handle.

Mr. Speaker, there are three segments to the industry. I do not touch the share that will go to the various race plants in Pennsylvania. I have not touched that share. I am trying to get at least an equal distribution in dollar funds out of the new money being made available by the State giving up its share. I am trying to get an equal distribution of that money between the horsemen and the breeders, and there is no question that the horsemen need the help and the breeders are prospering. It is a question of, if you want to keep the industry alive in Pennsylvania, if that is what you are really talking about, then the place to keep it alive is by helping the horsemen who are hurting financially.

We will have a competitive Sire Stakes Fund. We are only talking about removing two-tenths of a percent from what they propose to give to the breeders. They propose that the breeders go from one-half of 1 percent to 1.7 percent, and I propose that they go from one-half to 1 1/2, and take two-tenths and give it to the horsemen.

There is one other part of the amendment that I propose, Mr. Speaker. If you will notice on the amendment that is before you, I change an 85 percent to a 75 percent.

Presently the moneys raised for the sire stakes program go basically to two places in Pennsylvania: They go to the county fair associations for the races that happen and are put on each summer at all the county fairs that elect to have racing in Pennsylvania, and they go to about 40 large races at the racetracks that are called sire stakes races. Presently the distribution of sire stakes moneys, 75 percent of that sire stakes money goes to the 40 large races, and 25 percent of that money goes to all the agricultural associations, the fairs, that run racing around the Commonwealth. The bill that is proposed before us proposes to change that distribution of 75 percent to the large races and 25 percent to the fairs to 85 percent to the large races and only 15 percent to the fairs. I propose that we leave the distribution the way it is now, and I am asking that we change the 85 percent that is in the bill to 75 percent, so that the 25 percent now going to the fairs will continue to go to the fairs, and the excess, if any, that is going to the fairs will go to the horsemen as it presently goes to the horsemen. Mr. Speaker, these are the two changes that I am suggesting.

Mr. Speaker, we would be helping that part of the industry that is in poorer economic health, as the trade magazine, Hoof Beats, would indicate. We would not be crippling the sire stakes program.

In the 40 large races in Pennsylvania presently, the average being raced for in those races is $40,000. The additional money being given by this bill will allow those 40 races to race not for $40,000 but for $70,000. At the fairs, the sire stakes moneys are being raced in races for less than $5,000, and they remain less than $5,000 with the distribution of moneys in this bill.

Mr. Speaker, I would ask for an affirmative vote on the amendment that I propose in equity to the horsemen and if you are sincerely interested—sincerely interested—in preserving the integrity, the economic viability of the horse industry in Pennsylvania. Thank you, Mr. Speaker.

ARTICLE SUBMITTED FOR THE RECORD

Mr. MANDERINO submitted the following article for the Legislative Journal:

The changes in depreciation remain the most significant modification. Most business assets received a reduced write off period. The horse breeder also will generally receive a shorter depreciation period, but the owner of a racehorse is left with either the same write off period or a longer one, depending on the age of the horse purchased, and the depreciation method used under prior law. This is a real paradox, for the racing side of the horse industry is the one in the poorer economic health, and the breeding side is the more prosperous. It would seem logical to provide the greater tax relief to the owner of racehorses, but treasury chose the opposite course.

The economic base of the industry is supposed to be the racetrack. In fact, many yearling buyers are more concerned about eventual breeding potential, and the track is only a method of enhancing the value of a future broodmare or stallion. The new tax bill may accelerate this process, removing top performers from the track even earlier, by giving the tax incentives to breeders rather than to owners of racehorses. Such a trend is not in the interest of the breeder either, for there may come a time when the supply overwhelms demand, with a resultant drop in prices paid for yearlings.

Methods of increasing the profitability of racing owners have been debated for many years without arriving at any significant answers. The Reagan tax bill, with its potential for further skewing the economic basis of the industry can pose a serious danger.

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

Mr. COLE. Mr. Speaker, I rise to oppose the amendment.

In my district we have the largest breeding farms not only in the State of Pennsylvania but in the world.

The SPEAKER. Will the gentleman, Mr. Cole, yield?

FILMING PERMISSION GRANTED

The SPEAKER. The members are advised that the Chair has given permission to channel 27 of Harrisburg for 10 minutes of silent filming.

CONSIDERATION OF SB 962 CONTINUED

The SPEAKER. The Chair apologizes to the gentleman, Mr. Cole. The gentleman may proceed.

Mr. COLE. Thank you, Mr. Speaker.

I rise to oppose the amendment, because the breeders whom I am familiar with in the industry have been hurting for many years due to the competition from the surrounding States, such as New York, Ohio, New Jersey, and other States such as Illinois, which have drastically increased their sire stakes race fund. I think this is the reason that the breeders are now leaving the State of Pennsylvania.

Lana Lobell Farms, one of the three largest in the State, has totally moved its operation out of Pennsylvania. Max Hempt over in the Mechanicsburg area, I understand, only has one horse standing in stud now. Hanover Shoe Farms, the largest breeders in the world of standardbreds, has moved over one-third of its operation out of State, to New York and New Jersey, because of the high price that those States contribute to their sire stakes racing funds.

Yes, I am not familiar with all aspects of the racing industry —we all know it is in trouble and we need this bill—but I am familiar with the breeders and the industry, the jobs and the money that they provide to our tax coffers here in Pennsylvania, to the local governments, the school districts, and to State government. So I urge you, keep the bill intact with no amendments and vote "no" on the Manderino amendment.

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

Mr. CALTAGIRONE. Mr. Speaker, I have spent some time studying this problem over the last several months, having met with several representatives of the horsemen in this State, and this is the best possible compromise that we will be able to get from the three vested interests that Mr. Manderino had alluded to. If this amendment is approved, that agreement will break down.

They realize they are having trouble. At Penn National alone, the purse structure over there, above and beyond what the horsemen owe to the track, is well over $700,000.

The racetrack industry in this State is a major factor in the Commonwealth. The Killingsworth Study of 1979 indicated that there are 17,000 to 20,000 jobs, most of them unskilled. This industry is worth over $600 million a year in primary, secondary, and tertiary levels. The issue here is really not a loss of general funds, but can we afford to lose a viable industry which is founded and supported by private risk capital?

I would like to conclude with, would it be better to have an empty gate with empty stalls in our major horse-racing industry, due to the fact that many of the better horses have been leaving the State? I say to you today to defeat this amendment. Leave the bill intact. This is the best possible compromise that the parties could work out. Thank you.

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

Mr. DORR. Mr. Speaker, I will not belabor the House. I want to indicate, however, that the bill before us is a very studied attempt to upgrade the entire racing industry across the board in Pennsylvania. The bill was put together after lengthy meetings among the actual experts in the racing industry, those representatives of all segments of the industry together with governmental representatives, such as the commissions and the Department of Agriculture.

The breakdowns in the bill were agreed to by those people, not simply as a compromise, but as their honest effort at arriving at the proper distribution of funds in order to do the best job that we can with what we have available, to upgrade this industry, ultimately benefiting not only government in Pennsylvania and not only the racing industry in Pennsylvania, but to the extent that our people enjoy this form of sport and recreation, those people as well.

One point in regard to Mr. Manderino's comment that I think ought to be made clear is that what we are dealing with here in terms of the fairs is not the Fair Fund but rather sire stakes racing at the fairs. With that, Mr. Speaker, I would simply urge the members of the House to vote "no" on the Manderino amendments and to vote "yes" on the bill.

The SPEAKER. The Chair recognizes the minority whip.

Mr. MANDERINO. Mr. Speaker, very briefly, I do not disagree with Mr. Cole, who indicates that two of these large breeding farms are in his district and that they have moved their operation to other States. They have indeed moved their operations to other States, and what we intend to do here today is not going to bring that operation back to Pennsylvania. They are in New Jersey and New York because those States, with the Meadowlands at New York and the sports complex there and the large population in metropolitan New York and the large handle at the New York harness tracks and the Meadowlands harness track, allow the sire stakes program to be three times what it is in Pennsylvania. When these people moved out, it was not because they were hurting; it was because there was just a lot more money available for their breeding operations in the two neighboring States. That is where they went and that is where they are going to stay, and there is no way we can compete with that.

We do have a very viable sire stakes program, and I am not saying that we have anything but a viable program, but it can be done with a percent and a half of a handle rather than 1.7 percent of the handle. And the horsemen can be given some relief, and we can keep the industry healthy in Pennsylvania, because the industry in Pennsylvania, when you talk about an industry that is $600 million, Mr. Speaker, or you talk about 17,000 jobs, you are talking about the track; you are talking about the horsemen; you are talking about the grooms; you are talking about the clerks at the track. You are not talking about the breeding operations where you are giving the big bucks here. That is not where the employment is; that is not where the industry is, and if you want to keep this industry healthy, you will take that compromise.

You know, there is a way that people can get a bill through this legislature by sitting down and deciding how the public can be had. There was nobody at that meeting representing the public. There was nobody at that meeting representing anybody but their special interest when the compromise was made.

We passed a similar bill to this over a year ago in this assembly that was vetoed by the Governor because of some of the medication aspects in that bill that had nothing to do with distribution of the funds, and it was our best judgment at that time and it was the racing industry's—all segments of the industry at that time—that a certain distribution would be fair. I am suggesting that we return as nearly as we can to the distribution that was in the first bill. It has been changed, and radically changed, on the eve of an election for Governor in Pennsylvania. I do not know why it has been changed, but I know it has been changed, and I know that the racing industry will be less viable when this bill becomes law if it becomes law without the amendment that I propose. If we are really interested in the racing industry, we would adopt this amendment and go back to the original distribution that was proposed between the three interests in Pennsylvania.

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

Mr. DORR. Mr. Speaker, again very briefly, I would not argue with the gentleman's last comment. If my recollection is correct, and I am going only on recollection here, but my recollection is that the Sire Stakes Fund went up to 2 percent in that bill that was vetoed by the Governor, and furthermore, there was fund difference in the bill, and that provided a portion of the reason for the veto at that time. The numbers are changed.

In regard to the breeding operations in Pennsylvania, I would take issue with the gentleman. In fact, Mr. Speaker, I think we can save the breeding operations in Pennsylvania. The farms are still there. I believe that this bill will help us bring horses back to those farms where horses have been sent away. In the area in which I live, the two premier sires, pacing and trotting, stand in Pennsylvania today. Without this bill, I can guarantee you that they will not be standing there next year. The stud fee on one of those horses is $40,000. That provides a good bit of boost to the economy of Pennsylvania. I do not want to see that horse leave Pennsylvania. In addition to that, I have had conversations with those breeding operations, and the people that run them indicate to me that they will bring horses back if the Sire Stakes Fund is improved in accordance with this bill.

Thirdly, recently two major farm operations were purchased in our area by breeding operations which will bring horses to Pennsylvania, and that was done largely on the assumption that this bill would pass. My suggestion to you is that that will not take place unless the bill passes. Perhaps we would have been better advised to send those people to buy farms in Westmoreland County, but they bought farms in Adams County. I think that we can keep them in Pennsylvania and we can keep this industry here with this bill as unamended, and I again recommend a negative vote on the amendment. Thank you, Mr. Speaker.

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

Mr. STUBAN. Mr. Speaker, I rise here to support the Manderino amendment. We just heard the previous speaker say a $40,000 fee for a stud; we have heard Mr. Manderino say that the horse sale at the farm arena was bringing $35 to $40,000 average for a foal. Now, sure, with that kind of money the breeders are not hurting. If you look at our tracks around Pocono Downs and Wilkes-Barre, there is a track that we possibly will lose if we do not take care of the little guy

who is racing his horses at that track, the little two- and three-horse guy. Our breeders are going to move to New York, they are going to move to New Jersey, because the bucks are there. They are going to race their horses where the money is. They are going to sell their offspring that is not good and cannot compete in those big races to the little guy who is going to race his horses at the Liberty Bell, who is going to race his horses at Pocono Downs, and we had better give a bigger cut to the people who are keeping our industry alive, keeping our tracks alive, and not be so concerned about the breeder. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—67

Belfanti	Gamble	McMonagle	Rybak
Berson	George	Maiale	Seventy
Blaum	Grabowski	Manderino	Showers
Borski	Gruitza	Michlovic	Shupnik
Cawley	Haluska	Miscevich	Steighner
Clark	Horgos	Morris	Stewart
Colafella	Hutchinson, A.	Mullen	Stuban
Cowell	Itkin	Murphy	Swaim
DeMedio	Kowalyshyn	O'Donnell	Sweet
DeWeese	Kukovich	Oliver	Taylor, F. E.
Dawida	Laughlin	Pendleton	Tigue
Dombrowski	Lescovitz	Petrarca	Trello
Donatucci	Letterman	Petrone	Wargo
Duffy	Livengood	Pievsky	Wozniak
Fee	Lloyd	Pratt	Wright, D. R.
Fryer	Lucyk	Rappaport	Zwikl
Gallagher	McIntyre	Rieger	

NAYS—125

Anderson	Durham	Levi	Saurman
Armstrong	Evans	Levin	Serafini
Arty	Fargo	Lewis	Sieminski
Barber	Fischer	McCall	Sirianni
Belardi	Foster, W. W.	McClatchy	Smith, B.
Beloff	Foster, Jr., A.	McVerry	Smith, E. H.
Bittle	Frazier	Mackowski	Smith, L. E.
Bowser	Freind	Madigan	Snyder
Boyes	Gallen	Manmiller	Spencer
Brandt	Gannon	Marmion	Spitz
Brown	Geist	Merry	Stairs
Burd	Gladeck	Micozzie	Stevens
Burns	Greenfield	Miller	Swift
Caltagirone	Greenwood	Moehlmann	Taddonio
Cappabianca	Grieco	Mowery	Taylor, E. Z.
Cessar	Gruppo	Nahill	Telek
Cimini	Hagarty	Noye	Van Horne
Civera	Harper	Olasz	Vroon
Clymer	Hasay	Perzel	Wambach
Cochran	Hayes	Peterson	Wass
Cole	Heiser	Phillips	Wenger
Cordisco	Hoeffel	Piccola	Weston
Cornell	Honaman	Pistella	Wiggins
Coslett	Hutchinson, W.	Pitts	Williams, J. D.
Cunningham	Jackson	Pott	Wilson
DeVerter	Johnson	Punt	Wogan
Daikeler	Kanuck	Rasco	Wright, J. L.
Davies	Kennedy	Reber	Wright, R. C.
Deal	Klingaman	Richardson	
Dietz	Kolter	Ritter	Ryan,
Dininni	Lashinger	Rocks	Speaker
Dorr	Lehr	Salvatore	

NOT VOTING—4

Gray	Mrkonic	Wachob	Williams, H.

EXCUSED—6

Alden	Emerson	Irvis	Pucciarelli
Cohen	Fleck		

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

On the question recurring,
Will the House agree to the bill on third consideration?
Mr. SWEET offered the following amendment No. A4871:

Amend Sec. 222, page 42, line 17, by inserting after "amount"

equal to the greater of $750,000 from each fund or the amount

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

The SPEAKER. The Chair recognizes the gentleman from Washington, Mr. Sweet.

Mr. SWEET. Mr. Speaker, very briefly, this amendment seeks to in effect hold harmless the sewer and water grant funding which is provided to small local governments out of the proceeds of the pool which is created by harness and thoroughbred betting. I believe the amendment is agreed to, and I offer it to the House and ask for an affirmative vote.

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

Mr. DORR. Mr. Speaker, I agree with the gentleman. We perceive it as not changing the numbers in the bill but simply protecting an interest which we are all interested in protecting. I urge an affirmative vote.

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

The following roll call was recorded:

YEAS—194

Anderson	Fee	Lloyd	Rybak
Armstrong	Fischer	Lucyk	Salvatore
Arty	Foster, W. W.	McCall	Saurman
Barber	Foster, Jr., A.	McClatchy	Serafini
Belardi	Frazier	McIntyre	Seventy
Belfanti	Freind	McMonagle	Showers
Beloff	Fryer	McVerry	Shupnik
Berson	Gallagher	Mackowski	Sieminski
Bittle	Gallen	Madigan	Sirianni
Blaum	Gamble	Maiale	Smith, B.
Borski	Gannon	Manderino	Smith, E. H.
Bowser	Geist	Manmiller	Smith, L. E.
Boyes	George	Marmion	Snyder
Brandt	Gladeck	Merry	Spencer
Brown	Grabowski	Michlovic	Spitz
Burd	Greenfield	Micozzie	Stairs
Burns	Greenwood	Miller	Steighner
Caltagirone	Grieco	Miscevich	Stevens
Cappabianca	Gruitza	Moehlmann	Stewart
Cawley	Gruppo	Morris	Stuban
Cessar	Hagarty	Mowery	Swaim
Cimini	Haluska	Mrkonic	Sweet
Civera	Harper	Mullen	Swift
Clark	Hasay	Murphy	Taddonio
Clymer	Hayes	Nahill	Taylor, E. Z.
Cochran	Heiser	Noye	Taylor, F. E.
Colafella	Hoeffel	O'Donnell	Telek
Cole	Honaman	Olasz	Tigue

Cordisco	Horgos	Oliver	Trello
Cornell	Hutchinson, A.	Pendleton	Van Horne
Coslett	Hutchinson, W.	Perzel	Vroon
Cowell	Itkin	Peterson	Wachob
Cunningham	Jackson	Petrarca	Wambach
DeMedio	Johnson	Petrone	Wargo
DeVerter	Kanuck	Phillips	Wass
DeWeese	Kennedy	Piccola	Wenger
Daikeler	Klingaman	Pievsky	Weston
Davies	Kolter	Pistella	Wiggins
Dawida	Kowalyshyn	Pitts	Williams, H.
Deal	Kukovich	Pott	Wilson
Dietz	Lashinger	Pratt	Wogan
Dininni	Laughlin	Punt	Wozniak
Dombrowski	Lehr	Rappaport	Wright, D. R.
Donatucci	Lescovitz	Rasco	Wright, J. L.
Dorr	Letterman	Reber	Wright, R. C.
Duffy	Levi	Richardson	Zwikl
Durham	Levin	Rieger	
Evans	Lewis	Ritter	Ryan,
Fargo	Livengood	Rocks	Speaker

NAYS—0

NOT VOTING—2

Gray	Williams, J. D.

EXCUSED—6

Alden	Emerson	Irvis	Pucciarelli
Cohen	Fleck		

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

On the question,

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

Bill as amended was agreed to.

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

The question is, shall the bill pass finally?

The Chair recognizes the gentleman from Lawrence, Mr. Pratt.

Mr. PRATT. Mr. Speaker, may I interrogate the chairman of the House Appropriations Committee, please? Or any other member of the majority; anyone. How about you, Mr. Speaker?

The SPEAKER. If the gentleman, Mr. Pratt, would tell us the nature of the interrogation, perhaps someone else could answer it.

Mr. PRATT. I wanted to know what the fiscal impact of the lost revenues would mean to the Commonwealth.

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

Mr. DORR. Mr. Speaker, the fiscal note indicates that in the fiscal year 1981-82 there would be a $758,000 revenue loss; in 1982-83 there would be a $4.3-million revenue loss; and in fiscal 1983-84 there would be a $4.5-million revenue loss. Beyond that it comes down slightly.

Mr. PRATT. Thank you, Mr. Speaker.

The SPEAKER. Does the gentleman from Erie, Mr. Dombrowski, care to debate the bill?

Mr. DOMBROWSKI. Just a brief remark.

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

Mr. DOMBROWSKI. Mr. Speaker, I am going to vote against SB 962, and I would like the members of the House to understand why.

In the exotic wagering portion of the bill, it increases the takeout for trifecta racing from 25 percent to 35 percent. Transferred to another figure, that means if a track in any given night runs three trifecta races, they are indeed running one trifecta race for themselves. If you take out a third of each one, that gives them 100 percent of one of the races. I think that is a little too high. I think that nobody is here to protect the bettor. I am interested in the good bettors going back to the track, and I am going to vote in the negative for that reason. Thank you.

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

Mr. ITKIN. Mr. Speaker, I rise to oppose final passage of SB 962. I do that in view of, number one, the revenue loss that will accrue to the Commonwealth. Representative Dorr has stated that the revenue loss will be $4.2 million and in the following year something a little bit higher, and he also failed to include that there will be additional costs to the Commonwealth on this bill, something about a half a million dollars. So as a general ball-park figure, we can look to this bill as costing the Commonwealth $5 million in revenue.

Now, I ask myself at a time with all the budget cuts occurring and the loss of funds from the Federal Government, and with the apparent realization that this administration is going to be faced with a horrendous budget deficit by the end of this fiscal year, how we can in good conscience by our actions promote an additional $5-million loss in revenue. I have tried to get an appreciation for, how bad this business really is, and I have acquired some information as to what the receipts to the Commonwealth have been over the past 3 years to get a gauge as to how depressed this industry really is. What I see is —and I divide it into two categories, and these come directly from the Governor's budget document—that the harness receipts to the Commonwealth, that is our percentage of the handle, in 1979-80 was $5.7 million; in 1980-81 it was $5.5 million; and in 1981-82 it is estimated to be again $5.5 million. I seem to recall that we took some action in this General Assembly a couple of years ago in which we by law reduced our take in certain exotic races in order to promote and provide more money, so that this general decline in our receipts is also part and parcel of a loss of our percentage or reduction in our percentage, and it would indicate to me that harness receipts have not decreased and in fact at least stayed stable or are increasing.

I look at the thoroughbred tracks and I see the receipts from the thoroughbred tracks from 1979-80 being $19.4 million; 1980-81 being $19.3 million; and 1981-82 being $19.3 million. These same arguments apply about reductions of our take from certain other races, and I look at that and I say, well, the revenues and, therefore, the income to the tracks has not decreased; it may not have gone up astronomically, but it is holding in there. So I question at this point in time whether we should take $5 million out of the State's kitty that we vitally need for human services and other programs, give it to

this racing industry, when at least on the surface the facts do not show that they need this type of financial infusion.

Consequently, I think it is a question now of public policy, whether we feel it necessary to take $5 million off the General Fund and the other funds to which these proceeds go and give it back to the horse-racing industry, and I honestly believe that the arguments given here today have not been persuasive. Therefore, I intend to vote against the bill.

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

Mr. McCLATCHY. Mr. Speaker, on the fiscal note, it is an assumption in that fiscal note that things will remain the same. It is our assumption that if the bill produces as it is supposed to produce, there will not be that loss of revenue so projected.

On the question recurring,

Shall the bill pass finally?

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

YEAS—158

Anderson	Fee	McIntyre	Serafini
Armstrong	Foster, W. W.	McMonagle	Seventy
Arty	Foster, Jr., A.	McVerry	Shupnik
Barber	Frazier	Mackowski	Sieminski
Belardi	Freind	Madigan	Sirianni
Beloff	Gallagher	Maiale	Smith, B.
Berson	Gallen	Manderino	Smith, E. H.
Bittle	Gamble	Manmiller	Smith, L. E.
Borski	Gannon	Marmion	Snyder
Bowser	Geist	Merry	Spencer
Boyes	George	Micozzie	Spitz
Brandt	Gladeck	Miller	Stairs
Brown	Grabowski	Moehlmann	Steighner
Burd	Greenfield	Morris	Stevens
Burns	Greenwood	Mowery	Stewart
Caltagirone	Grieco	Mullen	Swaim
Cappabianca	Gruitza	Murphy	Sweet
Cawley	Gruppo	Nahill	Swift
Cessar	Hagarty	Noye	Taylor, E. Z.
Civera	Harper	O'Donnell	Taylor, F. E.
Cochran	Hasay	Olasz	Telek
Colafella	Hoeffel	Oliver	Trello
Cole	Honaman	Pendleton	Van Horne
Cordisco	Hutchinson, A.	Perzel	Wambach
Cornell	Hutchinson, W.	Petrarca	Wargo
Coslett	Jackson	Phillips	Wass
DeMedio	Kanuck	Piccola	Wenger
DeVerter	Kennedy	Pievsky	Weston
DeWeese	Kolter	Pistella	Wiggins
Daikeler	Kukovich	Pott	Williams, J. D.
Davies	Lashinger	Punt	Wilson
Dawida	Laughlin	Rappaport	Wogan
Dietz	Lehr	Rasco	Wozniak
Dininni	Lescovitz	Reber	Wright, D. R.
Donatucci	Letterman	Richardson	Wright, J. L.
Dorr	Levin	Rieger	Wright, R. C.
Duffy	Lewis	Ritter	Zwikl
Durham	Lucyk	Rocks	
Evans	McCall	Salvatore	Ryan,
Fargo	McClatchy	Saurman	Speaker

NAYS—34

Belfanti	Fryer	Levi	Pratt
Blaum	Haluska	Livengood	Rybak
Cimini	Hayes	Lloyd	Showers
Clark	Heiser	Michlovic	Stuban
Clymer	Horgos	Miscevich	Taddonio
Cowell	Itkin	Mrkonic	Tigue
Cunningham	Johnson	Petrone	Vroon
Dombrowski	Klingaman	Pitts	Wachob
Fischer	Kowalyshyn		

NOT VOTING—4

Deal	Gray	Peterson	Williams, H.

EXCUSED—6

Alden	Emerson	Irvis	Pucciarelli
Cohen	Fleck		

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 the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

BILLS AND RESOLUTIONS PASSED OVER

The SPEAKER. Without objection, the balance of the bills on today's calendar will be passed over. The Chair hears no objection.

MOTION TO SUSPEND RULES

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

Mr. RICHARDSON. Yesterday, Mr. Speaker, I rose to my feet to talk about the fact that there are some 600 workers in the Commonwealth of Pennsylvania who have just been laid off by the Department of Public Welfare. Some who were in the Department of Public Welfare's office including Byberry State Hospital, also those who are considered as the county assistance officers, and many custodial and secretarial help of the Department of Welfare were also laid off. There was a suit that was filed in court, and as a result of that suit being filed, there was a temporary restraining order for about a week. Last Friday, Judge Crumlish in Commonwealth Court ruled that those layoffs were legal and at that time allowed those particular layoffs to go into effect.

I have a resolution that I would like to present today, and I would like to have the consent of this House to suspend the rules so that it may be considered immediately, dealing with those layoffs of those persons, and many of those persons affect our legislative districts.

I would like to know whether or not I can at this time do so, Mr. Speaker.

The SPEAKER. The gentleman from Philadelphia, Mr. Richardson, asks that the rules of the House be suspended so that the House may immediately consider a resolution to be introduced by the gentleman.

On the question,

Will the House agree to the motion?

The SPEAKER. The Chair recognizes the majority leader.

Mr. HAYES. Mr. Speaker, the House has labored long and hard yesterday and today. I would certainly hope that we do not have to begin a debate on the hiring practices and the firing practices in the various departments, specifically the

Department of Welfare. I would ask that the rules not be suspended and that this House can adjourn. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman, Mr. Richardson, on the question of suspension of the rules.

Mr. RICHARDSON. Mr. Speaker, I would like to speak directly to the suspension of the rules. It seems to me that we are not getting into the hiring and firing practices of the Commonwealth of Pennsylvania, but what we are concerned with is those persons who have fallen into a situation and may not be able to be in the same category as many of us, being able to celebrate Thanksgiving and the Christmas holidays.

The SPEAKER. Will the gentleman yield.

The question before the House is whether or not the rules of the House will be suspended to permit the consideration of the resolution that you are attempting to speak on. Confine your remarks, please.

POINT OF ORDER

Mr. RICHARDSON. A point of order, Mr. Speaker.

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

Mr. RICHARDSON. It is my understanding that the gentleman, Mr. Hayes, the majority leader, spoke about hiring practices. I thought that was in the same realm of my discussion asking for suspension of the rules, since he brought that up.

The SPEAKER. The gentleman, Mr. Hayes, in the opinion of the Chair, did not discuss the subject matter of the resolution but, rather, simply stated that he did not wish to discuss a resolution which concerned itself with the hiring practices.

The gentleman may proceed.

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

I would like to indicate that it was the Chair's ruling earlier that I asked whether or not I could be recognized in the morning or the afternoon. I certainly do not want to belabor this House either with any long, detailed debate. It seems to me to be a simple question. We suspend the rules of the House of Representatives, vote the resolution to allow us to have the opportunity to have the Governor of the Commonwealth of Pennsylvania, the Public Welfare Department, Helen O'Bannon, and also the Office of Budget and Administration, not invoke the layoffs that are being provoked at this particular time by those three persons. I would think that the people who are concerned with the constituency in their district would be much concerned with this particular resolution. I ask that all of those members support the motion to suspend the rules. This is a vital piece of legislation that is going to reach the heart of each and every one of those State workers who have families, and some of us may one day be in the same position.

The SPEAKER. The question before the House is the motion of the gentleman from Philadelphia, Mr. Richardson, to suspend the House rules.

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—90

Barber	Fee	McCall	Seventy
Belfanti	Fryer	McIntyre	Showers
Beloff	Gallagher	McMonagle	Shupnik
Berson	Gamble	Manderino	Steighner
Blaum	George	Michlovic	Stewart
Borski	Grabowski	Miscevich	Stuban
Brown	Greenfield	Morris	Swaim
Caltagirone	Gruitza	Mrkonic	Sweet
Cappabianca	Haluska	Mullen	Taylor, F. E.
Cawley	Harper	Murphy	Tigue
Clark	Hoeffel	O'Donnell	Trello
Colafella	Horgos	Olasz	Van Horne
Cole	Hutchinson, A.	Oliver	Wachob
Cordisco	Itkin	Pendleton	Wambach
Cowell	Kolter	Petrone	Wargo
DeMedio	Kowalyshyn	Pievsky	Wiggins
DeWeese	Kukovich	Pistella	Williams, H.
Dawida	Lescovitz	Rappaport	Williams, J. D.
Deal	Letterman	Richardson	Wozniak
Dombrowski	Levin	Rieger	Wright, D. R.
Donatucci	Livengood	Ritter	Wright, R. C.
Duffy	Lloyd	Rybak	Zwikl
Evans	Lucyk		

NAYS—100

Anderson	Foster, W. W.	McClatchy	Serafini
Armstrong	Foster, Jr., A.	McVerry	Sieminski
Arty	Frazier	Mackowski	Sirianni
Belardi	Freind	Madigan	Smith, B.
Bittle	Gallen	Manmiller	Smith, E. H.
Bowser	Gannon	Marmion	Smith, L. E.
Boyes	Geist	Merry	Snyder
Brandt	Gladeck	Micozzie	Spencer
Burd	Greenwood	Miller	Spitz
Burns	Grieco	Moehlmann	Stairs
Cessar	Gruppo	Mowery	Stevens
Cimini	Hagarty	Nahill	Swift
Civera	Hasay	Noye	Taddonio
Clymer	Hayes	Perzel	Taylor, E. Z.
Cochran	Heiser	Peterson	Telek
Cornell	Honaman	Phillips	Vroon
Coslett	Hutchinson, W.	Piccola	Wass
Cunningham	Jackson	Pitts	Wenger
Daikeler	Johnson	Pott	Weston
Davies	Kanuck	Punt	Wilson
Dietz	Kennedy	Rasco	Wogan
Dininni	Klingaman	Reber	Wright, J. L.
Dorr	Lashinger	Rocks	
Durham	Lehr	Salvatore	Ryan,
Fargo	Levi	Saurman	Speaker
Fischer	Lewis		

NOT VOTING—6

DeVerter	Laughlin	Petrarca	Pratt
Gray	Maiale		

EXCUSED—6

Alden	Emerson	Irvis	Pucciarelli
Cohen	Fleck		

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

RULE 14 SUSPENDED

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

Mr. WILSON. I move that rule 14 of the House be suspended to permit one of the House committees that will be holding hearings in Pittsburgh, on a day when we will have a token session, to be paid for those hearings.

The SPEAKER. On the question of suspension of the rules for that purpose only, those in favor vote "aye"; opposed, "no."

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

The following roll call was recorded:

YEAS—139

Anderson	Evans	Letterman	Rieger
Armstrong	Fargo	Levi	Rocks
Arty	Fee	Levin	Salvatore
Barber	Foster, Jr., A.	Lewis	Saurman
Belfanti	Frazier	Livengood	Seventy
Beloff	Freind	Lucyk	Showers
Bittle	Gallagher	McClatchy	Sieminski
Borski	Gallen	McIntyre	Sirianni
Bowser	Gamble	Mackowski	Smith, B.
Boyes	Gannon	Madigan	Smith, E. H.
Brandt	Geist	Manmiller	Smith, L. E.
Brown	George	Merry	Snyder
Burd	Gladeck	Micozzie	Spencer
Burns	Greenfield	Miscevich	Spitz
Cappabianca	Greenwood	Mochlmann	Steighner
Cessar	Grieco	Mrkonic	Stewart
Cimini	Gruppo	Mullen	Stuban
Civera	Hagarty	Murphy	Swift
Clark	Harper	Nahill	Taylor, E. Z.
Clymer	Hayes	Noye	Taylor, F. E.
Cochran	Heiser	O'Donnell	Telek
Colafella	Honaman	Olasz	Trello
Cole	Horgos	Oliver	Vroon
Cordisco	Hutchinson, A.	Pendleton	Wambach
Cornell	Hutchinson, W.	Peterson	Wass
Coslett	Itkin	Petrarca	Wenger
DeMedio	Jackson	Petrone	Weston
DeVerter	Johnson	Phillips	Wiggins
DeWeese	Kanuck	Piccola	Williams, H.
Daikeler	Kennedy	Pistella	Wilson
Davies	Klingaman	Pitts	Wright, D. R.
Deal	Kowalyshyn	Pott	Wright, J. L.
Dininni	Lashinger	Punt	
Dombrowski	Laughlin	Rappaport	Ryan,
Dorr	Lehr	Reber	Speaker
Duffy			

NAYS—50

Belardi	Fryer	Michlovic	Stairs
Berson	Gruitza	Miller	Stevens
Blaum	Haluska	Morris	Swaim
Caltagirone	Hasay	Mowery	Sweet
Cawley	Hoeffel	Perzel	Tigue
Cowell	Kolter	Pievsky	Van Horne
Cunningham	Kukovich	Rasco	Wachob
Dawida	Lescovitz	Richardson	Wargo
Dietz	Lloyd	Ritter	Wogan
Donatucci	McCall	Rybak	Wozniak
Durham	McVerry	Serafini	Wright, R. C.
Fischer	Manderino	Shupnik	Zwikl
Foster, W. W.	Marmion		

NOT VOTING—7

Grabowski	McMonagle	Pratt	Williams, J. D.
Gray	Maiale	Taddonio	

EXCUSED—6

Alden	Emerson	Irvis	Pucciarelli
Cohen	Fleck		

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

The SPEAKER. The majority required for the suspension of the rules having voted in the affirmative, rule 14 is suspended to permit the payment as aforesaid.

BILLS REPORTED FROM COMMITTEES, CONSIDERED FIRST TIME, AND TABLED

HB 948, PN 1035 By Rep. SPENCER

An Act amending Title 24 (Education) of the Pennsylvania Consolidated Statutes, adding provisions relating to incorporated institutions.

JUDICIARY.

HB 950, PN 2588 (Amended)

By Rep. SPENCER

An Act amending Titles 54 (Names) of the Pennsylvania Consolidated Statutes, adding revised, codified and compiled provisions relating to names and marks and making conforming and related amendments to 15 (Corporations and Unincorporated Associations) and 18 (Crimes and Offenses) and separately enacting certain related provisions of law.

JUDICIARY.

HB 983, PN 2589 (Amended)

By Rep. SPENCER

An Act making corrections and revisions to the Pennsylvania Consolidated Statutes by amending Titles 1 (General Provisions), 2 (Administrative Law and Procedure), 9 (Burial Grounds) and 45 (Legal Notices) of the Pennsylvania Consolidated Statutes making editorial and conforming changes, transferring certain provisions of existing law to the Pennsylvania Consolidated Statutes and repealing certain obsolete acts and parts of acts.

JUDICIARY.

HB 1789, PN 2587 (Amended)

By Rep. SPENCER

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for adoption.

JUDICIARY.

HB 2036, PN 2586 (Amended)

By Rep. L. E. SMITH

An Act amending the "Secondary Mortgage Loan Act," approved December 12, 1980 (P. L. 1179, No. 219), changing the maximum rate of interest permitted to be charged by licensees.

BUSINESS AND COMMERCE.

SB 306, PN 1496 (Amended)

By Rep. L. E. SMITH

An Act amending the act of October 28, 1966 (1st Sp. Sess., P. L. 55, No. 7), entitled "Goods and Services Installment Sales Act," further providing for the contents of contracts, for a certain notice of claims or defenses, for judgments, for service charges and certain fees and eliminnating the duty of the Department of Banking to supply rate charts to retail sellers and finance agencies.

BUSINESS AND COMMERCE.

ANNOUNCEMENT BY SPEAKER

The SPEAKER. For the information of the House, the adjournment resolution, when it is adopted, will adjourn the House until Tuesday, December 1, which will be a token session day. It is necessary for the House to come back in on that day because of the concurrent resolution adopted with the Senate in connection with the adjournment motion. The House will be back in active session on December 7 at 1 o'clock.

MOTION INSISTING UPON AMENDMENTS

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

Mr. DORR. Mr. Speaker, I move that the House insist upon its amendments nonconcurred in by the Senate to SB 277, and that a committee of conference be appointed on the part of the House.

On the question,

Will the House agree to the motion?

Motion was agreed to.

APPOINTMENT OF COMMITTEE OF CONFERENCE

The SPEAKER. The Chair appoints as a committee of conference on the part of the House on SB 277:

Messrs. LEHR, DORR and PRATT.

Ordered, That the clerk inform the Senate accordingly.

ADDITIONS AND DELETIONS OF SPONSORS

The SPEAKER. The Chair recognizes the majority leader.

Mr. HAYES. Mr. Speaker, I would like to submit the list of additions and deletions of sponsors of bills.

ADDITIONS:

HB 327, Fee; HB 1197, Greenwood; HB 1414, Greenwood; HB 1744, Johnson; HB 1789, Gallagher, Cordisco; HB 1867, Perzel; HB 2039, Stairs, Beloff, Haluska; HB 2040, Stairs, Beloff, Haluska; HB 2051, Perzel; HB 2052, Perzel; HB 2053, Perzel; HB 2071, Swaim.

DELETIONS:

HB 1483, Gladeck; HB 1527, Clark; HB 1889, Oliver.

STATEMENT BY MR. RICHARDSON

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

Mr. RICHARDSON. Before the House adjourns, Mr. Speaker, I would like to be recognized.

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

Mr. RICHARDSON. I said, Mr. Speaker, I would like to be recognized before this House adjourns.

The SPEAKER. The Chair is attempting to do that.

The Chair is asking the gentleman the purpose of being recognized. Does the gentleman desire unanimous consent to make a statement?

Mr. RICHARDSON. Yes. I would like to be recognized so I can have unanimous consent to make a statement, Mr. Speaker, before the House adjourns.

The SPEAKER. The Chair hears no objection. The gentleman may proceed.

Mr. RICHARDSON. Mr. Speaker, I attempted earlier to rise to this floor to bring to the attention of the members of this House that there were a number of persons in this Commonwealth who have been laid off. It seems to me that in the wisdom of this House, it was not the desire to deal with any of those specific matters that deal with those persons who happen to fall in the less fortunate category.

I would just want to at this time indicate for the record that maybe some of those persons who were not recognized today because of the fact that everyone else had another agenda in mind did not realize that this same ghost may come back to haunt them one day sooner or later. But those persons who were laid off are persons who actively wanted to go to work, have been actively in work from 10 to 15 years on their particular job, and are now going to be forced out of work, being told that they will now have to receive unemployment for 26 weeks and then, after that 26 weeks is used up, fall right back into the same category that they were in some 10 to 15 years ago, and that is placed on welfare.

If we are ever to clean up the welfare rolls in the Commonwealth and if we are ever to take some positions dealing with those specific problems, then it seems to me that this House of Representatives should be addressing those particular problems when it comes down to the so-called truly needy people. Those truly needy people are constantly being abjected by those members of this House who refuse to even listen to the arguments that are set forth on a daily basis. How can you tell people to go out and get an honest living so you can take care of your family and work when they are being denied that process when this House of Representatives has a responsibility, a distinct responsibility, of passing a Federal augmentation bill prior to anybody laying off anybody in this Commonwealth? We have violated the law. There is recorded history and precedent set already to deal specifically with that court order, and now that we have violated it, I think that it is clear that the members of this House just do not care about those employees who work for the Department of Public Welfare. Already there is a slowdown in the work caseload of the number of persons who have to be constantly processed on a daily basis; new applicants are being applied for every day. We at this point in the Commonwealth of Pennsylvania are at 16 percent unemployment. The unemployment rate continues to rise while we do not even care at all about the fact that these persons have been there for a number of years.

I would like to say in closing that this is an issue that I feel cannot just be swept under the carpet without any consideration at all given to those persons who are less fortunate. It is clear that the Commonwealth as well as the country are divid-

ing this country into two parts, those who have and those who do not. Those who have get everything and those who do not have anything get less, and it seems to me that if you are clear on trying to clean up the problem of unemployment, this is not the way to answer it.

The Federal augmentation bill has not been passed by this House of Representatives. We have been bugged by the executive branch of government, which has decided that they are just arbitrarily going to make some decision about what layoffs are going to come down the pike even before we invoke our own responsibility as the legislative branch of government. It is wrong; it is unconstitutional, and I think it is clear that the members of this House do not care about that.

I wanted the record to be clear that we made some attempt in this Commonwealth to stand up for 600 State workers who were arbitrarily just laid off because the Secretary of Welfare, the Governor, and the budget officer of the administration decided that they did not even care about the law but they were just going to invoke some layoffs so that they could make their coffers look better, and I think that is a wrong attitude to have, particularly when you have people who are falling right in the category of the so-called holiday season, the Thanksgiving holiday and the Christmas holiday, that these persons are going to be out of work and are not going to be able to celebrate the holidays as well as everyone else here.

ADJOURNMENT

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

Mr. PETRONE. Thank you, Mr. Speaker.

I move that this House do now adjourn until Tuesday, December 1, 1981, at 1 p.m., e.s.t., and may I add, Mr. Speaker, since you and I are the only two left, happy and peaceful Thanksgiving to you.

The SPEAKER. The Chair thanks the gentleman and extends to him the best of the holidays.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 6:52 p.m., e.s.t., the House adjourned.