

COMMONWEALTH OF PENNSYLVANIA

Legislative Journal

WEDNESDAY, DECEMBER 9, 1981

SESSION OF 1981

165TH OF THE GENERAL ASSEMBLY

No. 78

HOUSE OF REPRESENTATIVES

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

THE SPEAKER (MATTHEW J. RYAN) IN THE CHAIR

PRAYER

REV. TAYLOR POTTER, chaplain of the House of Representatives and pastor of the Market Square Presbyterian Church, Harrisburg, Pennsylvania, offered the following prayer:

Let us pray:

Gracious God, the tasks ahead often seem heavy. Sometimes we tire under those loads of responsibility. Nevertheless, help us not to take our duties lightly. Give us the resolve and the strength to carry them to their proper conclusions. Quiet our hearts, O God, and fill us not with a sense of power but with humility as we decide matters that affect the lives of others. Amen.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was enunciated by members.)

JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, approval of the Journal of Tuesday, December 8, 1981, will be postponed until printed. The Chair hears no objection.

HOUSE BILLS INTRODUCED AND REFERRED

No. 2112 By Representatives POTT, MARMION, FLECK, McVERRY and BURD

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

Referred to Committee on FINANCE, December 8, 1981.

No. 2113 By Representatives POTT, PENDLETON, NOYE, PISTELLA, BELFANTI, PETRONE, TRELLO, MRKONIC, RASCO, CIMINI, PETRARCA, KOWALYSHYN, GREENWOOD, ITKIN, TELEK, RITTER, PRATT, CAWLEY, SWAIM, ZWIKL, JOHNSON, HALUSKA, McINTYRE,

SNYDER, BOYES, BURD, MARMION, WESTON, PUNT, MERRY, MORRIS, E. Z. TAYLOR, SALVATORE, FLECK and McVERRY

An Act amending the "Tax Reform Code of 1971," approved March 4, 1971 (P. L. 6, No. 2), further defining "compensation" and adding a definition of "nursing home."

Referred to Committee on FINANCE, December 8, 1981.

No. 2114 By Representatives DeVERTER, B. SMITH, PETERSON, MARMION, KOWALYSHYN, GANNON, GRUPPO, MICHLOVIC, MADIGAN, NAHILL, BORSKI, RYBAK, GRAY, RASCO, MURPHY and SWEET

An Act relating to group life insurance; describing permitted policies and restrictions thereon and prescribing standard policy provisions.

Referred to Committee on INSURANCE, December 8, 1981.

No. 2115 By Representatives HASAY, FISCHER and WILSON

An Act amending the "Public School Code of 1949," approved March 10, 1949 (P. L. 30, No. 14), further providing for exemption from the per capita tax.

Referred to Committee on EDUCATION, December 8, 1981.

No. 2116 By Representatives HASAY, FISCHER and WILSON

An Act amending "The Local Tax Enabling Act," approved December 31, 1965 (P. L. 1257, No. 511), increasing the exemption from certain taxes.

Referred to Committee on LOCAL GOVERNMENT, December 8, 1981.

No. 2117 By Representatives TELEK, ARMSTRONG, OLASZ, SEVENTY, MICHLOVIC, PETRONE, PERZEL, WOGAN, WESTON, STEWART, RYBAK, WOZNIAK, HALUSKA and COCHRAN

An Act authorizing creation of a regional police district in certain counties, providing for its jurisdiction, giving taxing powers to the police district and providing for the governing of the district.

Referred to Committee on LOCAL GOVERNMENT, December 8, 1981.

**No. 2118** By Representatives TELEK, SEVENTY, OLASZ, MARMION, PERZEL, WOGAN, WESTON, FRAZIER, WOZNIAK and STEWART

An Act providing for the collection of certain local taxes by counties; abolishing certain offices; and making repeals.

Referred to Committee on LOCAL GOVERNMENT, December 8, 1981.

**No. 2119** By Representatives RYBAK, KOWALYSHYN, ZWIKL, GALLAGHER, DeVERTER, WAMBACH, BROWN, TELEK, BURNS, A. C. FOSTER, JR., PUNT, STEWART, RIEGER, DONATUCCI, SWAIM and WESTON

An Act amending the "Pennsylvania Election Code," approved June 3, 1937 (P. L. 1333, No. 320), further providing for the appointment of watchers and their powers.

Referred to Committee on STATE GOVERNMENT, December 8, 1981.

### LEAVES OF ABSENCE GRANTED

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

Mr. CESSAR. Thank you, Mr. Speaker.

I request a leave for the gentleman from Montgomery, Mr. NAHILL, for today's session, and also the gentleman from Schuylkill, Mr. HUTCHINSON, for today's session.

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

It is the understanding from the minority whip that there are no requests for leaves of absence.

### CALENDAR

#### BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 182, PN 1691**, entitled:

An Act amending the "Tax Reform Code of 1971," approved March 4, 1971 (P. L. 6, No. 2), further providing for the revocation of sales tax licenses by the department.

On the question,

Will the House agree to the bill on second consideration?

#### BILL TABLED

The SPEAKER. The Chair recognizes the majority leader. Mr. HAYES. Mr. Speaker, I move that HB 182 be placed upon the table.

On the question,

Will the House agree to the motion?

Motion was agreed to.

#### 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:

**SB 592, PN 1026; HB 2036, PN 2586; and SB 306, PN 1496.**

#### BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 846, PN 2236**, entitled:

An Act relating to the control of vegetation within the right-of-way of highways; providing for applications, inspections and permits; and fixing penalties.

On the question,

Will the House agree to the bill on third consideration?

#### BILL TABLED

The SPEAKER. The Chair recognizes the majority leader. Mr. HAYES. Mr. Speaker, I move that HB 846 be placed upon the table.

On the question,

Will the House agree to the motion?

Motion was agreed to.

\* \* \*

The House proceeded to third consideration of **HB 1689, PN 2360**, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, requiring the carrying and exhibition of an insurance identification card by certain persons.

On the question,

Will the House agree to the bill on third consideration?

#### BILL TABLED

The SPEAKER. The Chair recognizes the majority leader. Mr. HAYES. Mr. Speaker, I move that HB 1689 be placed upon the table.

On the question,

Will the House agree to the motion?

Motion was agreed to.

#### MASTER ROLL CALL RECORDED

The SPEAKER. The Chair is about to take up today's master roll call. Members please take their seats. Members will proceed to vote on the master roll call.

The following roll call was recorded:

#### PRESENT—193

Alden	Fargo	Livengood	Salvatore
Anderson	Fee	Lloyd	Saurman
Armstrong	Fischer	Lucyk	Serafini
Arty	Fleck	McCall	Seventy

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

**ADDITIONS—2**

DeMedio      Greenfield

**NOT VOTING—0**

**EXCUSED—7**

Daikeler      Irvis      Pievsky      Wachob  
Hutchinson, W.      Nahill      Pucciarelli

**LEAVE ADDED—1**

Wilson

**FILMING PERMISSION GRANTED**

The SPEAKER. The Chair advises the membership that it has given permission to WPVI, channel 6, Philadelphia, to do 10 minutes of silent filming.

**BILLS ON THIRD CONSIDERATION CONTINUED**

The House proceeded to third consideration of **HB 1741, PN 2361**, entitled:

An Act amending "The Administrative Code of 1929," approved April 9, 1929 (P. L. 177, No. 175), providing for a Deputy Secretary for Aviation within the Department of Transportation and making editorial changes.

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.

(A roll-call vote was taken.)

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

Mr. A. K. HUTCHINSON. Mr. Speaker, for your information, there are a couple of committees having meetings, and this is why some of the people are not here to vote.

The SPEAKER. The Chair thanks the gentleman.

**MEMBER'S PRESENCE RECORDED**

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

**VOTE RETAKEN ON HB 1741**

The SPEAKER. A review of the voting record on that last vote would seem to indicate that there has been a malfunction. I am going to ask that that roll call be stricken and that the vote be taken again.

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—104**

Anderson	Freind	McCall	Salvatore
Arty	Gallen	McClatchy	Seventy
Barber	Gamble	McIntyre	Showers
Beloff	Gannon	McVerry	Shupnik
Bittle	Geist	Mackowski	Sieminski
Bowser	George	Madigan	Sirianni
Burd	Gladeck	Manmiller	Smith, E. H.
Burns	Grabowski	Merry	Snyder
Caltagirone	Gray	Micozzie	Spencer
Cessar	Greenwood	Miller	Steighner
Cimini	Grieco	Mowery	Swaim
Civera	Gruppo	Noye	Taylor, E. Z.
Clymer	Hagarty	Olasz	Taylor, F. E.
Cordisco	Harper	Pendleton	Vroon
Cornell	Hayes	Peterson	Wass
Coslett	Hutchinson, A.	Petrarca	Weston
DeVerter	Itkin	Phillips	Wiggins
Davies	Jackson	Piccola	Williams, J. D.
Dietz	Johnson	Pistella	Wilson
Dininni	Kennedy	Pott	Wogan
Donatucci	Kolter	Punt	Wright, J. L.
Dorr	Kowalyshyn	Rasco	Wright, R. C.
Durham	Lashinger	Reber	Zwinkl
Evans	Lehr	Richardson	
Fargo	Letterman	Rocks	Ryan,
Foster, W. W.	Levin	Rybak	Speaker

Foster, Jr., A. Livengood

NAYS—87

Alden	Dombrowski	Lloyd	Serafini
Armstrong	Duffy	Lucyk	Smith, B.
Belardi	Emerson	McMonagle	Smith, L. E.
Belfanti	Fee	Maiale	Spitz
Berson	Fischer	Manderino	Stairs
Blaum	Fleck	Marmion	Stevens
Borski	Frazier	Michlovic	Stewart
Boyes	Fryer	Miscevich	Stuban
Brandt	Gallagher	Mochlmann	Sweet
Brown	Gruitza	Morris	Swift
Cappabianca	Haluska	Mrkonc	Taddonio
Cawley	Hasay	Mullen	Telek
Clark	Heiser	Murphy	Tigue
Cochran	Hoeffel	O'Donnell	Trello
Colafella	Honaman	Oliver	Van Horne
Cole	Horgos	Perzel	Wambach
Cowell	Kanuck	Petrone	Wargo
Cunningham	Klingaman	Pitts	Wenger
DeMedio	Kukovich	Pratt	Williams, H.
DeWeese	Laughlin	Rieger	Wozniak
Dawida	Lescovitz	Ritter	Wright, D. R.
Deal	Levi	Saurman	

NOT VOTING—4

Cohen Greenfield Lewis Rappaport

EXCUSED—7

Daikeler Irvis Pievsky Wachob  
Hutchinson, W. Nahill Pucciarelli

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

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

\* \* \*

The House proceeded to third consideration of **HB 1997**, **PN 2442**, entitled:

An Act amending the act of June 20, 1947 (P. L. 733, No. 319), entitled, as amended, "An act to provide revenue in school districts of the first class A by imposing a temporary tax upon certain classes of personal property; \*\*\*\*" further providing for the interest rate on delinquent taxes.

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—180

Alden	Foster, W. W.	Lucyk	Serafini
Anderson	Foster, Jr., A.	McCall	Seventy
Armstrong	Frazier	McClatchy	Showers
Arty	Freind	McIntyre	Shupnik
Barber	Fryer	McMonagle	Sieminski
Belardi	Gallagher	Mackowski	Sirianni
Belfanti	Gallen	Madigan	Smith, B.
Beloff	Gamble	Maiale	Smith, E. H.
Berson	Gannon	Manderino	Smith, L. E.
Bittle	Geist	Manmiller	Snyder
Borski	Gladeck	Marmion	Spencer
Bowser	Grabowski	Merry	Spitz
Boyes	Gray	Michlovic	Stairs

Brandt	Greenwood	Micozzie	Steighner
Brown	Grieco	Miller	Stevens
Burd	Gruitza	Miscevich	Stewart
Burns	Gruppo	Moehlmann	Stuban
Caltagirone	Hagarty	Morris	Swaim
Cappabianca	Haluska	Mowery	Sweet
Cessar	Harper	Mrkonc	Swift
Cimini	Hasay	Mullen	Taddonio
Civera	Hayes	Murphy	Taylor, E. Z.
Clark	Heiser	Noye	Taylor, F. E.
Clymer	Hoeffel	O'Donnell	Telek
Cochran	Honaman	Olaz	Tigue
Colafella	Horgos	Oliver	Trello
Cole	Hutchinson, A.	Pendleton	Vroon
Cordisco	Itkin	Perzel	Wambach
Cornell	Jackson	Peterson	Wargo
Coslett	Johnson	Petrarca	Wass
Cowell	Kanuck	Petrone	Wenger
Cunningham	Kennedy	Phillips	Weston
DeVerter	Klingaman	Piccola	Wiggins
DeWeese	Kolter	Pistella	Williams, H.
Davies	Kowalshyn	Pitts	Williams, J. D.
Dawida	Kukovich	Pott	Wilson
Dietz	Lashinger	Punt	Wogan
Dininni	Laughlin	Rasco	Wozniak
Dombrowski	Lehr	Reber	Wright, D. R.
Donatucci	Lescovitz	Rieger	Wright, J. L.
Dorr	Letterman	Ritter	Wright, R. C.
Durham	Levi	Rocks	Zwinkl
Evans	Levin	Rybak	
Fargo	Lewis	Salvatore	Ryan,
Fischer	Livengood	Saurman	Speaker
Fleck	Lloyd		

NAYS—8

Blaum DeMedio George Pratt  
Cawley Fee McVerry Van Horne

NOT VOTING—7

Cohen Duffy Greenfield Richardson  
Deal Emerson Rappaport

EXCUSED—7

Daikeler Irvis Pievsky Wachob  
Hutchinson, W. Nahill Pucciarelli

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.

MEMBER'S 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.

BILLS ON THIRD CONSIDERATION CONTINUED

The House proceeded to third consideration of **HB 1998**, **PN 2443**, entitled:

An Act amending the act of June 10, 1947 (P. L. 745, No. 320), entitled "An act to provide revenue for school districts of the first class by imposing a temporary mercantile license tax on persons engaging in certain occupations and businesses therein;\*\*\*\* and imposing penalties," editorially revising the act and further providing for the interest rate on delinquent taxes.

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—179

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

NAYS—13

Alden	Fee	Klingaman	Pratt
Blaum	George	Lewis	Spitz
Cawley	Hasay	McVerry	Stevens
DeMedio			

NOT VOTING—3

Cohen	Wass	Wogan
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EXCUSED—7

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	

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

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

\* \* \*

The House proceeded to third consideration of **HB 1999, PN 2444**, entitled:

An Act amending the act of August 24, 1961 (P. L. 1135, No. 508), entitled "An act imposing a tax for general public school purposes in school districts of the first class A on salaries, wages, commissions and other compensation earned by residents thereof, \*\*\*; providing for the administration and enforcement of the act and imposing penalties for violation thereof," further providing for the withholding procedure by employers of taxes and increasing the interest and penalties assessed for late payments.

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—182

Anderson	Fischer	Lucyk	Saurman
Armstrong	Fleck	McCall	Serafini
Arty	Foster, W. W.	McClatchy	Seventy
Barber	Foster, Jr., A.	McIntyre	Showers
Belardi	Frazier	McMonagle	Shupnik
Belfanti	Freind	Mackowski	Sieminski
Beloff	Fryer	Madigan	Sirianni
Berson	Gallagher	Maiale	Smith, B.
Bittle	Gallen	Manderino	Smith, E. H.
Borski	Gamble	Manmiller	Smith, L. E.
Bowser	Gannon	Marmion	Snyder
Boyes	Gladeck	Merry	Spencer
Brandt	Grabowski	Michlovic	Spitz
Brown	Gray	Micozzie	Stairs
Burd	Greenfield	Miller	Steighner
Burns	Greenwood	Miscevich	Stewart
Caltagirone	Grieco	Moehlmann	Stuban
Cappabianca	Gruitza	Morris	Swaim
Cessar	Gruppo	Mowery	Sweet
Cimini	Hagarty	Mrkonic	Swift
Civera	Haluska	Mullen	Taddonio
Clark	Harper	Murphy	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	Itkin	Peterson	Wambach
Cowell	Jackson	Petrarca	Wargo
DeMedio	Johnson	Petrone	Wass
DeVerter	Kanuck	Phillips	Wenger
DeWeese	Kennedy	Piccola	Weston
Davies	Klingaman	Pistella	Wiggins
Dawida	Kolter	Pitts	Williams, H.
Deal	Kowalyszyn	Pott	Williams, J. D.
Dietz	Kukovich	Punt	Wilson
Dininni	Lashingner	Rappaport	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
Emerson	Levin	Rocks	
Evans	Livengood	Rybak	Ryan,
Fargo	Lloyd	Salvatore	Speaker

NAYS—11

Alden	Cunningham	Hasay	Pratt
Blaum	Fee	Lewis	Stevens
Cawley	George	McVerry	

NOT VOTING—2

Cohen	Geist
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EXCUSED—7

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	

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

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

\* \* \*

The House proceeded to third consideration of **HB 1079, PN 2355**, entitled:

An Act regulating self-service storage and providing for owners' liens and the enforcement thereof.

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

**BILL TABLED**

The SPEAKER. The Chair recognizes the majority leader.  
Mr. HAYES. Mr. Speaker, I move that **HB 1079** be placed upon the table.

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

\* \* \*

The House proceeded to third consideration of **HB 1875, PN 2584**, entitled:

An Act providing for the adoption of additional capital projects to be financed from current revenues of the Game Fund.

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—191

Alden	Fargo	Lewis	Rybak
Anderson	Fee	Livengood	Salvatore
Armstrong	Fischer	Lloyd	Saurman
Arty	Fleck	Lucyk	Serafini
Barber	Foster, W. W.	McCall	Seventy
Belardi	Foster, Jr., A.	McClatchy	Showers
Belfanti	Frazier	McIntyre	Shupnik
Beloff	Freind	McMonagle	Sieminski
Berson	Fryer	McVerry	Sirianni
Bittle	Gallagher	Mackowski	Smith, B.
Blaum	Gallen	Madigan	Smith, E. H.
Borski	Gamble	Maiale	Smith, L. E.
Bowser	Gannon	Manderino	Snyder

Boyes	George	Manmiller	Spencer
Brandt	Gladeck	Marmion	Spitz
Brown	Grabowski	Merry	Stairs
Burd	Gray	Michlovic	Steighner
Burns	Greenfield	Micozzie	Stevens
Caltagirone	Greenwood	Miller	Stewart
Cappabianca	Grieco	Miscevich	Stuban
Cawley	Gruitza	Moehlmann	Sweet
Cessar	Gruppo	Morris	Swift
Cimini	Hagarty	Mowery	Taddonio
Civera	Haluska	Mrkonic	Taylor, E. Z.
Clark	Harper	Mullen	Taylor, F. E.
Clymer	Hasay	Murphy	Telek
Cochran	Hayes	Noye	Tigue
Colafella	Heiser	O'Donnell	Trello
Cole	Hoeffel	Olasz	Van Horne
Cordisco	Honaman	Oliver	Vroon
Cornell	Horgos	Pendleton	Wambach
Coslett	Hutchinson, A.	Perzel	Wargo
Cowell	Itkin	Peterson	Wass
Cunningham	Jackson	Petrarca	Wenger
DeMedio	Johnson	Petrone	Weston
DeVerter	Kanuck	Phillips	Wiggins
DeWeese	Kennedy	Piccola	Williams, H.
Davies	Klingaman	Pistella	Williams, J. D.
Dawida	Kolter	Pitts	Wilson
Deal	Kowalshyn	Pratt	Wogan
Dietz	Kukovich	Punt	Wozniak
Dininni	Lashinger	Rappaport	Wright, D. R.
Dombrowski	Laughlin	Rasco	Wright, J. L.
Donatucci	Lehr	Reber	Wright, R. C.
Dorr	Lescovitz	Richardson	Zwinkl
Duffy	Letterman	Rieger	
Durham	Levi	Ritter	Ryan,
Emerson	Levin	Rocks	Speaker
Evans			

NAYS—1

Pott

NOT VOTING—3

Cohen	Geist	Swaim
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EXCUSED—7

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	

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

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

**REMARKS ON VOTES**

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

Mr. DUFFY. Mr. Speaker, I would like to be recorded as a "yes" vote on **HB 1997, PN 2442**.

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

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

Mrs. LEWIS. I was out of my seat on **HB 1741**; I would like a negative vote on that. And I was recorded on **HB 1997 "yes"**; I would prefer a negative vote. Thank you.

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

### BILL ON THIRD CONSIDERATION POSTPONED

The House proceeded to **SB 742, PN 1132**, on third consideration postponed, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing that certain competition between individuals and the promotion of such competition be unlawful and providing penalties.

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

The **SPEAKER**. This bill is now before the House on third consideration, with the question of the Freind amendment A4911 before the House, as amended.

For the purpose of clarifying the record, the House suspended its rules yesterday as it pertains to rule 27 on this subject of SB 742, which will permit amendments to amendment A4911 offered by the gentleman from Delaware, Mr. Freind.

### REMARKS ON VOTE

The **SPEAKER**. The Chair recognizes the gentleman from Indiana, Mr. Wass. For what purpose does the gentleman rise?

Mr. **WASS**. Mr. Speaker, on HB 1998 my vote was not recorded. I wish to be voted in the affirmative.

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

### CONSIDERATION OF SB 742 CONTINUED

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. **RASCO** offered the following amendment No. A5110 to amendments No. A4911:

Amend amendment, page 3, line 35, by striking out "or extracted"

On the question,

Will the House agree to the amendment No. A5110 to amendments No. A4911?

The **SPEAKER**. The Chair recognizes the gentleman from Allegheny, Mr. Rasco.

Mr. **RASCO**. Mr. Speaker, in this definition of "born alive" in the amendment, I would like to read this definition.

When used with regard to a human being, means that that human being was completely expelled or extracted from her or his mother, and after such separation breathed or showed evidence of any of the following: beating of the heart, pulsation of the umbilical cord, definite movement of voluntary muscles or any brain-wave activity.

In my amendment, what I want to do is take out "or extracted." Extracted could mean aborted. Now, if we look at this as an aborted fetus, and with the sophisticated equipment

that we have today, as I understand it, the beating of the heart can be picked up within 6 to 8 weeks.

Now, the reason I object to this particular term "or extracted" is that after an abortion, with some of this sophisticated equipment, within that term of 6 to 8 weeks, you could pick up the beating of a heart. Now, as I understand, born alive to me would mean a child who was expelled from a woman's body in a normal birth. Now, if you can have a child aborted within 6 to 8 weeks and pick up a beating of a heart by sophisticated equipment, that could be classified as "born alive." To me, born alive means that a fetus or child can live outside the woman's body on its own, without equipment or other means to keep that fetus alive. For that reason I would appreciate an affirmative vote on my amendment. Thank you.

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

Mr. **FREIND**. Thank you, Mr. Speaker.

For the convenience of the members, in your packet, this amendment is page 7 in your packet.

Mr. Speaker, I rise to oppose this amendment, because it would undo what we consider to be the major provision of this bill, and that is, when there is an abortion performed, when there is a possibility the baby might survive the abortion, that all steps be taken to save the life of that child who is now a human being outside of his mother.

One method of abortion is a premature Caesarean section, in which case the baby is extracted from the mother. Clearly, if the baby once extracted from the mother is alive, all steps must be taken to save that child's life, because again, as we said yesterday, we are no longer talking about abortion then; we are talking about a live human being. This would emasculate the major provision of the bill, and I would ask for your opposition to the amendment. Thank you, Mr. Speaker.

The **SPEAKER**. The Chair recognizes, for the second time on the subject, the gentleman from Allegheny, Mr. Rasco.

Mr. **RASCO**. Mr. Speaker, I understand Representative Freind's definition. I know when you say "extracted," you could also refer to Caesarean births and these types, but every abortion, as I would understand it, is an extraction from the woman. Now, this could be extracted, and after that fetus is aborted, you could use equipment that is sophisticated, and that fetus could be classified as "born alive." I object to this particular term of being "extracted" in this particular definition of "born alive," and I would ask for an affirmative vote on the amendment. Thank you.

The **SPEAKER**. The Chair recognizes the gentleman from Bucks, Mr. Clymer.

Mr. **CLYMER**. Thank you, Mr. Speaker.

I want to support Representative Freind in his comments regarding the word "extracted" and how it would impact on a Caesarean.

Having worked in a hospital for 13 years, I can see, if this amendment were to be enacted, the great problems and difficulties we would have. So I would ask the members of the House to vote against this amendment. Thank you, Mr. Speaker.

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

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

I likewise rise to ask opposition to the amendment. Whatever our individual feelings on the bill and whatever our individual feelings on the matter of abortion, I do not think there is any question about the right of survival of a child born alive. I ask that we reject the amendment.

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

Mr. PISTELLA. Mr. Speaker, would the gentleman, Mr. Rasco, please stand for brief interrogation?

The SPEAKER. The gentleman, Mr. Rasco, indicates he will stand for interrogation. The gentleman, Mr. Pistella, may begin.

Mr. PISTELLA. Mr. Speaker, I am asking this question out of my own ignorance in regard to gestation. Would your amendment in the portion of the amendment that you are amending deal with the situation regarding a miscarriage?

Mr. RASCO. Mr. Speaker, you say "miscarriage." The way I understand this as being born alive, if you had a miscarriage and someone wanted to use the sophisticated means they have today on that fetus and they could pick up a heartbeat, they would call that born alive. That would be born alive for that fetus, whether it is a miscarriage or other means.

Mr. PISTELLA. Mr. Speaker, am I correct in understanding then that your amendment does not deal with the question of a miscarriage from a technical, medical standpoint?

Mr. RASCO. Technical and medical, what you are saying, no. A miscarriage would not be extracted as an abortion would be. An abortion is an extraction. A miscarriage would not be an extraction; it would be an expulsion. That term would still be in. It would not affect a miscarriage as you asked me, in my understanding of this.

Mr. PISTELLA. The reason why I asked, Mr. Speaker, is, I would think that a miscarriage would be a natural abortion.

Mr. RASCO. Well, it would be an expulsion, yes. It would be expelled from a woman's body. It would not be extracted from a woman's body. You are correct. A miscarriage would not apply to what my amendment would do by extraction.

Mr. PISTELLA. Okay.

Mr. Speaker, would I be in order now to question one of the sponsors of amendment A4911?

The SPEAKER. The gentleman, Mr. Freind, indicates he will stand for interrogation. The gentleman, Mr. Pistella, may begin.

Mr. PISTELLA. Mr. Speaker, I am having difficulty addressing the issue of this portion of the bill in relation to a miscarriage. Could you please define for me just exactly how this portion of your amendment will deal with a miscarriage?

Mr. FREIND. Number one, Mr. Speaker, a miscarriage is not a medical term. The medical term for a miscarriage is also an abortion. An abortion is any termination of pregnancy. However, we define "abortion" for purposes of this bill as the willful termination of a pregnancy with knowledge that it would cause the death of the unborn child. Now, the born-alive section is keyed to those situations where an abortion is

performed, particularly late-term abortions, where the possibility remains that even when the abortion is performed, the baby extracted or expelled through the abortion is alive. What we say is, once that occurs and the abortion has been performed and the baby is alive, all steps must be taken to now save the life of this baby, which is outside the mother and which is a human being.

One method of abortion is a hysterotomy, which is another term for a Caesarean section, where in fact the woman is opened up and the baby is removed, is extracted. Frequently, in that form of an abortion, the baby is still alive when he has been extracted from the mother, and the key provision of this bill is, in that case, all steps must be taken to save the life of that now-born child born through an abortion procedure, again rejecting the proposition that not only does a woman have a right to an abortion but a right to a dead baby. That is why it is necessary to keep the words "or extracted" in this bill and why we oppose the amendment.

Mr. PISTELLA. Thank you, Mr. Speaker.

Mr. Speaker, would I be in order now to make a brief comment on the amendment?

The SPEAKER. Will the gentleman yield for a moment?

#### FILMING PERMISSION GRANTED

The SPEAKER. The Chair has granted permission to WHP-TV, Harrisburg, and channel 3, KYW television, Philadelphia, to do 10 minutes of silent filming.

The cameramen are advised that they should not be wandering the aisles but rather just the center part of the hall and the outer aisles.

#### CONSIDERATION OF SB 742 CONTINUED

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

Mr. PISTELLA. Mr. Speaker, I think that when we are dealing within this area of the issue that I have attempted to raise of a miscarriage or "a natural abortion," I feel that people are attempting to split hairs, and we are not succeeding. The point I am trying to make is that within amendment A4911, we are dealing with a situation where an abortion, be it a natural abortion, a miscarriage, would be addressed as an abortion that would have been intentional. I think that the sponsor of amendment A5110 is trying to deal with that situation but perhaps in not as an effective means as should be dealt with.

Previous speakers have stated that science is capable of determining some factors of life such as a heartbeat or brain waves or vibrations of umbilical cords at 6 to 8 weeks of gestation in an unborn baby. I wonder about the wisdom with which we would undertake or permit women who would be suffering the trauma of a natural abortion through no fault of their own with attempting to save the life of their unborn child for God knows what purpose or what reason. I think at that point, that unborn child could develop birth defects, deficiencies that the family may not be in fact capable of handling.

I would suggest the adoption of the Rasco amendment simply because we are attempting to let God and nature take its course in this particular incident. I would urge the members to support this amendment. I think it deals with an issue where hairs cannot be split, and it is not really the position of the medical community to become involved with a natural and divine process. Thank you.

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

Mr. FREIND. Mr. Speaker, I do not want to belabor this point, but Mr. Pistella talked about a natural abortion, a miscarriage, where a woman does not want to terminate her pregnancy. Obviously in that case, whenever there is a premature delivery, by the very essence of it, all steps are taken to save the life of that baby if possible. All we are saying is that whenever a child, through an abortion, survives the abortion and is alive outside the mother and is now a human being, that all steps be taken to save that baby's life. If you make the argument that there is a possibility because of a premature delivery that that baby may have some birth defects, what you are in effect saying is, because that baby may have some birth defects, we are going to do him or her a favor and we are going to kill him or her, and that does not follow logically.

This is the most important section of this bill, Mr. Speaker. I sincerely hope that every member rejects this amendment.

The SPEAKER. The Chair recognizes the gentleman, Mr. Pistella, on the amendment.

Mr. PISTELLA. I do not know whom the previous speaker was referring to, but I do not think I remember making quite the comments that I am attributed with making.

My point, Mr. Speaker, is, the proponents of this legislation do not want to have man tamper with divine right and divine providence. I am just saying, let nature take its course. I think Representative Rasco's amendment addresses just that situation and resolves the issue that I have raised. I just ask for your support, Mr. Speaker, please.

On the question recurring,

Will the House agree to the amendment No. A5110 to amendments No. A4911?

The following roll call was recorded:

YEAS—28

Barber	Evans	Levin	Showers
Belfanti	Fryer	Livengood	Sirianni
Berson	Harper	Moehlmann	Smith, B.
DeVertter	Heiser	Oliver	Wiggins
DeWeese	Hutchinson, A.	Pistella	Williams, H.
Deal	Itkin	Rasco	Williams, J. D.
Dorr	Jackson	Richardson	Wright, R. C.

NAYS—163

Alden	Fargo	Lloyd	Rybak
Anderson	Fee	Lucyk	Salvatore
Armstrong	Fischer	McCall	Saurman
Arty	Fleck	McClatchy	Serafini
Belardi	Foster, W. W.	McIntyre	Seventy
Beloff	Foster, Jr., A.	McMonagle	Shupnik
Bittle	Frazier	McVerry	Sieminski
Blaum	Freind	Mackowski	Smith, E. H.
Borski	Gallagher	Madigan	Smith, L. E.
Bowser	Gallen	Maiale	Snyder
Boyes	Gamble	Manderino	Spencer
Brandt	Gannon	Manmiller	Spitz

Brown	Geist	Marmion	Stairs
Burd	George	Merry	Steighner
Burns	Gladeck	Michlovic	Stevens
Caltagirone	Grabowski	Micozzie	Stewart
Cappabianca	Gray	Miller	Stuban
Cawley	Greenwood	Miscevich	Swaim
Cessar	Grieco	Morris	Swift
Cimini	Gruitza	Mowery	Taddonio
Civiera	Gruppo	Mrkonic	Taylor, E. Z.
Clark	Hagarty	Mullen	Taylor, F. E.
Clymer	Haluska	Murphy	Telek
Cochran	Hasay	Noye	Tigue
Cohen	Hayes	O'Donnell	Trello
Colafella	Hoeffel	Olasz	Van Horne
Cole	Honaman	Pendleton	Vroon
Cordisco	Horgos	Perzel	Wambach
Cornell	Johnson	Peterson	Wargo
Coslett	Kennedy	Petrarca	Wass
Cowell	Klingaman	Petrone	Wenger
Cunningham	Kolter	Phillips	Weston
DeMedio	Kowalyshyn	Piccola	Wilson
Davies	Kukovich	Pitts	Wogan
Dawida	Lashingier	Pott	Wozniak
Dietz	Laughlin	Pratt	Wright, D. R.
Dininni	Lehr	Punt	Wright, J. L.
Dombrowski	Lescovitz	Reber	Zwilk
Donatucci	Letterman	Rieger	
Duffy	Levi	Ritter	Ryan,
Durham	Lewis	Rocks	Speaker
Emerson			

NOT VOTING—4

Greenfield	Kanuck	Rappaport	Sweet
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EXCUSED—7

Daikeler	Irvs	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	

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

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. LLOYD offered the following amendment No. A5051 to amendments No. A4911:

Amend amendments, page 3, line 32 by removing the period after "child" and inserting

except that, for the purposes of this chapter, abortion shall not mean the use of an intrauterine device or birth control pill to inhibit or prevent ovulation, fertilization or the implantation of a fertilized ovum within the uterus.

On the question,

Will the House agree to the amendment No. A5051 to amendments No. A4911?

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

Mr. LLOYD. Thank you, Mr. Speaker.

This is a further clarifying amendment on the definition of "abortion." The members will recall yesterday that Mr. Freind offered and the House agreed to an amendment which attempted to assure that the IUD (intrauterine device) and the pill would not be considered to be abortion. In many respects, I think that amendment does address the problem. However, a question has been raised as to whether or not the use of the pill or the IUD could actually be considered to be the termina-

tion of a clinically diagnosable pregnancy, because those devices would not work unless there had in fact been fertilization. Therefore, to remove all doubt and to make it very clear that the IUD and birth control pills are not considered to be abortion for the purposes of this act, regardless of what the members' views might be philosophically, I offer this amendment and urge your support.

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

Mr. FREIND. Thank you, Mr. Speaker.

In spite of the fact that I think we addressed this problem yesterday, I support this amendment, because it further clarifies and I think will further allay any fears of any members that clearly this bill has nothing to do with the IUD or birth control pills. It is a good amendment, and I support it, Mr. Speaker.

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

Mr. A. K. HUTCHINSON. I would like to ask Mr. Freind a question.

You said the birth control pill. How about the morning-after pill?

Mr. FREIND. Absolutely, Mr. Speaker. Both in the amendment which we already put in and Mr. Lloyd's amendment, that would definitely be covered.

On the question recurring,

Will the House agree to the amendment No. A5051 to amendments No. A4911?

The following roll call was recorded:

YEAS—189

Alden	Fargo	Livengood	Salvatore
Anderson	Fee	Lloyd	Saurman
Armstrong	Fischer	Lucyk	Serafini
Arty	Fleck	McCall	Seventy
Barber	Foster, W. W.	McIntyre	Showers
Belardi	Foster, Jr., A.	McMonagle	Shupnik
Belfanti	Frazier	McVerry	Sieminski
Berson	Freind	Mackowski	Sirianni
Bittle	Fryer	Madigan	Smith, B.
Blaum	Gallagher	Maiale	Smith, E. H.
Borski	Gallen	Manderino	Smith, L. E.
Bowser	Gamble	Manmiller	Snyder
Boyes	Gannon	Marmion	Spencer
Brandt	Geist	Merry	Spitz
Brown	George	Michlovic	Stairs
Burd	Gladeck	Micozzie	Steighner
Burns	Grabowski	Miller	Stevens
Caltagirone	Gray	Miscevich	Stewart
Cappabianca	Greenfield	Moehlmann	Stuban
Cawley	Greenwood,	Morris	Swaim
Cessar	Grieco	Mowery	Swift
Cimini	Gruitza	Mrkonic	Taddonio
Civera	Gruppo	Mullen	Taylor, E. Z.
Clark	Hagarty	Murphy	Taylor, F. E.
Clymer	Haluska	Noye	Telek
Cochran	Harper	O'Donnell	Tigue
Cohen	Hasay	Olasz	Trello
Colafella	Hayes	Oliver	Van Horne
Cole	Heiser	Pendleton	Vroon
Cordisco	Hoeffel	Perzel	Wambach
Cornell	Horgos	Peterson	Wargo
Coslett	Hutchinson, A.	Petrarca	Wass
Cowell	Itkin	Petrone	Wenger
Cunningham	Jackson	Phillips	Weston
DeMedio	Johnson	Piccola	Wiggins
DeVerter	Kennedy	Pistella	Williams, H.

DeWeese	Klingaman	Pitts	Williams, J. D.
Davies	Kolter	Pott	Wilson
Dawida	Kowalshyn	Pratt	Wogan
Deal	Kukovich	Punt	Wozniak
Dietz	Lashinger	Rappaport	Wright, D. R.
Dininni	Laughlin	Rasco	Wright, J. L.
Dombrowski	Lehr	Reber	Wright, R. C.
Donatucci	Lescovitz	Richardson	Zwinkl
Dorr	Letterman	Rieger	
Duffy	Levi	Ritter	Ryan,
Durham	Levin	Rocks	Speaker
Evans	Lewis	Rybak	

NAYS—0

NOT VOTING—6

Beloff	Honaman	McClatchy	Sweet
Emerson	Kanuck		

EXCUSED—7

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	

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

FILMING PERMISSION GRANTED

The SPEAKER. The Chair gives notice that it has granted permission to WPXI-TV, Pittsburgh, to do 10 minutes of silent filming.

CONSIDERATION OF SB 742 CONTINUED

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. RASCO offered the following amendment No. A5112 to amendments No. A4911:

Amend amendment, page 4, line 22, by striking out "fertilization" and inserting  
viability

On the question,

Will the House agree to the amendment No. A5112 to amendments No. A4911?

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

Mr. RASCO. Thank you, Mr. Speaker.

Mr. Speaker, I have problems with another definition in this particular amendment, this definition of "unborn child" which reads, "A human being from fertilization until birth and includes 'fetus.'" This particular term of "unborn child" has already been ruled on by the Federal courts, and the time of fertilization has not been defined as a human being at that point. Also, science in its wisdom has never defined a human being from fertilization. Many of our denominations, particularly many of the major Protestant denominations, do not recognize a human being being from fertilization until birth.

This definition really means a human life amendment. I think this is a far-reaching effect for this definition to say at the time of fertilization that that is a human being and has all the rights of every other human being, including the mother,

and that particular fetus at that point could never be aborted from the mother. I think this is very far reaching in this particular bill. I do not think it is going to hold up in the courts. It is not recognized by science and it is not recognized by many Protestant and Jewish denominations. I would ask for an affirmative vote on my amendment to this particular amendment. Thank you.

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

Mr. FREIND. Thank you, Mr. Speaker.

Despite the fact I think we already defeated a similar amendment, I again rise to oppose this amendment.

I wish the gentleman, Mr. Rasco, were correct that this bill is a human life amendment. Clearly it is not. As a matter of fact, yesterday one of the amendments we inserted made it very clear that the definition of an unborn child only related to this chapter.

Now, here is what would happen if Mr. Rasco's amendment passed. Everything in the bill would then only relate to an unborn child who has been determined to be viable. A minor could have an abortion without any type of parental consent or court approval for any pregnancy until the unborn child is viable. The informed-consent section, the 24-hour waiting period, and every other aspect of the bill would go out the window except with respect to pregnancies where there has been a determination that the unborn child is not viable. Clearly this term only relates to this chapter, and because of that, I would sincerely ask you to reject this amendment.

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

Mr. RASCO. Mr. Speaker, this definition, I think, is subject to interpretation by Representative Freind and also by me and other members of this House. I read this in this bill as a part of this bill, and this is a human life amendment, from fertilization until birth. It has far-reaching effects. I do not know if it saves only one part of this bill or all parts; it is defined in this bill as an unborn child. I ask that this amendment be accepted so we can say, okay, it is an unborn child from viability, once it can live outside the mother's womb. We can accept that until a term birth, but not from fertilization. Thank you, Mr. Speaker.

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

Mr. FREIND. If you look at page 4 of the major amendment, line 22, after the amendment yesterday, the definition of "unborn child" begins by saying, "For purposes of this chapter, a human being from fertilization until birth...." Clearly it is only for purposes of this chapter. It is not a human life amendment, would that it were, but it is clearly not, because it cannot be.

Again, I just want to repeat that if this amendment passes, none of the provisions - parental consent, informed consent, and 24-hour waiting period - none of the provisions in this bill would relate to any pregnancy unless there was a determination that the unborn child was viable. I would ask you to reject this amendment.

On the question recurring,

Will the House agree to the amendment No. A5112 to amendments No. A4911?

The following roll call was recorded:

YEAS—50

Anderson	Fryer	Livengood	Richardson
Barber	Gladeck	Marmion	Ritter
Berson	Greenfield	Merry	Smith, B.
Brown	Greenwood	Michlovic	Snyder
Cornell	Hagarty	Moehlmann	Sweet
Coslett	Harper	Pendleton	Swift
DeVerter	Heiser	Perzel	Wambach
DeWeese	Hutchinson, A.	Pistella	Wiggins
Davies	Itkin	Pott	Williams, H.
Deal	Jackson	Rappaport	Williams, J. D.
Dorr	Kukovich	Rasco	Wozniak
Evans	Levin	Reber	Zwilk
Fargo	Lewis		

NAYS—138

Alden	Duffy	Letterman	Salvatore
Armstrong	Durham	Levi	Saurman
Arty	Fee	Lloyd	Serafini
Belardi	Fischer	Lucyk	Seventy
Belfanti	Fleck	McCall	Showers
Beloff	Foster, W. W.	McClatchy	Shupnik
Bittle	Foster, Jr., A.	McIntyre	Sieminski
Blaum	Frazier	McMonagle	Sirianni
Borski	Freind	Mackowski	Smith, E. H.
Bowser	Gallagher	Madigan	Smith, L. E.
Boyes	Gallen	Maiale	Spencer
Brandt	Gamble	Manderino	Spitz
Burd	Gannon	Manmiller	Stairs
Burns	Geist	Micozzie	Steighner
Caltagirone	George	Miller	Stevens
Cappabianca	Grabowski	Miscevich	Stewart
Cawley	Gray	Morris	Stuban
Cessar	Grieco	Mowery	Swaim
Cimini	Gruitza	Mrkonic	Taddonio
Civera	Gruppo	Mullen	Taylor, E. Z.
Clark	Haluska	Murphy	Taylor, F. E.
Clymer	Hasay	Noye	Telek
Cochran	Hayes	Olasz	Tigue
Cohen	Hoeffel	Oliver	Trello
Colafella	Honaman	Peterson	Van Horne
Cole	Horgos	Petrarca	Vroon
Cordisco	Johnson	Petrone	Wargo
Cowell	Kennedy	Phillips	Wass
Cunningham	Klingaman	Piccola	Wenger
DeMedio	Kolter	Pitts	Weston
Dawida	Kowalshyn	Pratt	Wogan
Dietz	Lashingner	Punt	Wright, D. R.
Dininni	Laughlin	Rieger	
Dombrowski	Lehr	Rocks	Ryan,
Donatucci	Lescovitz	Rybak	Speaker

NOT VOTING—7

Emerson	McVerry	Wilson	Wright, R. C.
Kanuck	O'Donnell	Wright, J. L.	

EXCUSED—7

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	

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

REMARKS ON VOTE

The SPEAKER. Does the gentleman from Luzerne, Mr. Coslett, seek recognition?

Mr. COSLETT. Yes, Mr. Speaker.

On amendment A5112 I was recorded in the affirmative. I would like to be recorded in the negative.

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

**CONSIDERATION OF SB 742 CONTINUED**

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. RASCO offered the following amendment No. A5111 to amendments No. A4911:

Amend amendment, page 4, lines 1 and 2, by striking out “, from fertilization until death,”

On the question,

Will the House agree to the amendment No. A5111 to amendments No. A4911?

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

Mr. RASCO. Thank you, Mr. Speaker.

In this particular amendment, I have problems with another definition, and that definition is of a human being, which reads, “Any individual organism, from fertilization until death, who is a member of the species homo sapiens.”

Again, as I referred in the past amendment, we know that this has been struck down by the courts, that it is not a human being from fertilization. We know that science cannot define it as a human being from fertilization. We know that many of the Protestant denominations and the Jewish Congress and some of the other religious groups do not define it as such. I say this particular definition would not pass the courts, and I would ask for an affirmative vote on this amendment. Thank you, Mr. Speaker.

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

Mr. FREIND. Thank you, Mr. Speaker.

I rise to oppose this amendment.

Number one, the courts have never struck down any definition of a human being. As a matter of fact, the courts have stated that it is up to the States to determine precisely what a human being is and when human life begins. However, that has nothing to do with this amendment or this bill.

A human being, as defined on page 4, line 1, is only mentioned in one context, and that is the definition of “born alive.” That is once again because of the issue which I have repeated at least 10 times, of the situation where an abortion is performed but the child survives the abortion. Clearly that child is now a human being, and clearly all steps must be taken to save the life of that individual who is now a born human being, just like any of us here. If this amendment passes, that will then relate to the born-alive section and will therefore strike the entire provision of the steps to be taken to save the life of a child who survives an abortion and is now a human being by anyone’s definition. So again, I would sincerely ask you to reject this amendment.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Rasco, for the second time on the amendment.

Mr. RASCO. Just briefly, Mr. Speaker.

I heard two different definitions of what these terms mean in this particular bill. Otherwise, why do we define something in the bill at all if it does not mean what it says, which it says from fertilization until birth? That is what I read in this definition. Now, maybe there is something else in the bill in some particular chapter, wherever, that defines it as something different, but I think this particular definition that refers to a human being should be struck down and we take out “from fertilization.” I would appreciate an affirmative vote on this particular amendment. Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment No. A5111 to amendments No. A4911?

The following roll call was recorded:

**YEAS—59**

Anderson	Gladeck	McVerry	Ritter
Barber	Greenfield	Manmiller	Showers
Berson	Greenwood	Merry	Smith, B.
Bittle	Hagarty	Michlovic	Stairs
Brown	Harper	Moehlmann	Sweet
Burd	Heiser	O'Donnell	Swift
Cornell	Hoeffel	Oliver	Van Horne
DeVerter	Hutchinson, A.	Pendleton	Wambach
DeWeese	Itkin	Piccola	Wiggins
Davies	Jackson	Pistella	Williams, H.
Deal	Kukovich	Pott	Williams, J. D.
Dorr	Lashinger	Rappaport	Wozniak
Evans	Levin	Rasco	Wright, R. C.
Fargo	Lewis	Reber	Zwilk
Fryer	Livengood	Richardson	

**NAYS—134**

Alden	Duffy	Letterman	Saurman
Armstrong	Durham	Levi	Serafini
Arty	Fee	Lloyd	Seventy
Belardi	Fischer	Lucyk	Shupnik
Belfanti	Fleck	McCall	Sieminski
Beloff	Foster, W. W.	McClatchy	Sirianni
Blaum	Foster, Jr., A.	McIntyre	Smith, E. H.
Borski	Frazier	McMonagle	Smith, L. E.
Bowser	Freind	Mackowski	Snyder
Boyes	Gallagher	Madigan	Spencer
Brandt	Gallen	Maiale	Spitz
Burns	Gamble	Marmion	Steighner
Caltagirone	Gannon	Micozzie	Stevens
Cappabianca	Geist	Miller	Stewart
Cawley	George	Miscevich	Stuban
Cessar	Grabowski	Morris	Swaim
Cimini	Gray	Mowery	Taddonio
Civera	Grieco	Mrkonic	Taylor, E. Z.
Clark	Gruitza	Mullen	Taylor, F. E.
Clymer	Gruppo	Murphy	Telek
Cochran	Haluska	Noye	Tigue
Cohen	Hasay	Olasz	Trello
Colafella	Hayes	Perzel	Vroon
Cole	Honaman	Peterson	Wargo
Cordisco	Horgos	Petrarca	Wass
Coslett	Johnson	Petrone	Wenger
Cowell	Kanuck	Phillips	Weston
Cunningham	Kennedy	Pitts	Wilson
DeMedio	Klingaman	Pratt	Wogan
Dawida	Kolter	Punt	Wright, D. R.
Dietz	Kowalyshyn	Rieger	Wright, J. L.
Dininni	Laughlin	Rocks	
Dombrowski	Lehr	Rybak	Ryan,

Donatucci      Lescovitz      Salvatore      Speaker

NOT VOTING—2

Emerson      Manderino

EXCUSED—7

Daikeler      Irvis      Pievsky      Wachob  
Hutchinson, W.      Nahill      Pucciarelli

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

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. FRAZIER offered the following amendments No. A5141 to amendments No. A4911:

Amend amendments, page 3, line 27, by striking out "have, unless the context clearly indicates otherwise," and inserting  
be construed to have

Amend amendments, page 3, lines 30 through 32, by striking out "with knowledge that the termination by those means" in line 30, all of lines 31 and 32 and inserting  
under conditions of voluntary and informed consent.

Amend amendments, page 3, by inserting between lines 39 and 40

"Complication." includes but is not limited to hemorrhage, infection, uterine perforation, cervical laceration, retrained products, rubella disease, hydatid mole, endocervical polyp and malignancies. The department may further define complication.

Amend amendments, page 3, line 44, by inserting after "faiths."

Nothing, however, contained in this definition or the application of the definition in any section of this chapter shall be construed in any way to supplant, alter or otherwise modify the existing concepts of mens rea or "guilty mind" as applied in criminal and civil actions in any court of competent jurisdiction in the Commonwealth of Pennsylvania.

Amend amendments, page 3, line 55, by inserting after "ovum"

and the process of development, differentiation, cell mitosis and replication begins

Amend amendments, page 4, lines 1 and 2, by striking out "from fertilization until death,"

Amend amendments, page 4, line 10, by inserting after "of" or serious bodily injury to

Amend amendments, page 4, line 27, by inserting after "him,"

including standards of viability adopted by the board under this chapter,

Amend amendments, page 15, lines 57 through 60, by striking out all of said lines

On the question,

Will the House agree to the amendments No. A5141 to amendments No. A4911?

AMENDMENTS DIVIDED

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

Mr. FRAZIER. Thank you, Mr. Speaker.

I apologize to the members of the House for the delay and the slight confusion.

Mr. Speaker, I would ask a point of order of the Chair. Would it be proper to divide the question?

The SPEAKER. Will the gentleman advise the Chair how he would ask that the amendment be divided?

Mr. FRAZIER. Mr. Speaker, first with the notation of a typographical error, in the 12th line where it says, "retrained products," that should say, "retained products." So there should be an "r" removed from that. That is "retained products," not "retrained products." With that notation, the division would be beginning with the words "Amend amendments, page 3, by inserting between lines 39 and 40." Beginning there, excluding what is above, continuing on to the second page, page 10A, excluding the first "Amend amendments," the second "Amend amendments," and then commencing and concluding with "Amend amendments, page 4, line 27," and "Amend amendments, page 15, lines 57...."

The effect of the division would be to take at this time the question on page 10 of the third, fourth, and fifth "Amend amendments" and on page 10A of the third and fourth "Amend amendments," and to withdraw all other sections of "Amend amendments."

The SPEAKER. Will the gentleman refer to his amendments?

Is it the understanding of the Chair that the gentleman seeks to take a vote on the following portion of his amendment: About one-third of the way down page 1, "Amend amendments, page 3, by inserting between lines 39 and 40," down through and including the balance of that page; and on page 2, the last five lines on page 2, which begins, "Amend amendments, page 4, line 27, by inserting after 'him,' " on through to the end. Is that correct?

Mr. FRAZIER. The Chair is absolutely precise.

The SPEAKER. You will go far.

PART I OF AMENDMENTS WITHDRAWN

The SPEAKER. The Chair is of the opinion that the amendment can be divided, and it is the understanding of the Chair that you would be withdrawing the first eight lines of your amendment on page 1 and you would be withdrawing from consideration the first four lines on page 2.

Mr. FRAZIER. Yes, Mr. Speaker. I am also informed that the amendment would be agreed to if all of page 2 is withdrawn, and I hereby request that that be done. That would include the last five lines of page 2.

The SPEAKER. It is the Chair's understanding then that all of page 2 is withdrawn and the first eight lines on page 1 are withdrawn.

Mr. FRAZIER. Yes, Mr. Speaker.

The SPEAKER. The question before the House is, will the House agree to the amendment as divided, offered by the gentleman from Allegheny, Mr. Frazier, being A5141?

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

Mr. FRAZIER. Thank you, Mr. Speaker.

Very briefly, Mr. Speaker, this, I am informed, or at least I hope, is an agreed-to amendment, with the exception of the first eight lines on page 10. The rest of the amendment would be the rest of page 10.

What I am attempting to do—and this squares with a later amendment which will be offered—is to remove from a further section of the bill the only definition which finds itself in the body of the bill, moving the definition of “complication” to the definitional section at the beginning of the chapter; and then also reconciling the definition of “conscience,” without removing the definition of “conscience,” reconciling it with the criminal standards in the Commonwealth of Pennsylvania, calling for a guilty mind or mens rea in intentional crimes, homicides and so forth and so on; then also, finally providing for the very small percentage of chances where the head of a sperm penetrates an ovum and cell mitosis does not begin. Thank you, Mr. Speaker.

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

Mr. FREIND. Thank you, Mr. Speaker.

This is not a major amendment; it does nothing severe to the bill. It places one definition in a different place; it clearly indicates that you need to have a guilty mind - intent is still required for any type of a crime - and takes in that situation that Representative Frazier described on those few occasions when the sperm penetrates an ovum but the process does not begin. So we would support this amendment.

On the question,

Will the House agree to Part II of amendments No. A5141 to amendments No. A4911?

The following roll call was recorded:

YEAS—187

Alden	Fargo	Lucyk	Salvatore
Anderson	Fee	McCall	Serafini
Armstrong	Fischer	McClatchy	Seventy
Arty	Foster, W. W.	McIntyre	Showers
Barber	Foster, Jr., A.	McMonagle	Shupnik
Belardi	Frazier	McVerry	Sieminski
Belfanti	Freind	Mackowski	Sirianni
Beloff	Fryer	Madigan	Smith, B.
Berson	Gallagher	Maiiale	Smith, E. H.
Bittle	Gallen	Manderino	Smith, L. E.
Blaum	Gamble	Manmiller	Snyder
Borski	Gannon	Marmion	Spencer
Bowser	Geist	Merry	Spitz
Boyes	George	Michlovic	Stairs
Brown	Gladeck	Micozzie	Steighner
Burd	Grabowski	Miller	Stevens
Burns	Gray	Miscevich	Stewart
Caltagirone	Greenfield	Moehlmann	Suban
Cappabianca	Greenwood	Morris	Swaim
Cawley	Grieco	Mowery	Sweet
Cessar	Gruitza	Mrkonic	Swift
Cimini	Gruppo	Mullen	Taddonio
Civera	Hagarty	Murphy	Taylor, E. Z.
Clark	Hasay	Noye	Taylor, F. E.
Clymer	Hayes	O'Donnell	Telek
Cohen	Hoeffel	Olasz	Tigue
Colafella	Horgos	Oliver	Trello
Cole	Hutchinson, A.	Pendleton	Van Horne
Cordisco	Itkin	Perzel	Vroon
Cornell	Jackson	Peterson	Wambach
Coslett	Johnson	Petrarca	Wargo
Cowell	Kanuck	Petrone	Wass
Cunningham	Kennedy	Phillips	Wenger
DeMedio	Klingaman	Piccola	Weston
DeVertter	Kolter	Pistella	Wiggins
DeWeese	Kowalshyn	Pitts	Williams, H.
Davies	Kukovich	Pott	Williams, J. D.
Dawida	Lashingner	Pratt	Wilson
Deal	Laughlin	Punt	Wogan

Dietz	Lehr	Rappaport	Wozniak
Dininni	Lescovitz	Rasco	Wright, D. R.
Dombrowski	Letterman	Reber	Wright, J. L.
Donatucci	Levi	Richardson	Wright, R. C.
Dorr	Levin	Rieger	Zwinkl
Duffy	Lewis	Ritter	
Durham	Livengood	Rocks	Ryan,
Emerson	Lloyd	Rybak	Speaker
Evans			

NAYS—1

Saurman

NOT VOTING—7

Brandt	Fleck	Harper	Honaman
Cochran	Haluska	Heiser	

EXCUSED—7

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	

The question was determined in the affirmative, and Part II of the amendments was agreed to.

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. LLOYD offered the following amendment No. A5052 to amendments No. A4911:

Amend amendments, page 4, lines 8 through 10 by striking out “That clinical condition so complicating” in line 8 and all of lines 9 and 10 and inserting

That condition which, on the basis of the physician’s best clinical judgment, so complicates a pregnancy as to necessitate the immediate abortion of same to avert the death of the mother.

On the question,

Will the House agree to the amendment No. A5052 to amendments No. A4911?

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

Mr. LLOYD. Thank you, Mr. Speaker.

For the members’ benefit, this amendment is on page 20 of the amendment booklet. This is a further clarifying amendment, Mr. Speaker. This clarifies the meaning of “medical emergency” to make clear that medical emergency is to be judged by the attending physician based on his best clinical judgment. I would appreciate support.

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

Mr. FREIND. It does further clarify the definition, and I support the amendment, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment No. A5052 to amendments No. A4911?

The following roll call was recorded:

YEAS—185

Alden	Fargo	Livengood	Salvatore
Anderson	Fee	Lloyd	Saurman
Armstrong	Fischer	McCall	Serafini
Arty	Fleck	McClatchy	Seventy
Barber	Foster, W. W.	McIntyre	Showers
Belardi	Foster, Jr., A.	McMonagle	Shupnik
Belfanti	Frazier	McVerry	Sieminski

Beloff	Freind	Mackowski	Sirianni
Berson	Fryer	Madigan	Smith, B.
Bittle	Gallagher	Maiale	Smith, E. H.
Blaum	Gallen	Manderino	Smith, L. E.
Borski	Gamble	Manmiller	Snyder
Bowser	Gannon	Marmion	Spencer
Boyes	Geist	Merry	Spitz
Brown	George	Michlovic	Stairs
Burd	Gladeck	Miller	Steighner
Burns	Grabowski	Miscevich	Stevens
Caltagirone	Gray	Moehlmann	Stewart
Cappabianca	Greenfield	Morris	Stuban
Cawley	Greenwood	Mowery	Swaim
Cessar	Grieco	Mrkonic	Sweet
Cimini	Gruitza	Mullen	Swift
Civera	Gruppo	Murphy	Taddonio
Clark	Hagarty	Noye	Taylor, E. Z.
Clymer	Haluska	O'Donnell	Telek
Cohen	Harper	Olasz	Tigue
Colafiglia	Hasay	Oliver	Trello
Cole	Hayes	Pendleton	Van Horne
Cordisco	Hoeffel	Perzel	Wambach
Cornell	Horgos	Peterson	Wargo
Coslett	Hutchinson, A.	Petrarca	Wass
Cowell	Itkin	Petrone	Wenger
DeMedio	Jackson	Phillips	Weston
DeVerter	Johnson	Piccola	Wiggins
DeWeese	Kennedy	Pistella	Williams, H.
Davies	Klingaman	Pitts	Williams, J. D.
Dawida	Kolter	Pott	Wilson
Deal	Kowalshyn	Pratt	Wogan
Dietz	Kukovich	Punt	Wozniak
Dininni	Lashinger	Rappaport	Wright, D. R.
Dombrowski	Laughlin	Rasco	Wright, J. L.
Donatucci	Lehr	Reber	Wright, R. C.
Dorr	Lescovitz	Richardson	Zwikel
Duffy	Letterman	Rieger	
Durham	Levi	Ritter	Ryan,
Emerson	Levin	Rocks	Speaker
Evans	Lewis	Rybak	

NAYS—2

Micozzie Vroon

NOT VOTING—8

Brandt	Cunningham	Honaman	Lucyk
Cochran	Heiser	Kanuck	Taylor, F. E.

EXCUSED—7

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	

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

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. LLOYD offered the following amendment No. A5171 to amendments No. A4911:

Amend amendments, page 4, by inserting between lines 59 and 60

(c) Factors.—In determining in accordance with subsection (a) or (b) whether an abortion is necessary, a physician's best clinical judgment may be exercised in the light of all factors (physical, emotional, psychological, familial and the woman's age) relevant to the well-being of the woman.

On the question,

Will the House agree to the amendment No. A5171 to amendments No. A4911?

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

Mr. LLOYD. Thank you, Mr. Speaker.

For the members' benefit, if they cannot find the one that was passed out yesterday, if they will look in the amendment booklet on page 21, this amendment is identical except that in the third line from the bottom there is a parenthesis before the word "physical," and in the second line from the bottom there is a parenthesis after the word "age." The change was made from A5040 to clarify the language.

Mr. Speaker, the purpose of this amendment is to clarify what a physician may consider when he is deciding under the bill in his best clinical judgment whether an abortion is necessary. On its face, the word "necessary" is open to several interpretations, and so, Mr. Speaker, what this amendment does is to borrow the language from the Supreme Court decision in Doe v. Bolton, repeated with approval in the Supreme Court decision of Colautti against Franklin, in which the Supreme Court in Doe v. Bolton was construing the similar word "necessary," and felt that that word could withstand the test of a constitutional challenge on the basis of vagueness, because in the court's words, "necessary" was to be determined by the physician exercising his best clinical judgment in light of all factors - physical, emotional, psychological, familial, and the woman's age - relevant to the well-being of the patient, in that case the woman.

So, Mr. Speaker, what I am trying to do is to make it clear on the face of the language in this bill that we intend in Pennsylvania to abide by the Supreme Court decision in interpreting the word "necessary." I ask for support of the amendment.

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

Mr. FREIND. Thank you, Mr. Speaker.

Clearly we are not intending to limit abortions any more than the law permits. Despite that, even though I do not think that the amendment is necessary, it further clarifies it. Therefore, it is a good amendment, and I would support it and ask my colleagues to do likewise.

On the question recurring,

Will the House agree to the amendment No. A5171 to amendments No. A4911?

The following roll call was recorded:

YEAS—186

Alden	Fargo	Lloyd	Rybak
Anderson	Fee	Lucyk	Salvatore
Armstrong	Fischer	McCall	Saurman
Barber	Fleck	McClatchy	Serafini
Belardi	Foster, W. W.	McIntyre	Seventy
Belfanti	Foster, Jr., A.	McMonagle	Showers
Beloff	Freind	McVerry	Shupnik
Berson	Fryer	Mackowski	Sieminski
Bittle	Gallagher	Madigan	Sirianni
Blaum	Gallen	Maiale	Smith, B.
Borski	Gamble	Manderino	Smith, E. H.
Bowser	Gannon	Manmiller	Smith, L. E.
Boyes	Geist	Marmion	Snyder
Brown	George	Merry	Spencer
Burd	Gladeck	Michlovic	Spitz
Burns	Grabowski	Micozzie	Stairs
Caltagirone	Gray	Miller	Steighner

Cappabianca	Greenfield	Miscevich	Stevens
Cawley	Greenwood	Moehlmann	Stewart
Cessar	Grieco	Morris	Stuban
Cimini	Gruitza	Mowery	Swaim
Civera	Gruppo	Mrkonic	Swift
Clark	Hagarty	Mullen	Taddonio
Clymer	Haluska	Murphy	Taylor, E. Z.
Cohen	Harper	Noye	Taylor, F. E.
Colafella	Hasay	O'Donnell	Telek
Cole	Hayes	Olasz	Tigue
Cordisco	Heiser	Oliver	Trello
Cornell	Hoeffel	Pendleton	Van Horne
Coslett	Horgos	Perzel	Vroon
Cowell	Hutchinson, A.	Peterson	Wambach
Cunningham	Itkin	Petrarca	Wargo
DeMedio	Jackson	Petrone	Wass
DeVerter	Johnson	Phillips	Wenger
DeWeese	Kennedy	Piccola	Weston
Davies	Klingaman	Pistella	Wiggins
Dawida	Kolter	Pitts	Williams, J. D.
Deal	Kowalshyn	Pott	Wilson
Dietz	Kukovich	Pratt	Wogan
Dininni	Lashinger	Punt	Wozniak
Dombrowski	Laughlin	Rappaport	Wright, D. R.
Donatucci	Lehr	Rasco	Wright, J. L.
Dorr	Lescovitz	Reber	Wright, R. C.
Duffy	Letterman	Richardson	Zwikl
Durham	Levi	Rieger	
Emerson	Levin	Ritter	Ryan,
Evans	Livengood	Rocks	Speaker

NAYS—1

Kanuck

NOT VOTING—8

Arty	Cochran	Honaman	Sweet
Brandt	Frazier	Lewis	Williams, H.

EXCUSED—7

Daikeler	Iris	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	

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

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. ITKIN offered the following amendments No. A5066 to amendments No. A4911:

Amend amendments, page 4, line 31, by striking out "Medical consultation and judgment." and inserting

Abortion prohibited; exception.

Amend amendments, page 4, line 32, by striking out "(a) Abortion prohibited; exceptions.—"

Amend amendments, page 4, line 33, by inserting a period after "physician"

Amend amendments, page 4, lines 33 through 59, by striking out "after either:" in line 33 and all of lines 34 through 59

Amend amendments, page 14, lines 20 through 23, by striking out all of lines 20 through 22 and "(12)" in line 23 and inserting

(11)

Amend amendments, page 14, line 23, by inserting a period after "consultation"

Amend amendments, page 14, lines 23 through 25, by striking out "required by" in line 23, all of line 24 and "(13)" in line 25 and inserting

(12)

Amend amendments, page 14, line 27, by striking out "(14)" and inserting

(13)

On the question,

Will the House agree to the amendments No. A5066 to amendments No. A4911?

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

Mr. ITKIN. Mr. Speaker, this amendment refers to the same section that Representative Lloyd just amended.

I have no qualms with what Mr. Lloyd proposed; in fact, I supported his amendment. What I do have a problem with, which this amendment addresses, is the question of having a referring physician certify that an abortion is necessary. I seriously question whether or not to perform a surgical operation of this type it is necessary to have two physicians to deal with this particular question. I see an extreme misuse of medical personnel, something that would ensure to incur additional expense, and in my judgment, unnecessary expense.

The only thing I could assume is that the proponents of this section, who have incorporated it into the House amendments before us today, question the integrity of physicians and want to make it sure that two physicians must concur rather than one. I think that is an undue imposition. We certainly require physicians to act responsibly. If they do not, their license is in jeopardy, and I would seek approval of this amendment.

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

Mr. FREIND. Thank you, Mr. Speaker.

I rise to oppose this amendment. The requirement on page 4, beginning at line 44, is not "and"; it is "or." It is either the referring physician or the physician who is performing the abortion, either-or. Both are not required to determine that the abortion is necessary. It can either be the referring physician or the physician who performs the abortion. Clearly, with the informed consent, that requires the physician performing the abortion in precisely the same way that a physician performing another type of surgery would be the individual to explain the nature of the operation.

For that reason, Mr. Speaker, I oppose the amendment.

AMENDMENTS WITHDRAWN

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

Mr. ITKIN. Mr. Speaker, in view of that fact and in view of the situation that the definition of "necessary" has been established in the amendment, I will withdraw this amendment.

The SPEAKER. Is it the understanding of the Chair that the gentleman has withdrawn his amendment? The Chair hears no objection.

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. ITKIN offered the following amendments No. A5096 to amendments No. A4911:

Amend amendments, page 5, line 8, by striking out "and not" and inserting  
or

Amend amendments, page 5, line 9, by striking out "and not" and inserting  
or

On the question,

Will the House agree to the amendments No. A5096 to amendments No. A4911?

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

Mr. ITKIN. Mr. Speaker, on page 5 of the Freind-Cunningham amendments to SB 742, there is a general rule that states: "No abortion shall be performed or induced except with the voluntary and informed consent of the woman upon whom the abortion is to be performed or induced. Except in the case of a medical emergency, consent to an abortion is voluntary and informed if and only if: (1) The woman is provided, at least 24 hours before the abortion, with the following information by the physician who is to perform the abortion and not his designated agent or by the referring physician and not his designated agent...."

This amendment would remove the prohibition from the designated-agent proviso. I do not believe that it is necessary that the woman has to deal exclusively with the physician in this regard with respect to informed consent, and certainly this informed consent can be acquired by the physician designating somebody in his office to do this particular ministerial chore. For that reason I would urge the House to accept the amendment, which would allow a designated agent of the physician to accept the informed consent.

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

Mr. FREIND. Thank you, Mr. Speaker.

I rise to oppose this amendment for two reasons. First, *abortion is the only medical procedure where not only is an operation performed but, by definition, results in the killing of an unborn child.* We defined that term yesterday, how that term is precise. Because of that uniqueness, clearly we feel that it is important that the individual who performs this operation is the individual who provides the informed consent to the patient, to the woman who is about to undergo an abortion.

Secondly, what we want to prohibit is the assembly line type of production where the doctor in fact never even sees the woman until she is in the operating room, giving him more time—and let us face it, we are talking about big business here, Mr. Speaker, 65,000 a year in Pennsylvania alone—more time in the assembly line process to just perform the operations.

I do not think it is going to cripple anyone by requiring the individual who is to perform that operation to kill an unborn child to be the specific individual who provides the informed consent to the woman who is about to undergo this procedure. For that reason I oppose the amendment and would ask my colleagues to do likewise.

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

Mr. ITKIN. Mr. Speaker, I must point out to the members of the House that nothing has changed with respect to the

informed-consent procedure. All of the details must be followed by the designated agent. To say that only the physician who is performing the abortion is knowledgeable enough about the abortion procedures, and anyone else is incapable of properly advising a patient with respect to that particular procedure and dealing with all of the necessary conditions that must be met under this bill, I think is asking too much of the physician. In fact, I would suggest to the opponents of this amendment that physicians, whose times are very valuable and necessary to perform the technical medical procedures necessary, will probably give less attention to the patient seeking an abortion than somebody else whose function is, perhaps exclusively, to deal with the patient and make sure the patient is fully aware of what she may be involved with. Consequently, I really think you are doing a disservice by placing this burden on the physician, who may not give the amount of time necessary with the patient that I think the proponents of this measure want to see happen. Therefore, I would respectfully submit that I feel this is a decent amendment and one which should be adopted by the House.

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

Mr. CUNNINGHAM. Mr. Speaker, this amendment goes to the very heart of the bill. Nearly all of the serious abuses that have come to our attention in the information we have received from women who have had abortions in abortion clinics in this Commonwealth and who did come away feeling abused and who did come away feeling exploited, having been exploited and manipulated, stemmed from the problem of the woman having inadequate access to the physician who was going to perform the abortion. Given the fact that this is the most significant operation that this woman is going to submit to, very likely, in her life, it is absolutely crucial that she have an opportunity to talk to the physician who is going to perform the abortion. This is the irreducible, minimum standard that we should apply to the medical practice of physicians who are going to perform these operations. I urge a negative vote on this amendment.

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

Mr. RASCO. Mr. Speaker, I rise in support of Representative Itkin's amendment. Some of these questions that are being asked of these patients are very routine-type questions. Now, if you are going to take up a doctor's time and increase the cost of an abortion, which this will do—it will take up his time and increase the cost of an abortion, and a lot of poor people cannot afford abortions today who need them—to increase their cost, I think, is very foolish, and I think that Representative Itkin's amendment should be supported and voted on and voted favorably.

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

Mr. DeWEESE. Mr. Speaker, I would like to respectfully request that the individuals sponsoring this legislation cease from telling us every section and every subsection and every sentence and every word is the most vital and most crucial part of the bill. We are becoming obfuscated, and I think that

the afternoon would progress easier if we found out which one was the most important section of the bill and we quit hearing a lot of rhetoric. Thank you.

The SPEAKER. The question before the House is amendment A5096. Does the gentleman, Mr. Cunningham, care to address that question?

Mr. CUNNINGHAM. Mr. Speaker, I would simply say that any physician who is too busy to spend a few moments with the patient on whom he is about to perform an abortion has no business practicing medicine. Thank you.

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

Mr. ITKIN. Mr. Speaker, that is just the heart of the issue. Mr. Cunningham just said, to spend a few moments. I do not think that is right. I think more time ought to be given. You are the ones who are claiming that this is an important, serious consideration on the part of the patient. That is the whole reason for this bill, and now you are saying, just a few minutes.

You know, we have in this Commonwealth designated the opportunity for medical assistants to work in close consultation with the physician. It would seem to me that an appropriate person like a medical assistant would have the knowledge and the capability of advising the patient.

Let me say to you that it is probably more important to have the concern of the patient at heart than any other factor in this case, and I seriously believe that if you reject this amendment, you will be doing the people whom you are trying to help a great disservice.

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

Mr. GANNON. Would the gentleman, Mr. Freind, submit to brief interrogation?

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

Mr. GANNON. Mr. Speaker, if this amendment were adopted and as a result of a botched abortion a malpractice suit was filed against the physician on the basis of lack of informed consent, or a malpractice action was filed on the basis of lack of informed consent, what impact would this have?

Mr. FREIND. Well, there would be an argument as to agency between the doctor and his designated agent, but clearly the impact would be that it would lessen the liability of the physician. It is our belief that in this case the physician who performs the operation should be the individual who adheres to the requirement of informed consent. He is the one who should bear the liability if in fact he does not take these few elementary steps which we require in this legislation.

Mr. GANNON. Well, then would the adoption of this amendment really lessen the physician's responsibility to his patient?

Mr. FREIND. Absolutely.

Mr. GANNON. Thank you, Mr. Speaker.

Mr. Speaker, I rise in opposition to this amendment. I just cannot envision with this serious of a medical procedure that we would want to release the physician from his obligation,

first of all, to give a full and informed accounting of precisely what will happen and what the possible complications would be in the procedure, to not require him to do that, but at the same time, if there is a failure to clearly spell out the procedure and its possible complications, to release the physician in any way from responsibility for that lack of a fully documented informed consent. I ask for a "no" vote on this amendment, Mr. Speaker.

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

Mr. HOEFFEL. Thank you, Mr. Speaker.

I rise in support of this amendment. I am surprised by what I am hearing from the two gentlemen from Delaware County. They seem more interested in imposing and keeping legal liability focused on the doctor than they are in making sure that the women involved in this procedure have the kind of informed consent that is contained in the proposal.

The point that Mr. Itkin is making is that many of the counselors who are currently involved with the informed consent that current law requires give a great deal of time, a great deal of themselves, to the women who come before them, and give them a very complete informed-consent procedure and answer all their questions fully.

Under the Freind proposal there will be more information that will have to be shared, and I have no problem with that. But what Mr. Itkin is trying to make sure is that for doctors who may not be willing to do more than the bare minimum, who may be willing only to quickly cover the information that Mr. Freind wants covered, Mr. Itkin wants to make sure that in those cases, that doctor who simply is not going to give the kind of informed consent that we all want given can designate an agent who will, who will have the time and the concern and the background and the ability to spend a lot of time with those women, answer their questions, going far beyond what we can mandate in law, and give the kind of informed consent and the kind of concern to those women that they deserve.

I think to be concerned with keeping legal liability focused on the doctor is absurd. We ought to be more concerned with making sure that the women involved get the kind of informed consent that we claim we want them to have.

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

Mr. COWELL. Thank you, Mr. Speaker.

Mr. Speaker, I think that probably a clear majority of the members of this House believe that this legislation, the large amendment that we have been dealing with since yesterday, has many good points and perhaps a number of, if not many, bad points. It is really a mixed bag. Unfortunately, there has been a tendency on the part of many members of the public, and probably an expectation among many members of the public, to anticipate or to perceive this to be an all-black issue or an all-white issue, no gray, no mixed feelings, no mixed opinions.

I believe that this particular amendment reflects that kind of problem. I believe that this particular section of the Cunningham-Freind amendment, which has been before us since yesterday, has a primary purpose of making sure—at

least I have been told it has a primary purpose of making sure—that the woman who is considering an abortion is informed about the situation she may be getting into. And the kind of information that is to be provided to that woman is clearly identified in the Cunningham-Freind amendment, and I think that is most appropriate.

There have been other sections of this amendment, the Cunningham-Freind amendment, some of those bad sections that are not so meritorious, in my opinion, that do little than harass. I believe that that language that says it has got to be the doctor who tells a woman what kind of insurance benefits are available can be classified as the harassment. It is one of the negative things about this large amendment. It really is not necessary. It really does not go to the heart of the problem, and I think that word has been overused since yesterday, the "heart" or "a crucial part." We are being misled.

There are very important facets of this legislation that do represent the heart of the problem or the heart of the issue, and I think that probably there is a clear majority of the members of this House who agree with that heart. But the fact that a doctor rather than his agent must tell a woman what kind of medical assistance benefits might be available certainly is not the heart of this issue, and it is a disservice to the members of this legislature and a disservice to this issue to label that as the heart of the problem. In fact, as has been suggested, if we are truly interested in making sure that a woman is provided with meaningful information so that she does give informed consent, so that she does have full information, it might well be true that the doctor is the most inappropriate person to share that information with the woman.

My experience with doctors is that most of them do not know a whole lot about medical assistance benefits. There are other people who work in different agencies of government and different people who work in hospitals or clinics who are much more knowledgeable about that kind of issue than any physician. If I want to learn what kind of medical insurance benefits or medical assistance might be available to one of my constituents, frankly, the doctor is the last person I ask. They do not know. If we are truly concerned about making sure that this information is made available to the woman, let us not make the early judgment that the doctor is the only person or the best person to share that kind of information. There may well be other people who can do a better job of making sure that that woman is informed about her rights and about the information that is identified in this legislation.

This issue of the doctor having to do it is a phony issue. It is one of the little examples of harassment in this legislation that ought to have a more meritorious purpose, and which I believe does have a larger, more meritorious purpose. We do not need to get bogged down on an issue of who is going to provide this information. We should not get bogged down on that issue. We should adopt the Itkin amendment. Thank you.

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

Mrs. WESTON. Thank you, Mr. Speaker.

I rise to urge defeat of the Itkin amendment. I can imagine a woman going into a doctor's office and feeling more secure in knowing that her physician will take the time to sit down and talk with her on the exact medical procedures that are going to take place, whether that is the decision that she will have a baby or whether that is more importantly the decision that she will have an abortion. A woman needs to know that her physician will take time with her and explain what is going to happen to her. I just feel that this is an important amendment to defeat to ensure that women are treated properly in a doctor's office and that they are given the time with the physician that they well deserve.

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

Mrs. ARTY. Mr. Speaker, the fact that in the performance of an abortion we have an invasive, surgical procedure, there should and there must be a bonding between the physician and the patient upon whom that invasive procedure is being performed. There must also be a patient-physician relationship. The provisions of the Freind amendment have allowed for that relationship.

This is also a responsibility that should not be delegated. It should be carried out by the person who is about to perform that invasive procedure, and I would ask a negative vote for the Itkin amendment.

The SPEAKER. The Chair recognizes the gentleman, Mr. Gannon, for the second time on the question.

Mr. GANNON. Mr. Speaker, seeking abortion for many women or most women may perhaps be the most important procedure that they would be involved in. I think that they are entitled to know, and I think they are entitled to ask the question, doctor, what is going to happen? Maybe the doctor is not qualified or maybe he is not up to date on what medical benefits or what insurance benefits or what payment programs may be available, but I do not think a counselor or a receptionist or a secretary or whoever is qualified to properly and adequately answer some of the complex medical questions which may arise in the course of that procedure known as informed consent. As I said before, I think a woman is entitled to ask that question, doctor, what is going to happen, and I urge a negative vote on this amendment.

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

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

I likewise oppose this amendment. I can say it no better than the lady, Mrs. Weston, said it or the lady, Mrs. Arty, said it. Really, they told it exactly the way it is for women who want to know the details of what is to take place in such an operation. I strongly urge a negative vote.

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

Mr. FLECK. Thank you, Mr. Speaker.

Do we have a medical expert in the House? I am serious, Mr. Speaker. I would like to ask a question about other medical situations. Is there someone who could answer a brief question?

The SPEAKER. Does the gentleman, Mr. Cunningham, care to respond?

Mr. FLECK. Well, perhaps I could ask a question of the sponsor of A4911.

Mr. CUNNINGHAM. Mr. Speaker, if the gentleman would like to ask a question, I would be glad to attempt to answer it. I do not purport to be a medical expert, certainly.

Mr. FLECK. I would just like to know, are there any other medical procedures involving an informed consent where the doctor specifically is required to provide that information?

Mr. CUNNINGHAM. Mr. Speaker, I would like to yield. Representative Freind has asked me to yield the mike to him for a moment, if I may.

The SPEAKER. The gentleman, Mr. Cunningham, yields to the gentleman, Mr. Freind. The gentleman may proceed.

Mr. FREIND. I am not certain of that, Mr. Speaker. It may well be that there is no other medical procedure where that is required. But as I pointed out at the outset, there is no other medical procedure that not only, A, performs a surgical or medical procedure upon a patient, but B, is designed, by definition, to kill an unborn child. For that reason we feel that a higher standard should be utilized here than in any other medical procedure.

Mr. FLECK. But your informed consent includes much more than the medical procedure. Is that right?

Mr. FREIND. The major section is the medical procedure. As a matter of fact, as you know, we amended this in response to some criticism where the bill originally said, must advise you of the risk inherent in an abortion. They said that is being one way, so the requirement is to advise of the risk of an abortion and also the risk of childbirth.

Now, there is a section in there where the woman is advised that if she qualifies economically, she is eligible for medical assistance and for public assistance for the child, and she is also advised, and this is no great hardship on a doctor—now, this is the key here—this was designed, this section, for those situations which occur frequently where a young female becomes pregnant and is told by the father, look, I will offer to pay for an abortion, but in fact if you do not have the abortion and have the baby, I am not responsible for any support of the child. Now, that is not the law, clearly that is not the law, and all the doctor has to advise her is if she has the baby, the father is responsible for support. I do not think, Mr. Speaker, that is putting any great hardship on a physician.

Mr. FLECK. What amount of time would you expect a doctor to spend with a patient in order to adequately advise her and answer any questions she might raise?

Mr. FREIND. I think that is going to vary, Mr. Speaker, with respect particularly to the woman. For example, no section of the bill in any draft ever required the woman to be shown photographs. They must be made available. If in fact she opts to look at the photographs, she may have questions about the stages of the unborn child; not aborted pictures, just pictures of unborn children. That would take a longer period of time than if she opted not to look at the photographs.

Mr. FLECK. What do you think the range might be?

Mr. FREIND. It would be hard to say, Mr. Speaker. I believe that a physician could give the informed consent in a knowledgeable way on both sides of the issue in a period of 10 minutes, 10 to 15 minutes, and I do not think 10 to 15 minutes for an individual who is going to perform that type of an operation designed to kill an unborn child is putting any tremendous hardship on a physician.

As we all know—and this is not meant in any way to be derogatory—the 1973 Supreme Court decision has been a financial godsend for many physicians where they specialize in performing abortions. I do not think that period of time places any unreasonable hardship or any hardship in any way on a physician.

Mr. FLECK. Thank you, Mr. Speaker.

Could I be recognized for a statement, please?

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

Mr. FLECK. I have voted consistently with the majority of the amendments sponsored by the sponsors of A4911. However, I think this one we really have to take a look at. There is strength to the argument that if the physicians involved, if we accept Mr. Freind's arguments that these are callous individuals accepting windfalls out of the Supreme Court decision, if they are that callous, can we not also conclude that they might be equally callous towards their responsibilities and perform them in a perfunctory manner? Would we not essentially be better guaranteeing, or at least enabling or providing the hope, that maybe this informed consent will be done in a back-and-forth - we will answer your questions; what are your problems - way by a counselor as opposed to binding a physician who is out for the almighty buck—if we accept those arguments—who is going to do it in the quickest possible way?

I just urge you to think about this amendment. There is strength to the arguments in favor of this amendment. I intend to vote "yes," and I hope you will, too.

The SPEAKER. The Chair recognizes the gentleman from Mifflin, Mr. DeVerter.

Mr. DeVERTER. Thank you, Mr. Speaker.

Would Mr. Freind stand for brief interrogation?

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

Mr. DeVERTER. Mr. Speaker, I guess my own personal experience relates to this particular section of the bill, and I was wondering if you could provide me with a little clarification in light of the amendment offered by Mr. Itkin.

A year and a half or so ago I was destined to be hospitalized myself for a rather major piece of surgery. Prior to that surgery being performed, the physician who was to do it became extremely ill himself—as a matter of fact, he was in the hospital room directly across the hall from me—and one of his partners, as it were, had to end up performing the operation. What I would like to know is, in those cases where there are gynecologists and obstetricians, where there are more than one in practice, are you in fact by this section saying that even though the woman may have gone to one of those physicians

and the other or two or three or however many are in that practice are of equal qualifications, they could not go ahead and perform the function of removing that child or that fetus?

Mr. FREIND. Mr. Speaker, I am not saying that they are not capable. In other words, you are talking of the instance where the doctor is going to perform the abortion, gives the informed consent, and subsequently—and you see, the way this is phrased, it has to be only a 24-hour waiting period—but subsequently in that 24 hours becomes ill and cannot perform the abortion. Is that correct?

Mr. DeVERTER. And/or, according to this, he must at least 24 hours before the abortion counsel her. Now, if that be the case and he becomes ill before that 24-hour period that this is to transpire, what is to happen? Good question, is it not?

Mr. FREIND. Mr. Speaker, the requirement is that the informed consent be given 24 hours before the abortion is performed. Now, if your situation is that something intervenes within that 24-hour period of time, that the individual who is to perform the abortion cannot, then by the language here, there would have to be a new informed consent and, yes, a new 24-hour waiting period. Now, this is not going to happen very often, but keep in mind, Mr. Speaker, that what we also have in here for every section of this is that in the case of a medical emergency, none of these provisions apply. So, in fact, if it is a medical emergency, none of the provisions would apply, not even the original 24-hour waiting period, not even the original informed consent.

Mr. DeVERTER. But does the medical emergency apply to the woman and the doctor? I think if you read your language, it does not. I would urge the adoption of this amendment.

Mr. FREIND. No; you are right. The medical emergency relates to the woman. So if in your case the physician became ill and it was a medical emergency for the woman where the abortion would have to be performed, nothing would prevent the abortion from being performed by another physician without the informed consent.

Excuse me, Mr. Speaker. Excuse me; I stand corrected. If you look at the language, what we are saying—and we have been over this bill so many times I have to look at it again—we are not requiring just the doctor performing the abortion. He is not the only one who can counsel. If you look at the language, it is either the doctor performing the abortion or the referring physician, either-or. So in a case where a woman comes into a doctor's office, a doctor who will not perform the operation, her doctor, and states she wants an abortion and he provides the counseling, only 24 hours have to elapse, and she can go to another doctor without the informed consent and have the operation, which would clearly take care of the situation that you have.

Mr. DeVERTER. Well, I have serious reservations about that, because if you look at the definition of "medical emergency," it says, "That clinical condition so complicating pregnancy as to necessitate the immediate abortion of same to avert the death of the mother." I think in using the language "medical emergency" throughout the bill and with that definition of it, it would be extremely difficult to translate that to

the physician who may in fact have a medical emergency, and that concerns me.

Mr. FREIND. Mr. Speaker, that definition is no different than in any other operation. The only time any operation can be performed on anyone without consent is in such an emergency. In all other cases, that consent is required. We do nothing different here than we do in any other phase of medicine.

On the question recurring,

Will the House agree to the amendments No. A5096 to amendments No. A4911?

The following roll call was recorded:

YEAS—73

Anderson	Greenfield	Miscevich	Smith, L. E.
Barber	Greenwood	Moehlmann	Spencer
Berson	Gruitza	Mowery	Stairs
Bittle	Hagarty	O'Donnell	Stewart
Brown	Harper	Oliver	Stuban
Burd	Heiser	Piccola	Sweet
Cowell	Hoeffel	Pistella	Van Horne
DeVerter	Hutchinson, A.	Pott	Wambach
DeWeese	Itkin	Punt	Wiggins
Davies	Jackson	Rappaport	Williams, H.
Deal	Kolter	Rasco	Williams, J. D.
Dininni	Kukovich	Reber	Wozniak
Dorr	Lashinger	Richardson	Wright, D. R.
Evans	Levin	Ritter	Wright, R. C.
Fargo	Livengood	Saurman	Zwikel
Fleck	Lloyd	Seventy	
Fryer	Madigan	Showers	Ryan,
Geist	Manmiller	Sirianni	Speaker
Gladeck	Michlovic	Smith, B.	

NAYS—119

Alden	Dombrowski	Lehr	Pratt
Armstrong	Donatucci	Lescovitz	Rieger
Arty	Duffy	Letterman	Rocks
Belardi	Durham	Levi	Rybak
Belfanti	Fee	Lewis	Salvatore
Beloff	Fischer	Lucyk	Serafini
Blaum	Foster, W. W.	McCall	Shupnik
Borski	Foster, Jr., A.	McClatchy	Sieminski
Bowser	Frazier	McIntyre	Smith, E. H.
Boyes	Freind	McMonagle	Snyder
Brandt	Gallagher	McVerry	Spitz
Burns	Gallen	Mackowski	Steighner
Caltagirone	Gamble	Maiale	Stevens
Cappabianca	Gannon	Manderino	Swaim
Cawley	George	Marmion	Swift
Cessar	Grabowski	Merry	Taddonio
Cimini	Gray	Micozzie	Taylor, E. Z.
Civera	Grieco	Miller	Taylor, F. E.
Clark	Gruppo	Morris	Telek
Clymer	Haluska	Mrkonic	Tigue
Cochran	Hasay	Mullen	Trello
Cohen	Hayes	Murphy	Vroon
Colafella	Honaman	Noye	Wargo
Cole	Horgos	Olasz	Wass
Cordisco	Johnson	Pendleton	Wenger
Coslett	Kanuck	Peterson	Weston
Cunningham	Kennedy	Petrarca	Wilson
DeMedio	Klingaman	Petrone	Wogan
Dawida	Kowalshyn	Phillips	Wright, J. L.
Dietz	Laughlin	Pitts	

NOT VOTING—3

Cornell	Emerson	Perzel
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## EXCUSED—7

Daikeler            Irvis                    Pievsky                Wachob  
Hutchinson, W. Nahill            Pucciarelli

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

**REQUEST FOR RECESS**

The SPEAKER. The Chair recognizes the majority leader.

Mr. HAYES. Mr. Speaker, I request that we recess until 1:30 for the purpose of taking lunch.

**STATEMENT BY MRS. HONAMAN**

The SPEAKER. Will the gentleman yield?

Does the lady from Lancaster, Mrs. Honaman, care to address the House first?

Mrs. HONAMAN. Yes; thank you, Mr. Speaker.

Just a brief announcement and then a gift to you all.

In 1978 the National Conference of State Legislatures established a States and the Arts Committee, on which Representative Irvis and I represented the State of Pennsylvania. After a lot of study and meetings, we have come forth with a report, and I have in my office 203 copies of this report. Each of you will get one. I want to tell you it was not paid for with tax money; it was paid for with private contributions.

I would appreciate your reading it, and I would like your comments on it. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the lady.

**RECESS**

The SPEAKER. Without objection, this House will stand in recess until 1:30. The Chair hears no objection.

**AFTER RECESS**

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

**BILL TABLED**

The SPEAKER. Without objection, SB 742, together with amendments, will be laid temporarily on the table awaiting the arrival of the members. The Chair hears no objection.

**COMMUNICATION FROM GOVERNOR****1981 SURPLUS PROPERTY DISPOSITION PLAN**

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

**1981 SURPLUS PROPERTY DISPOSITION PLAN.**

Commonwealth of Pennsylvania  
Governor's Office  
Harrisburg

December 8, 1981

**TO THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA:**

By the authority vested in me by Article XXIV-A of the Act of July 1, 1981 (P.L. \_\_\_\_\_, No. 48) entitled "Disposition of Commonwealth Surplus Land," I transmit herewith the 1981 Surplus Property Disposition Plan.

The State of Pennsylvania may be the largest and most diverse real estate owner in the Commonwealth. All total, the Commonwealth owns approximately 13,400 buildings and 3.7 million acres of land. Included in this inventory are many unused facilities and acreage for which the Commonwealth has no immediate or future need. Continued ownership of this surplus real estate poses several liabilities to the State and its taxpayers. As they stand idle, these properties consume caretaking and security budgets, or conversely, they suffer from lack of same. Costly insurance risks are imposed, since the waiving of Sovereign Immunity has subjected the state to lawsuits. Furthermore, these properties yield no local real estate tax income, and standing idle, they preclude the possibility of productive use for residential, agricultural, or commercial purposes for which they may be individually appropriate.

The Surplus Property Disposition Plan, required by Act 48 of 1981, provides for an efficient and orderly system for the annual disposition of excess real estate that is surplus to the needs of State Government, and ensures that all conveyances are made for fair consideration predicted upon fair market value. With the passage of Act 48, a systematic process has been established whereby the Commonwealth can effectively manage its real estate assets, address deficiencies which were previously unknown, and divest itself of surplus holdings through the Surplus Property Disposition Plan as approved by the General Assembly.

Contained in the Plan for 1981 are eighteen (18) properties whose usefulness to State Government has ceased. However, their desirability and value for other purposes, in most cases, is substantial. The properties vary widely in size, nature, and geographic locations. The larger tracts have been divided so that they can be purchased in appropriate parcels or in total. The smaller urban properties have been kept as whole units. Any special considerations such as zoning restrictions, agricultural and open space requirements, retention of mineral rights, and easements and leases presently in effect, have been identified for each parcel. Upon final approval of the Disposition Plan, much of this information will serve as a sales brochure for prospective purchasers.

Pursuant to Act 48 of 1981, the Plan has been transmitted to the Chairmen and Minority Chairmen of the House and Senate State Government Committees. The House and Senate Committees have conducted joint public hearings as a part of their review of the Plan and have advised the Department of General Services of their findings in separate reports. These findings have been incorporated into the plan as submitted to you.

The Department of General Services has also invited public comments on the Plan through publication in the Pennsylvania Bulletin, Vol. 11, No. 40, Saturday, October 3, 1981. In addition, pursuant to Act 48, the Department has requested and received the Attorney General's approval of the Plan for form and legality.

Approval to sell the properties contained in the Plan will result in substantial benefits to the Commonwealth. The various objectives to be attained are that idle real estate will be returned to local tax rolls and put to productive use, state exposure to liability and other insurance risks will be reduced, and excessive security and maintenance costs, or losses through deterioration and neglect, will be avoided.

I, therefore, transmit to you and urge your approval of the 1981 Surplus Property Disposition Plan.

Dick Thornburgh  
Governor

(Copy of plan is on file with the Journal clerk.)

### SENATE MESSAGE

#### HOUSE BILLS CONCURRED IN BY SENATE

The clerk of the Senate, being introduced, returned **HB 145, PN 1075**; and **HB 1546, PN 1808**, with information that the Senate has passed the same without amendment.

### SENATE MESSAGE

#### AMENDED HOUSE BILL RETURNED FOR CONCURRENCE

The clerk of the Senate, being introduced, returned **HB 453, PN 2632**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested.

The SPEAKER. The bill will appear on the calendar.

### SENATE MESSAGE

#### HOUSE-AMENDED SENATE BILLS CONCURRED IN

The clerk of the Senate, being introduced, informed that the Senate has concurred in the amendments made by the House of Representatives to **SB 562, PN 1448**; and **SB 962, PN 1495**.

### SENATE MESSAGE

#### SENATE INSISTS ON NONCONCURRENCE IN HOUSE AMENDMENTS

The clerk of the Senate, being introduced, informed that the Senate has insisted on its nonconcurrence in the amendments made and insisted upon by the House of Representatives to **SB 277, PN 1135**.

### BILLS SIGNED BY SPEAKER

The Chair gave notice that he was about to sign the following bills, which were then signed:

#### **HB 145, PN 1075**

An Act authorizing the Secretary of Environmental Resources to establish a Volunteers in State Parks and Forests Program and for other purposes.

#### **HB 1546, PN 1808**

An Act amending "The Fiscal Code," approved April 9, 1929 (P. L. 343, No. 176), further providing for the refund of moneys erroneously paid to agencies under the Governor's jurisdiction.

#### **SB 962, PN 1495**

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.

#### **SB 562, PN 1448**

An Act amending the act of May 2, 1945 (P. L. 382, No. 164), entitled "Municipality Authorities Act of 1945," further providing for the purposes and powers of authorities.

### BILLS REPORTED FROM COMMITTEES, CONSIDERED FIRST TIME, AND TABLED

#### **HB 2074, PN 2644 (Amended)**

By Rep. L. E. SMITH

An Act amending the "Savings Association Code of 1967," approved December 14, 1967 (P. L. 746, No. 345), providing Statewide savings bank branches and further providing for interest rates, finance charges or terms of loans.

#### BUSINESS AND COMMERCE.

#### **SB 1041, PN 1222 (Unanimous)**

By Rep. W. W. FOSTER

An Act amending the act of June 3, 1937 (P. L. 1225, No. 316), entitled "The Game Law," further providing for the use of Game Commission land by the Department of Transportation.

#### GAME AND FISHERIES.

#### **SB 1156, PN 1376 (Unanimous)**

By Rep. W. W. FOSTER

An Act amending the act of June 3, 1937 (P. L. 1225, No. 316), entitled "The Game Law," providing for the issuance of antlerless deer licenses to certain qualifying landowners.

#### GAME AND FISHERIES.

### RESOLUTION REPORTED FROM COMMITTEE

#### **HR 130, PN 2616 (Concurrent) (Unanimous)**

By Rep. HASAY

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

#### FEDERAL-STATE RELATIONS.

### LEAVE OF ABSENCE GRANTED

The SPEAKER. Without objection, the Chair returns to leaves of absence.

The Chair recognizes the majority whip.

Mr. CESSAR. Thank you, Mr. Speaker.

I request a leave for this afternoon's session for Mr. WILSON from Bucks County.

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

### CONSIDERATION OF SB 742 RESUMED

#### BILL REMOVED FROM TABLE

The SPEAKER. The Chair recognizes the majority leader.

Mr. HAYES. Mr. Speaker, I move that SB 742, together with amendments, be removed from the table.

On the question,

Will the House agree to the motion?

Motion was agreed to.

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. ITKIN offered the following amendment No. A5097 to amendments No. A4911:

Amend amendments, page 5, by inserting between lines 28 and 29

(viii) The economic, social and psychological benefits and costs associated with bearing, nurturing and rearing a child from birth and through adulthood and legal emancipation.

On the question,

Will the House agree to the amendment No. A5097 to amendments No. A4911?

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

Mr. ITKIN. Mr. Speaker, this amendment appears in the list provided on page 28. It amends the section of the Freind-Cunningham amendment that appears on page 5, and it deals with what information needs to be given by the physician to the patient regarding an abortion.

The first few entries—and there are seven—in what is required basically deal with the name of the physician who will perform the abortion and the physical and psychological effects of the abortion process, medical risk, et cetera. But then the list of information to be provided goes further and indicates two things that I think are important; that is, the fact that medical assistance benefits are available for prenatal care, child care, and neonatal care, postbirth care, and also the fact that the father is liable to assist in the support of her child even in instances where the father has offered to pay for the abortion.

Now, I think that those are legitimate questions that any person who is seeking an abortion would like to know. I think, however, beyond that, as one reads the list, one basically gets the feeling that if a patient has an abortion, she really does not have to worry about the financial implications or consequences of the abortion, that if she is poor, the government will provide for her care.

What presently stands in the section is a positive inducement for a woman to carry a pregnancy to term by indicating that there are certain financial benefits that the patient or woman will receive in the event that she goes to term, and those are that the medical assistance will take care of the prenatal care, that she can receive personal benefits while she is pregnant, that she can have all the costs of the hospital taken care of, and that even after birth she will really become the ward of the State and the State will take care of the neonatal care for her and the child, and that goes beyond even that the father of the child can be required to pay support for her in order to take care of that child. I think that that is a very misleading and unbalanced perspective, and I think if we really want to be honest and allow that patient to make a very balanced decision on the basis of her concerns, her anxieties, and her needs, then what is required is some additional informa-

tion that also deals with the other side of the issue. That is, if the pregnancy goes to term, what can the woman expect in terms of the economic, social, and psychological benefits and costs associated with bearing, nurturing, and rearing a child from birth and through adulthood and legal emancipation?

I think this speaks to the heart of a major concern to those who take exception with this legislation, in that there are many women, especially young women, who are extremely fearful of the liabilities that they personally will have to assume, liabilities far beyond their means, of dealing with raising a child, especially if it will be a household with only one parent.

The information that is presently contained in the bill would imply that you do not have to worry about this because if you are economically deprived, the State will take care of all your costs and the father will have to pay support. Support, as those of you who are lawyers who deal with domestic relations cases know, support in most instances rarely ever covers the cost of child raising. Most orders of the court, even when awarding child support among lower-middle-class people and those in the lower economic strata, can be less than \$50 or \$100 a month, and the ability to care for that child far exceeds that amount. To say to indicate that this money is forthcoming, I think, is misleading.

I think it is necessary to also deal with the other side, so that the woman who decides to bring a child to term does not experience such emotional and financial repercussions, especially during the early stages of infancy, that she becomes extremely hostile to what she has allowed herself to do, and becomes hostile not only to society as a whole but to the child.

I think it is necessary that this information also be provided in order to ensure that there will be a total awareness on the part of the pregnant woman to make this determination, and I would hope that you could support this amendment. Thank you.

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

Mr. FREIND. Thank you, Mr. Speaker.

Very briefly, I oppose this amendment for three reasons. One, it is inconsistent with the arguments made by the proponents of the last amendment when they objected to a designated agent for the doctor and one of the arguments was, you are asking the doctor already to give too much information.

Secondly, it is overly broad. Economic, social, and psychological benefits and costs associated with bearing and rearing a child. By whose standards? The one that Harvard puts out on the cost of a child? By whose standards is the doctor to provide this information? All the other information that we require a doctor to provide are the medical standards on which he is an expert or the stated specific law of eligibility for particular benefits.

Thirdly, and for the most important reason, basically this amendment stands for the prospect that you can put a dollar sign on a human life. Some individuals have raised the argument—I am not saying Mr. Itkin—that, in fact, if a woman is pregnant and she is poor and the child who is born will be poor, that we are going to do that child a favor and we are

going to kill him or her. I just do not think that follows, Mr. Speaker.

It is overly broad. It is a bad amendment, and I would ask that it be rejected.

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

Mr. ITKIN. Mr. Speaker, would Mr. Freind consent to interrogation?

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

Mr. ITKIN. Mr. Speaker, since you oppose this amendment because you feel that the physician will be burdened enough with the information that you require him to provide to the patient and you do not think he may be an expert, I would just like to ask you for your own personal opinion, if you care to give it. What do you think it costs to take care of a child annually?

Mr. FREIND. I have five children, Mr. Speaker, and I have *no idea*. I have *no idea*. That will vary so much it is not even funny. The sex of the children; can you hand down the clothes; do you have a brother or sister who has children where you can exchange the clothes? There are a lot of different variables. There is no way that you can put any kind of an accurate *dollar sign on that*.

Mr. ITKIN. Would you say, Mr. Speaker, that it at least exceeds \$1,000 a year?

Mr. FREIND. At what particular age?

Mr. ITKIN. At infancy?

Mr. FREIND. I do not know. It may well *not*. It also depends upon, do you have a lot of relatives and a lot of the children's clothes are given as gifts by your large family? It varies.

Mr. ITKIN. Do you not think that a woman ought to be aware of those potential financial obligations that she will become responsible for?

Mr. FREIND. Mr. Speaker, there are a lot of other things that a woman should be aware of when considering whether or not to have children.

In the informed-consent section, we put the major, specific *sine qua non*, the absolute necessities that she should be made aware of. *There are many, many, many* other issues that a woman should be aware of, and that would vary from individual to individual.

Mr. ITKIN. Why do you assume, Mr. Speaker, that being able to collect child support from a husband or the father of the child, *not necessarily the husband*, is very important knowledge, but the actual cost of caring for a child is inconsequential?

Mr. FREIND. I did not follow that question, Mr. Speaker.

Mr. ITKIN. I said, you by your own initiative attempted to put in the fact that the physician must advise the patient that if she carries the pregnancy to term, she could collect child support. Why did you think that was an important factor?

Mr. FREIND. It is merely a restatement of the law, and because what is happening is in cases particularly of young females who are pregnant, particularly when they are not married, the father of the child offers to pay for an abortion

and he says, look, if you do not have the abortion, since I have offered to pay for it, if you decide not to have it and have the baby, I am not responsible for support. It is merely to make the woman know that that is not the law, that is not the case, regardless of whether or not he offered to pay for an abortion. If she has the baby, the father is, of course, liable to assist in the support of that child.

Mr. ITKIN. Thank you, Mr. Speaker.

Mr. Speaker, I believe that most people are aware of the law in Pennsylvania that parents are required to support their children and that there is child support. I think what is probably *the greatest amount of ignorance* is that that support in most instances is quite minimal, because the earnings of the father are unable to provide that kind of support necessary to care for the child plus, at the same time, take care of his own independent needs, his own shelter, his own food, et cetera. *The courts of Pennsylvania have been quite lenient in this regard*, and in fact, most child support payments are totally inadequate in dealing with the issue of child care.

I really believe that a woman, to make an important determination, especially young women who maybe have not had the experience of raising children before, should be made aware of and gain an appreciation of what the responsibilities of parenthood are. As a parent of three children, I think there should be consideration of what the financial entailments are, and direct emotional, social, and restrictive responsibilities that a parent must endure in raising a child. Therefore, Mr. Speaker, I would hope that we could support this kind of amendment. I think it would give far more insight to the patient in determining whether or not to have an abortion. Thank you.

The SPEAKER. Does the gentleman from Montgomery, Mr. Lashinger, seek recognition?

Mr. LASHINGER. Yes, Mr. Speaker.

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

Mr. LASHINGER. Thank you, Mr. Speaker.

Mr. Speaker, I rise to support the Itkin amendment.

If I can stray from the substance for just a second, I am surprised at the opposition to this amendment. It is a seemingly innocuous amendment and, I think, indicative of something that has been happening over these last 2 days. I am sure there are a number of members who are in a similar situation as I am and are looking for a way to make sections that we currently disagree upon more acceptable or more palatable. I think some of us have disagreed with the informed-consent provisions as they currently stand in the amendment, and with Mr. Itkin's amendment I think it makes it more acceptable. As he says, it balances some of the interests that we have to take into consideration.

I am surprised at the ongoing opposition to minor changes like this, and I think what it demonstrates is an unwillingness, and we confronted this in the Health and Welfare Committee. I know I, as an individual member, continue to resent it on the House floor that while we hear that the prime sponsors are amenable to making changes and accepting some changes in these areas, every time an amendment like this is offered,

something even as innocuous as this minor change in the informed-consent area, we still gain opposition from the prime sponsors. So I think it probably does not bode well for the future of this legislation because of this.

On the substance, I think, as Mr. Itkin indicated, it is a balancing of interests here by adding this language. It is not a softening. It does not do anything other than probably allow a disadvantaged individual to gain more knowledge about that decision that they are about to make.

If you look at the entire amendment, one reporter a few weeks ago said—and I think probably pretty accurately—that the entire amendment was developed with what he called a Lady Diana mentality. I think that is pretty much true. I think if you look at it, the assumption is, especially by rejecting this amendment, that every female out there who is involved in this area is one who understands the psychological, the economic ramifications. All Mr. Itkin is asking is that they also be considerations that be given the woman, or considerations that she be allowed to examine before making this decision. If anything, it probably cuts the opposite way of Mr. Freind's argument. Possibly what she might be doing is deciding not to opt for an abortion, knowing, like Mr. Itkin outlined, things like medical assistance and that there will be future benefits available for her and for her child, should she decide not to opt for the abortion. So it could cut the other way instead of doing what Mr. Freind suggests, and it will have women, after hearing of the problems that they might be confronted with economically in deciding to bear the child, instead of aborting that child, she might opt to have that child after hearing of all the benefits that might be made available to her.

So I think it is an adequate balancing, and I would hope the prime sponsors would understand that this makes this legislation more acceptable to some of the members, and I am sure there are many who are in a similar dilemma as I am in trying to make it more acceptable to each of us, instead of ramming it down our throats and not allowing some of these more mundane or innocuous amendments to be acceptable. Because of that, I would hope that the House would support the Itkin amendment. Thank you, Mr. Speaker.

### WELCOME

The SPEAKER. The Chair is pleased at this time to welcome to the hall of the House Mr. and Mrs. Christian Leinbach of Chester County, here today as the guests of the Representative from Chester, Mr. Earl Smith.

### CONSIDERATION OF SB 742 CONTINUED

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

Mrs. HARPER. Thank you, Mr. Speaker.

I rise to support the Itkin amendment. I read the amendment where it states, "The economic, social and psychological benefits and costs associated with bearing, nurturing and rearing a child from birth and through adulthood and legal emancipation." This is a very good amendment. I think that all young women should have as much information as possi-

ble. I really think that that is why we have so many young unwed mothers, because they do not have the information; they do not understand the responsibilities of raising children.

I was very young when I had my two children, and I did not understand and know. So this particular amendment will help young mothers. Thank you.

### THE SPEAKER PRO TEMPORE (JOHN HOPE ANDERSON) IN THE CHAIR CONSIDERATION OF SB 742 CONTINUED

The SPEAKER pro tempore. The Chair recognizes the lady from Philadelphia, Mrs. Weston.

Mrs. WESTON. Thank you, Mr. Speaker.

Reading over this amendment, I feel, number one, it is much too broad an amendment to be added to the amendment that we are debating today. And beyond that, I just cannot possibly conceive how we, in this amendment, can ask doctors to put a dollar value, a monetary value, on the life of a human child. I urge defeat of this amendment.

On the question recurring,

Will the House agree to the amendment No. A5097 to amendments No. A4911?

The following roll call was recorded:

#### YEAS—53

Anderson	Greenwood	Moehlmann	Smith, B.
Belfanti	Gruitza	Mowery	Smith, L. E.
Berson	Hagarty	Oliver	Snyder
Burd	Harper	Pendleton	Spencer
Cornell	Hutchinson, A.	Piccola	Stewart
DeVerter	Itkin	Pistella	Van Horne
DeWeese	Jackson	Rappaport	Wambach
Davies	Kukovich	Rasco	Williams, H.
Deal	Lashinger	Reber	Williams, J. D.
Dininni	Levin	Richardson	Wozniak
Dorr	Livengood	Ritter	Wright, D. R.
Fargo	Manmiller	Saurman	Wright, R. C.
Fryer	Miller	Showers	Zwilk
Greenfield			

#### NAYS—139

Alden	Durham	Lescovitz	Punt
Armstrong	Evans	Letterman	Rieger
Arty	Fee	Levi	Rocks
Barber	Fischer	Lewis	Rybak
Belardi	Fleck	Lloyd	Salvatore
Beloff	Foster, W. W.	Lucyk	Serafini
Bittle	Foster, Jr., A.	McCall	Seventy
Blaum	Frazier	McClatchy	Shupnik
Borski	Freind	McIntyre	Sieminski
Bowser	Gallagher	McMonagle	Sirianni
Boyes	Gallen	McVerry	Smith, E. H.
Brandt	Gamble	Mackowski	Spitz
Brown	Gannon	Madigan	Stairs
Burns	Geist	Maiale	Steighner
Caltagirone	George	Manderino	Stevens
Cappabianca	Gladeck	Marmion	Stuban
Cawley	Grabowski	Merry	Swaim
Cessar	Gray	Michlovic	Swift
Cimini	Grieco	Micozzie	Taddonio
Civera	Gruppo	Miscevich	Taylor, E. Z.
Clark	Haluska	Morris	Taylor, F. E.
Clymer	Hasay	Mrkonic	Telek
Cochran	Hayes	Mullen	Tigue
Cohen	Heiser	Murphy	Trello
Colafella	Hoeffel	Noye	Vroon
Cole	Honaman	O'Donnell	Wargo

Cordisco	Horgos	Olasz	Wass
Coslett	Johnson	Perzel	Wenger
Cowell	Kanuck	Peterson	Weston
Cunningham	Kennedy	Petrarca	Wiggins
DeMedio	Klingaman	Petrone	Wogan
Dawida	Kolter	Phillips	Wright, J. L.
Dietz	Kowalshyn	Pitts	
Dombrowski	Laughlin	Pott	Ryan,
Donatucci	Lehr	Pratt	Speaker
Duffy			

NOT VOTING—2

Emerson Sweet

EXCUSED—8

Daikeler Irvis Pievsky Wachob  
Hutchinson, W. Nahill Pucciarelli Wilson

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

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. MURPHY offered the following amendments No. A4942 to amendments No. A4911:

Amend Amendments (Sec. 3206), page 6, line 5, by inserting after "incompetent,"

or a concerned responsible adult qualified by education and experience including school counselors, rabbis, priests, ministers or persons holding masters degrees in social work or psychologists or psychiatrists licensed by the State,

Amend Amendments (Sec. 3206), page 6, lines 29 through 60; page 7, lines 1 through 29, by striking out all of said lines on said pages

Amend Amendments (Sec. 3206), page 7, line 30, by striking out "(i)" and inserting

(c)

On the question,

Will the House agree to the amendments No. A4942 to amendments No. A4911?

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

Mr. MURPHY. Thank you, Mr. Speaker.

If we are here today to try to protect the women of this Commonwealth from the problems of abortion, I would suggest that this amendment is important to doing that. Presently, under the question of parental consent, we have a procedure that permits a young woman, if she does not want to speak with her parents, to go to the courts to receive permission to have an abortion. If the courts see fit, they can grant that permission.

It seems to me that the last place we want to send a young woman who is clearly facing a very difficult decision, psychologically and emotionally, is to the court system. The court system, I think, in this Commonwealth has been recognized as being very busy, overcrowded, and having little time to deal with this type of emotional issue.

I do not think we serve the purposes of the young women of this Commonwealth by asking them to go to a judge, and practically it is beyond me why the sponsors of the bill would support this idea of sending them to the courts, because I feel

very clearly that abortion clinics will very quickly find judges sympathetic to their point of view to whom they can take these young women. My amendment provides that rather than a court procedure—it strikes the court procedure—a young woman could go to and discuss her problem of the question of abortion with school counselors, rabbis, priests, ministers, or persons holding master's degrees in social work, or psychologists or psychiatrists licensed in the State - a very narrow range of individuals, but individuals, I believe, recognized generally by our society as persons who would look out for the best interests of the young woman with whom they were discussing the question of abortion.

The idea of sending this young woman to the courts just does not make any sense if you are concerned about the well-being of that young woman. If you are interested in only harassing that young woman and making it more difficult for her to get an abortion, then maybe it makes sense. But I do not think that is what we want to do. I think we want to try to help her arrive at the best decision that is for her, and by sending her to somebody who is competent, qualified, and recognized in the community as a person with some skills in counseling, I think we do a service then to the young woman. Thank you, Mr. Speaker.

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

Mr. ALDEN. Would the maker of the amendment stand for a brief inquiry, please?

The SPEAKER pro tempore. The gentleman indicates that he will. The gentleman, Mr. Alden, may proceed.

Mr. ALDEN. Would you please explain to me what a "concerned responsible adult qualified by education and experience" means?

Mr. MURPHY. The remainder of that sentence explains that. It includes very specific individuals.

Mr. ALDEN. But it does not exclude anybody else.

Mr. MURPHY. It only includes those individuals.

Mr. ALDEN. It says, "including." Are these the only people involved?

Mr. MURPHY. Yes.

Mr. ALDEN. So we could have people in abortion clinics; we could have people in Planned Parenthood who would be qualified under your amendment.

Mr. MURPHY. If they had a master's degree or were licensed by the State as a psychologist or psychiatrist, yes.

Mr. ALDEN. Okay.

Mr. MURPHY. Or if they were a rabbi, priest, or minister, yes.

Mr. ALDEN. So basically, this amendment is going to make it open-ended almost, is it not?

Mr. MURPHY. It is going to provide, I think, adequate counseling service to a young woman.

Mr. ALDEN. Okay.

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

Mr. FREIND. Thank you, Mr. Speaker.

I will try not to spend much time on this, and I have been admonished by some of my colleagues, so I will not say that

this goes to the heart of the bill. I will just say this is extremely important.

The sponsors of this amendment believe that a minor female should be permitted to have an abortion only with the consent of her parents, the same way that she may have any other medical procedure only with the consent of her parents, including having her ears pierced. The only reason why the sponsors put in this bill that she either receives the consent of her parents or court approval is because we have to do that. Strict parental consent has been ruled unconstitutional, but the exact provisions we have in this bill have been expressly ruled as constitutional, not by a court of appeals but by the United States Supreme Court in a recent decision, the Matheson case out of Utah, and that is why we have done it. But we still believe the responsibility is with the family and with the parents.

Now, what this amendment does is say, hey, if you do not want your parents' approval, anybody else, anyone else, and the language is "a concerned responsible adult qualified by education and experience including..." but only including ministers, rabbis, persons holding master's degrees in social work, or psychologists, or anybody else. And as John Alden pointed out, that could be a counselor for Planned Parenthood, a counselor for the abortion mills that we have here in Pennsylvania. And what we are saying is that any other person can take the place of the parents here.

Mr. Speaker, I think this is an outrageous amendment, and I sincerely hope that it is overwhelmingly rejected by the members of this House. Thank you.

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

Mr. MURPHY. Mr. Speaker, I want on one hand to agree entirely with the previous speaker when I believe that parental consent is important and necessary, and I, in an ideal world, would love to have young women be able to go talk to their parents about this difficult question. In fact, in the imperfect world that we live in, many young women do not feel for one reason or another they can go talk to their parents, and so we do have to provide a means for them to raise the question with some competent individual.

On the other hand, the previous speaker made some very outrageous misstatements that anybody would be included under this particular amendment. That is absolutely untrue. This amendment permits that young woman to discuss the question of abortion with very specific individuals who I believe are recognized in our society as people who have had experience and have dealt with children in other difficult issues time and time again. I think the courts are the very last place that you want to send a young woman to deal with this tough question when it has nothing to do with legality and everything to do with psychological and emotional concerns. Thank you, Mr. Speaker.

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

Mr. ALDEN. I hate to disagree with the previous speaker, but his amendment says, "including." It does not exclude anybody else. These are only people who are included, and the

possibility of anybody else being included is very relevant and is very possible, and reading this language, that is exactly what it says. It opens the door for anybody, and as to what experience or education or anything else, that is really not defined. He does not say, excluding other people and only including the people in his amendment. I think that is the fallacy of the whole amendment.

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

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

I think what the gentleman, Mr. Murphy, overlooks is the matter of consent in the matter. The whole idea in obtaining the consent of the parents or consent through the courts is the important point. There is nothing whatsoever to forbid this young girl from consulting with any of the people named in his amendment. She may consult or she may not consult, but when you get down to the matter of consent and authorization, then you have to go with the language of the bill. I urge a negative vote.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny, Mr. Frazier.

Mr. FRAZIER. Mr. Speaker, very briefly, those people yesterday who agreed with Mr. Freind whenever he offered his amendment removing the special standing of parties before the court should certainly see the similarity of the Murphy amendment, and I would urge defeat of the Murphy amendment. It provides and totally opens a whole new area of inquiry into various groups that may seek standing before the court in these proceedings. I would urge rejection. Thank you, Mr. Speaker.

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

Mrs. TAYLOR. Mr. Speaker, I urge the defeat of this amendment, and I urge it because when an individual is making a decision, it really does involve the family. It involves that family's support for a long time after the abortion has taken place. I therefore think that the family not only should be involved when that decision is made, but if they are involved, they will be there to give support to that individual for the many months and many years after the abortion has been performed. So, therefore, Mr. Speaker, I urge a negative vote.

On the question recurring,

Will the House agree to the amendments No. A4942 to amendments No. A4911?

The following roll call was recorded:

YEAS—34

Anderson	Fryer	Livengood	Ritter
Barber	Geist	Michlovic	Showers
Belfanti	Gladeck	Moehlmann	Smith, B.
Berson	Greenfield	Murphy	Spencer
DeWeese	Harper	Oliver	Wiggins
Deal	Itkin	Pistella	Williams, H.
Dorr	Jackson	Rappaport	Williams, J. D.
Emerson	Kukovich	Richardson	Zwikel
Evans	Levin		

NAYS—158

Alden	Durham	Levi	Rybak
Armstrong	Fargo	Lloyd	Salvatore
Arty	Fee	Lucyk	Saurman
Belardi	Fischer	McCall	Serafini
Beloff	Fleck	McClatchy	Seventy
Bittle	Foster, W. W.	McIntyre	Shupnik
Blaum	Foster, Jr., A.	McMonagle	Sieminski
Borski	Frazier	McVerry	Sirianni
Bowser	Freind	Mackowski	Smith, E. H.
Boyes	Gallagher	Madigan	Smith, L. E.
Brandt	Gallen	Maiale	Snyder
Brown	Gamble	Manderino	Spitz
Burd	Gannon	Manmiller	Stairs
Burns	George	Marmion	Steighner
Caltagirone	Grabowski	Merry	Stevens
Cappabianca	Gray	Micozzie	Stewart
Cawley	Greenwood	Miller	Stuban
Cessar	Grieco	Miscevich	Swaim
Cimini	Gruitza	Morris	Swift
Civera	Gruppo	Mowery	Taddonio
Clark	Hagarty	Mrkoncic	Taylor, E. Z.
Clymer	Haluska	Mullen	Taylor, F. E.
Cochran	Hasay	Noye	Telek
Cohen	Hayes	O'Donnell	Tigue
Colafiglia	Heiser	Olasz	Trello
Cole	Hoeffel	Pendleton	Van Horne
Cordisco	Honaman	Perzel	Vroon
Cornell	Horgos	Peterson	Wambach
Coslett	Hutchinson, A.	Petrarca	Wargo
Cowell	Johanson	Petrone	Wass
Cunningham	Kanuck	Phillips	Wenger
DeMedio	Kennedy	Piccola	Weston
DeVerter	Klingaman	Pitts	Wogan
Davies	Kolter	Pott	Wozniak
Dawida	Kowalshyn	Pratt	Wright, D. R.
Dietz	Lashingier	Punt	Wright, J. L.
Dininni	Laughlin	Rasco	Wright, R. C.
Dombrowski	Lehr	Reber	
Donatucci	Lescovitz	Rieger	Ryan,
Duffy	Letterman	Rocks	Speaker

NOT VOTING—2

Lewis Sweet

EXCUSED—8

Daikeler Irvis Pievsky Wachob  
Hutchinson, W. Nahill Pucciarelli Wilson

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

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. MURPHY offered the following amendments No. A4943 to amendments No. A4911:

Amend amendments, page 5, line 58, by inserting after "father"

or guardian

Amend amendments, page 6, line 4, by inserting after "of" where it appears the second time

one of

Amend amendments, page 6, lines 17 through 20, by striking out "If one of the" in line 17, all of lines 18 and 19 and "consent of the remaining parent shall be sufficient." in line 20

On the question,

Will the House agree to the amendments No. A4943 to amendments No. A4911?

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

Mr. MURPHY. Thank you, Mr. Speaker.

The first part of this amendment is a technical change, I believe, where in the legislation right now it states, "Except in the case of a medical emergency, or in the case of a pregnancy that is the result of incest, where the father" —and the language is added "or guardian" — "of the pregnant woman is a party to the incestuous act...." There are some cases where a young woman lives in a situation where the mother might be with a boyfriend or a stepfather who is not the father but is the guardian of the woman, and I think that should be taken care of.

The second part of the amendment changes the requirement that consent is required from both parents to one of the parents. I think many of us are aware of a situation where a young woman would feel very uncomfortable talking to one or the other of her parents but would be more comfortable talking to the mother or the father about this issue, and I think that is a reasonable request to permit that young woman to talk to just one parent rather than both, and so I urge your support of this amendment.

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

Mr. FREIND. Mr. Speaker, I oppose this amendment for two reasons. Number one, when we are talking about incest, Mr. Murphy puts in the word "guardian." Unfortunately, that is legally incorrect. Incest is specifically defined in the Crimes Code and has been for years and years as a blood relationship. Therefore, we would immediately have a legal drafting problem by putting the word "guardian" in. Unless it is a blood relationship from second cousin or closer, you cannot have incest.

Secondly, I oppose the section which would take away the right of both parents to give their consent. And I heard Mr. Murphy say that a female may feel uncomfortable. Do you mean in every instance where there is parental responsibility in anything, just because the juvenile would feel uncomfortable, you can immediately cut out one of the parents from their responsibility?

On an issue such as this, it is absolutely essential that both parents give their consent. Now, if they do not, she has an option to the court. There is specific language in there where the Supreme Court will have to promulgate rules to streamline the process, and the court will determine whether or not to notify the parents.

Finally, I should also point out that the bill also states that if one of the parents is unavailable, has died or is unavailable to the physician within a reasonable time, then the consent of only one parent is acceptable. We have already taken care of that problem, Mr. Speaker. I ask that we reject this amendment.

AMENDMENTS DIVIDED

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Murphy.

Mr. MURPHY. Mr. Speaker, can the amendment be divided after the word "guardian"?

The SPEAKER pro tempore. The Chair was unable to hear the gentleman.

Mr. MURPHY. Can the amendment be divided after the word "guardian"?

The SPEAKER pro tempore. In the opinion of the Chair, the amendment can be divided.

PART I OF AMENDMENTS WITHDRAWN

Mr. MURPHY. I would like to do that, Mr. Speaker, and discard the first part of the amendment and take the second part that deals with one of the parents. If I may speak on that, please.

The SPEAKER pro tempore. The Chair understands that the gentleman is withdrawing the first part of the amendment, which on the one line says, "or guardian." Is that correct?

Mr. MURPHY. Yes, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The question before the House would be that we will consider only that part of the amendment that starts under the two words "or guardian" and begins with "Amend amendments, page 6, line 4..." and so on.

Mr. MURPHY. Yes, Mr. Speaker.

The SPEAKER pro tempore. The question then is on that part of the amendment. Does the gentleman, Mr. Murphy, wish to discuss that part of the amendment?

Mr. MURPHY. Yes, Mr. Speaker, briefly.

The SPEAKER pro tempore. The gentleman is in order and may go ahead.

Mr. MURPHY. Thank you.

Very briefly, I think all of us understand that we have to separate the ideal from the reality of what the situation is in what we deal. In our society today there are many families that are torn apart by issues such as this. There are many families that have been divorced where parents do no longer live together. To expect, though, that both parents could be available—they might both live in the same town or city—I believe that it is a real unreasonable request to require a young woman to receive consent from both parents when very often they may not even be living in the same household together. The young woman might not even know her one parent very well, and to expect that young woman to go and speak to that parent that they might not have been with for many years is an unreasonable and, I believe, very harsh requirement.

I urge you to consider some practicality in this and not simply in the idea. I am not trying to make it easier for young women to get an abortion; I am trying to indicate that there are some questions in this legislation that are just absolutely unreasonable, and this is one of them. I urge you to support this amendment.

WELCOME

The SPEAKER pro tempore. The Chair at this time welcomes to the House the Pennsylvania United Way staff and volunteers who are visiting the House as part of the United Way Government Relations Day. These people are the guests of the Speaker, Mr. Ryan.

CONSIDERATION OF SB 742 CONTINUED

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

Mr. FREIND. Very briefly, Mr. Speaker, for the reasons that I previously stated, I do not think we should so cavalierly take away parental responsibility. For that reason I urge rejection of this amendment.

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

Mr. SAURMAN. Mr. Speaker, I rise to support this amendment. I think that, as has been said, we must be practical. In today's society there are a good many one-parent households, and in such a situation, securing the permission of both parents would become extremely difficult if not impossible. There are ideals that we would like to uphold and certainly we should, and we should strive towards them, but there are also matters of practicality with which we must deal, and in those practicalities are those persons who will be seeking abortions. They are not always from ideal families and in fact in many instances are not.

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

Mr. MICHLOVIC. Thank you, Mr. Speaker.

Mr. Speaker, I want to emphasize what the gentleman preceding me just pointed out. You have to remember that in many cases divorced parents use their children, and in this case, a divorced parent who has not taken the responsibility for that child can actually force that child, by not giving their consent, to continue with the pregnancy at the cost of the other partner. Now, that child may be dependent upon one parent for their daily life and sustenance, and that parent would very much give the consent and like her to have the abortion. That parent is the responsible parent and that parent is the one who is paying for the consequences of that pregnancy, not just financially but emotionally and every other way, and would be willing to give the consent. The other parent may, not just on the basis of moral conviction but on the basis of a vindictive motive, just try to do in their former spouse and could do so if you require both parents in this case to give their consent. I think that in itself is reason enough to say that parental consent should be confined to just one parent. We have too many cases of families today that are broken, of divorced families that would very adversely affect young people's lives if we go through with this amendment.

I ask for your support on the Murphy amendment. Thank you, Mr. Speaker.

On the question,

Will the House agree to Part II of the amendments No. A4943 to amendments No. A4911?

The following roll call was recorded:

YEAS—84

Anderson	Gamble	McVerry	Saurman
Barber	Gladeck	Manmiller	Seventy
Belfanti	Greenfield	Marmion	Showers
Berson	Greenwood	Michlovic	Smith, B.
Brown	Gruitza	Miscevich	Smith, L. E.
Burd	Hagarty	Moehlmann	Snyder
Burns	Haluska	Morris	Spencer

Cornell	Harper	Mowery	Stairs
Cowell	Heiser	Murphy	Steighner
DeVerter	Hoeffel	O'Donnell	Stewart
DeWeese	Horgos	Oliver	Sweet
Davies	Hutchinson, A.	Pendleton	Swift
Dawida	Itkin	Piccola	Van Horne
Deal	Jackson	Pistella	Wambach
Dininni	Kukovich	Pott	Wiggins
Dorr	Lashinger	Punt	Williams, H.
Emerson	Lehr	Rappaport	Williams, J. D.
Evans	Letterman	Rasco	Wozniak
Fargo	Levin	Reber	Wright, D. R.
Fleck	Livengood	Richardson	Wright, R. C.
Fryer	Lloyd	Ritter	Zwilk

NAYS—107

Alden	Donatucci	Laughlin	Rybak
Armstrong	Duffy	Lescovitz	Salvatore
Arty	Durham	Lucyk	Serafini
Belardi	Fee	McCall	Shupnik
Bittle	Fischer	McClatchy	Sieminski
Blaum	Foster, W. W.	McIntyre	Sirianni
Borski	Foster, Jr., A.	McMonagle	Smith, E. H.
Bowser	Frazier	Mackowski	Spitz
Boyes	Freind	Madigan	Stevens
Brandt	Gallagher	Maiale	Stuban
Caltagirone	Gallen	Manderino	Swaim
Cappabianca	Gannon	Merry	Taddonio
Cawley	Geist	Micozzie	Taylor, E. Z.
Cessar	George	Miller	Taylor, F. E.
Cimini	Grabowski	Mrkonic	Telek
Civera	Gray	Mullen	Tigue
Clark	Grieco	Noye	Trello
Clymer	Gruppo	Olasz	Vroon
Cochran	Hasay	Perzel	Wargo
Cohen	Hayes	Peterson	Wass
Colafiglia	Honaman	Petrarca	Wenger
Cole	Johnson	Petrone	Weston
Cordisco	Kanuck	Phillips	Wogan
Coslett	Kennedy	Pitts	Wright, J. L.
Cunningham	Klingaman	Pratt	
DeMedio	Kolter	Rieger	Ryan,
Dietz	Kowalshyn	Rocks	Speaker
Dombrowski			

NOT VOTING—3

Beloff	Levi	Lewis
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EXCUSED—8

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

The question was determined in the negative, and Part II of the amendments was not agreed to.

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. ITKIN offered the following amendments No. A5083 to amendments No. A4911:

Amend amendments, page 8, line 9, by striking out "shall" and inserting  
may

Amend amendments, page 8, line 9, by striking out "of \$500" and inserting  
not to exceed \$50

On the question,

Will the House agree to the amendments No. A5083 to amendments No. A4911?

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

Mr. ITKIN. Mr. Speaker, this amendment really goes now to the penalties to be assessed for failure of an abortion facility to report within 30 days of the effective date of the act the name of the facility, the name and address of the parent or any subsidiary, and the name and address of the individuals involved.

I have no objection that there should be a penalty imposed for failure to report within that 30-day period. I am concerned that because of ignorance, because of lack of knowledge of the specifics of this law, a facility may fail to report or there may be a clerical error. The penalty is very specific and precise and is required. It says that 30 days after this act, if a facility fails to report this information about its name and who owns it and where it is located, et cetera, then a fine of \$500 shall be imposed for every day that that information has not been submitted.

I really think that that is quite excessive in terms of a reporting requirement, especially in view that this law will go into effect and then any agency only has 30 days to do this. Consequently, my amendment, I think, is a more reasonable approach to it and would allow the department to assess a fine for failure to report of \$50 a day for each day that it fails to report. I think this is a more reasonable penalty to impose. Thank you, Mr. Speaker.

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

Mr. FREIND. Mr. Speaker, I oppose the amendment for two reasons: one, because the amendment does something we should never do, and that is give away our authority. If there is going to be a fine, we should mandate it, but what the Itkin amendment says is that the fine may be levied, leaving it totally up to the discretion of the Department of Health. That is not our job. Our job is to say what we want to have happen.

Secondly, to take it down to \$50, Mr. Speaker, what you are doing is, that is the cost of doing business. You have to remember—and I get back to this—that abortion is big business in Pennsylvania, 65,000 a year. If you put a minimal figure like a \$50-a-day fine, that is an ordinary cost of doing business. There is no incentive whatsoever to have these facilities make these minimal reporting requirements that are necessary.

For those two reasons I ask you to reject this amendment.

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

Mr. ITKIN. Mr. Speaker, I have every confidence that these facilities will report and that there will be no violations; at least the intention will be to report. But I am concerned about, as everything happens from time to time, clerical foulups. I think that \$500 for each day—I remind you, it is not just \$500. If a facility delays its report 1 week, then it will be, I assume, a \$3,500 fine; 7 days, \$500 a day. For 2 weeks it will be \$7,000, and I think that is quite excessive and unreasonable, and I would suggest to the House that \$50 a day would be far more reasonable. Thank you.

On the question recurring,

Will the House agree to the amendments No. A5083 to amendments No. A4911?

The following roll call was recorded:

YEAS—51

Anderson	Greenwood	Michlovic	Spencer
Berson	Hagarty	Moehlmann	Stewart
Brown	Harper	Murphy	Stuban
Cowell	Hoeffel	O'Donnell	Sweet
DeVerter	Itkin	Oliver	Swift
DeWeese	Jackson	Pendleton	Van Horne
Davies	Kukovich	Pistella	Williams, H.
Dawida	Lashinger	Rappaport	Williams, J. D.
Deal	Letterman	Richardson	Wozniak
Dorr	Levin	Ritter	Wright, D. R.
Fryer	Livengood	Seventy	Wright, R. C.
Gladeck	Madigan	Showers	Zwinkl
Greenfield	Merry	Smith, B.	

NAYS—137

Alden	Evans	Lewis	Rocks
Armstrong	Fargo	Lloyd	Rybak
Arty	Fee	Lucyk	Salvatore
Barber	Fischer	McCall	Saurman
Belardi	Fleck	McClatchy	Serafini
Belfanti	Foster, W. W.	McIntyre	Shupnik
Beloff	Foster, Jr., A.	McMonagle	Sieminski
Blaum	Frazier	McVerry	Sirianni
Borski	Freind	Mackowski	Smith, E. H.
Bowser	Gallagher	Maiale	Smith, L. E.
Boyes	Gallen	Manderino	Snyder
Burd	Gamble	Manmiller	Spitz
Burns	Gannon	Marmion	Stairs
Caltagirone	Geist	Micozzie	Steighner
Cappabianca	George	Miller	Stevens
Cawley	Grabowski	Miscevich	Swaim
Cessar	Gray	Morris	Taddonio
Cimini	Grieco	Mowery	Taylor, E. Z.
Civera	Gruitza	Mrkonic	Taylor, F. E.
Clark	Gruppo	Mullen	Telek
Clymer	Haluska	Noye	Tigue
Cohen	Hasay	Olasz	Trello
Colafella	Hayes	Perzel	Vroon
Cole	Heiser	Peterson	Wambach
Cordisco	Horgos	Petrarca	Wargo
Cornell	Johnson	Petrone	Wass
Coslett	Kanuck	Phillips	Wenger
Cunningham	Kennedy	Piccola	Weston
DeMedio	Klingaman	Pitts	Wiggins
Dietz	Kolter	Pott	Wogan
Dininni	Kowalshyn	Pratt	Wright, J. L.
Dombrowski	Laughlin	Punt	
Donatucci	Lehr	Rasco	Ryan,
Duffy	Lescovitz	Reber	Speaker
Durham	Levi	Rieger	

NOT VOTING—6

Bittle	Cochran	Honaman	Hutchinson, A.
Brandt	Emerson		

EXCUSED—8

Daikeler	Irvís	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. MURPHY offered the following amendments No. A4944 to amendments No. A4911:

Amend amendments, page 9, 29th and 30th lines, by striking out "the attendance, in the same room in which the abortion is to be completed, of"

Amend amendments, page 9, 31st line, by removing the period after "physician" and inserting  
to be on call.

On the question,

Will the House agree to the amendments No. A4944 to amendments No. A4911?

POINT OF ORDER

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny, Mr. Fleck.

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

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

Mr. FLECK. Yes, sir. For the convenience of the House, again because we are skipping among these amendments, could we please be advised not only of the amendment number but also the page it appears on in the booklet in order to speed up our consideration?

The SPEAKER pro tempore. We are taking the amendments in order.

Mr. FLECK. With the large number of amendments that have been dropped, it is difficult to find them. If the amendment offerer would state the number of the amendment, that would be very helpful, and I would appreciate it.

The SPEAKER pro tempore. The amendment that is being offered is on page 46 by the gentleman, Mr. Murphy. The amendment is A4944.

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

Mr. MURPHY. Thank you, Mr. Speaker.

This removes the requirement that there be two physicians in the room when an abortion is performed and requires that the one physician performing the abortion be there and that a physician be on call in case the baby were to be born alive. Thank you, Mr. Speaker.

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

Mr. FREIND. Thank you, Mr. Speaker.

I oppose the amendment, and I mean what I say on this: This goes to the heart of the bill. I apologize to my good friend, Mr. DeWeese, but it does go to the heart of the bill. I have consistently said that the heart of the bill, the most important section, is those instances where an abortion is performed but the baby survives the abortion and is permitted to die. And it happens, Mr. Speaker. What frequently happens is the doctor, after performing the abortion, turns to the mother, and under the guise of taking care of the mother, the baby is ignored and is allowed to die on a tissue rack, on a shelf, is left alone to die. So to combat that, we said whenever there was the chance of viability, that a baby could survive the abortion, a second physician, independent of the physician performing the abortion, had to be in the operating room,

would take no part in the abortion, would not obstruct, but as soon as it was over would take charge of the now-born child through abortion and try to save his life. What the Murphy amendment does is delete that and only says that the second physician has to be on call. If things run true to form, the aborting physician will never call him, number one. And number two, we are dealing in a situation right now where seconds are critical, where there is a chance to save that baby if you move quickly, that now-born baby, that human being.

I sincerely urge every member of the legislature to reject this amendment.

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

Mr. PENDLETON. Thank you, Mr. Speaker.

I like very much the idea of attempting to give the life that is extracted every opportunity to survive, but I wonder seriously if we have to have double physician costs in a situation like this, whether or not anybody has ever calculated the increased cost in health care, if abortion is as large a concern in this Commonwealth as has been indicated here.

I would ask that question of the offerer of the amendment if that has been calculated. *If he is not able to answer it, then I would ask that question of Mr. Freind.*

The SPEAKER pro tempore. Will the gentleman, Mr. Murphy—

Mr. MURPHY. I did not hear the question, Mr. Speaker.

Mr. PENDLETON. Mr. Speaker, did Mr. Freind hear the question?

The SPEAKER pro tempore. Does the gentleman, Mr. Murphy, indicate that he is willing to be interrogated? He does?

Mr. MURPHY. Yes.

The SPEAKER pro tempore. The gentleman, Mr. Pendleton, may proceed.

Mr. PENDLETON. Mr. Speaker, I asked the offerer of this amendment as to whether or not any cost had been calculated health-carewise for having double physicians attending in an abortion operation.

Mr. MURPHY. It obviously, Mr. Speaker, would double the cost of an abortion procedure by having two physicians there. It would double the physician costs, obviously. Beyond that, I do not know what the cost would be.

Mr. PENDLETON. Mr. Speaker, I would like to have Mr. Freind comment on that, if he would stand for interrogation.

The SPEAKER pro tempore. The gentleman, Mr. Freind, indicates that he will. The gentleman, Mr. Pendleton, may proceed.

Mr. PENDLETON. Mr. Speaker, could you please comment for me as to what the attending increase in health-care costs would be to have double physicians in this surgical procedure?

Mr. FREIND. Yes, Mr. Speaker, I will respond to this the same way that when last year we were voting the medicaid funding bill I responded, when I was asked how much more it would cost if more children are born. I do not know. I specifically did not try to find out, because I do not care, because you cannot put a dollar sign on a human life. And incidentally,

now we are talking by everyone's definition of a human life, a child who is born through an abortion, outside of his or her mother, a human life. There is no way, Mr. Speaker, that you can ever put any dollar sign on that.

Mr. PENDLETON. I would like to comment on that, if I am in order.

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

Mr. PENDLETON. Unfortunately, Mr. Speaker, that is one of the tasks that we have to weigh here as legislators. While I am not able to cite costs myself, for certain I can calculate that there will be an increase in costs, and unfortunately, because not just in the case of born or unborn fetuses or children, this same type of cost is hitting every one of us every day. I must seriously question in my mind as to whether or not this is an idealistic position or whether or not it is a practical one and one that is true to life. For certain, the increased costs in health care that will be borne by every single person, including the mother or the parents who are going to be involved in this procedure, are going to be significant. For that reason I point it out without commenting as to whether or not the value of life is so great as to not worry about the cost.

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

Mr. JOHNSON. Mr. Speaker, I would like to say for the first time that this amendment goes to the heart of the bill.

I would like to rise in opposition to the amendment. Certainly we all agree that this is a live human being. There is no question of theological implications; there is no question of Supreme Court decisions. We are dealing with a live human being. I would like to say, Mr. Speaker, that in my district I had a man get out of his car and go out on a highway to try to save the life of a dog that had been injured. In the course of that action of mercy, he lost his own life. But he was concerned about life, and I want to say that I think we should be concerned about life and not the cost at this particular time. I certainly would urge a negative vote on this amendment. Thank you, Mr. Speaker.

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

Mr. MURPHY. Mr. Speaker, not to belabor the point, I guess at this point I am getting sick and tired of speakers indicating comments about amendments where there are things that are not in the amendment. This deals solely with the physician on call. It does not touch the part of this legislation that requires doctors to do everything possible to maintain the life of the newborn infant. It does not touch that at all. It talks about two doctors being in the abortion room at the same time.

The opposition to this has far overstated the impact of this particular amendment, and it is unnecessary to do that. We are talking about a doctor in the room who has performed an abortion but legally, both in a criminal way and a civil way, is going to be required to do everything possible to maintain the life of that baby under this law if it passes. So we are not denying that right to that infant to live. We already have one

doctor in the room. We have a whole backup hospital where this abortion has been taking place. Now we are putting another doctor on call. To put that doctor in the room, I think, is simply unnecessary and not important, given the rest of this legislation, for the life of that infant. To suggest otherwise is simply overstating the case completely. Thank you.

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

Mr. A. C. FOSTER. Mr. Speaker, I urge a negative vote on the amendment. This is comparable to the doctor answering your call and saying, take an aspirin and I will be by in the morning, and any of you who have ever waited for the doctor knows what that means. I urge a negative vote.

The SPEAKER pro tempore. Does the gentleman from Cambria, Mr. Haluska, wish to be recognized?

Mr. HALUSKA. Yes. I would like to address the amendment.

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

Mr. HALUSKA. I feel personally that one physician in an operatory of this nature would be sufficient. I would like to ask these people who have had experience being in hospitals, how many operations are performed in an operating room where there is just one physician present? We have physicians on call. We have staff people who are very competent to act in emergencies, nurses who are trained in this particular category. I think it is an excessive cost, I think it is unnecessary, and I think we can accomplish our purpose and keep our costs at a minimum for the people who are involved. I urge a positive vote on this amendment.

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

Mr. FREIND. Let us not kid ourselves what this amendment does. The doctors will continue to do right now—and incidentally, in an abortion there is generally only one doctor present—they will continue to do what they are doing right now. Under the guise of taking care of the patient, they will turn their backs on the babies and permit them to die as they are doing right now. To say to have a doctor on call is ludicrous. In a situation such as this, seconds, not minutes, seconds count. It does not make it to say only on call. You have to have the second independent physician in that room so he or she can respond immediately to try to save the life of that now-born child. I sincerely hope we vote down this amendment.

On the question recurring,

Will the House agree to the amendments No. A4944 to amendments No. A4911?

The following roll call was recorded:

YEAS—58

Anderson	Haluska	Marmion	Richardson
Barber	Harper	Merry	Ritter
Berson	Heiser	Michlovic	Smith, B.
Brown	Hoeffel	Miller	Spencer
Cowell	Itkin	Moehlmann	Stewart
DeWeese	Jackson	Mowery	Swift
Dawida	Kukovich	Murphy	Van Horne
Deal	Lashingier	O'Donnell	Wambach
Dininni	Lehr	Oliwer	Wiggins

Dorr	Levin	Pendleton	Williams, H.
Evans	Livengood	Piccola	Williams, J. D.
Fryer	Lloyd	Pistella	Wright, D. R.
Gladeck	McVerry	Rappaport	Wright, R. C.
Greenwood	Madigan	Rasco	Zwilk
Gruitza	Manmiller		

NAYS—132

Alden	Donatucci	Letterman	Serafini
Armstrong	Duffy	Levi	Seventy
Arty	Durham	Lewis	Showers
Belardi	Fargo	Lucyk	Shupnik
Belfanti	Fee	McCall	Sieminski
Beloff	Fischer	McClatchy	Sirianni
Bittle	Fleck	McIntyre	Smith, E. H.
Blaum	Foster, W. W.	McMonagle	Smith, L. E.
Borski	Foster, Jr., A.	Mackowski	Snyder
Bowser	Frazier	Maiale	Spitz
Brandt	Freind	Manderino	Stairs
Burd	Gallagher	Micozzie	Steighner
Burns	Gallen	Miscevich	Stevens
Caltagirone	Gamble	Morris	Suban
Cappabianca	Gannon	Mrkonjic	Swaim
Cawley	Geist	Mullen	Sweet
Cessar	George	Noye	Taddonio
Cimini	Grabowski	Olasz	Taylor, E. Z.
Civera	Gray	Perzel	Taylor, F. E.
Clark	Grieco	Peterson	Telek
Clymer	Gruppo	Petrarca	Tigue
Cochran	Hagarty	Petrone	Trello
Cohen	Hasay	Phillips	Vroon
Colafella	Hayes	Pitts	Wargo
Cole	Honaman	Pott	Wass
Cordisco	Horgos	Pratt	Wenger
Cornell	Johnson	Punt	Weston
Coslett	Kanuck	Reber	Wogan
Cunningham	Kennedy	Rieger	Wozniak
DeMedio	Klingaman	Rocks	Wright, J. L.
DeVerter	Kolter	Rybak	
Davies	Kowalshyn	Salvatore	Ryan,
Dietz	Laughlin	Saurman	Speaker
Dombrowski	Lescovitz		

NOT VOTING—4

Boyes	Emerson	Greenfield	Hutchinson, A.
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EXCUSED—8

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

REMARKS ON VOTE

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

Mr. GLADECK. Mr. Speaker, on amendment A4944 I inadvertently voted "yes," and I meant to vote "no." Thank you.

The SPEAKER pro tempore. The remarks of the gentleman, Mr. Gladeck, will be spread upon the record.

CONSIDERATION OF SB 742 CONTINUED

On the question recurring,  
Will the House agree to the amendments No. A4911 as amended?

Mr. LLOYD offered the following amendment No. A5053 to amendments No. A4911:

Amend amendments, page 9, line 27 by removing the comma after "abortion" and inserting  
subsequent to the first trimester of pregnancy,

On the question,

Will the House agree to the amendment No. A5053 to amendments No. A4911?

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

Mr. LLOYD. Thank you, Mr. Speaker.

This amendment is an attempt to compromise on the issue on which we just voted. I know there are many members of this House who are concerned that if there are not two doctors in the operating room, that some doctors are not going to live up to the intent of this bill, to save the life of the fetus who is born alive. What this amendment tries to do is to respond to Mr. Murphy's concern about costs by saying that during the first trimester of pregnancy, you do not need to have two doctors present in the operating room. To the best of my knowledge, no one seriously suggests that a fetus can be viable during the first trimester. And so, Mr. Speaker, I urge adoption of this amendment as a compromise.

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

Mr. FREIND. I oppose this amendment, Mr. Speaker. We have taken pains to set up a procedure by which viability will be determined. It is left up in the final analysis to the discretion of the doctor. However, an existing board, the Health Advisory Board, will continue to hear testimony and issue standards with respect to viability.

As we all know, as medical technology increases, the date of viability will always continue to decrease and will become closer to conception. The earliest known birth of a child who has survived, a premature birth, is 19 weeks—19 weeks, Mr. Speaker. The first trimester ends either in the 13th or 14th week. Now, as of right now with the standards of viability, there could be no viability in the first trimester, but as technology advances, there is the strong possibility that that will continue to decrease. We should not in the law provide any impediment—now, I am not talking about abortions now—provide any impediment to saving the life of a child who survives an abortion. I hate to keep coming back on this, but then we are talking about a born human being outside the mother. We should do nothing to obstruct any and all efforts to save that now-born baby. I urge rejection of this amendment.

### THE SPEAKER (MATTHEW J. RYAN) IN THE CHAIR

#### CONSIDERATION OF SB 742 CONTINUED

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

Mr. LLOYD. Thank you, Mr. Speaker.

I assume that the die is cast, but for the record I would like to say two things. One, no one, I think, is more concerned about trying to make sure that we do not kill the unborn fetus than some of the people who will support this amendment. I

think when the gentleman says that the shortest, earliest point that a born fetus has been able to survive is 19 weeks, and then he very glibly goes to 13 weeks and says, oh my, they are close, that is not close at all. It is my understanding that it has taken a substantial amount of scientific advancement to get us down to the point where we are now. At the very least on that point, Mr. Speaker, if this viability board finds that there are new scientific advances which will make abortion during the first trimester possible but still have the fetus born alive, we will have ample opportunity to come back and amend this statute. As the gentleman, Mr. Freind, suggested previously this afternoon, we do not ever want to give an administrative board or agency the power to do all these important things. We want to tell them exactly what we want to do.

The second point I would like to make, Mr. Speaker, has to do with constitutionality. Now, the Supreme Court of the United States, in a decision with which many of us may not agree, has said that we do not have the constitutional power to prohibit abortion during the first trimester or the constitutional power to regulate that kind of abortion for safety or health reasons. Now, if there is no scientific evidence available at the present time to suggest that a fetus in the first trimester could survive, then the only logical conclusion as to what the resistance to this amendment is all about is to say that this is an attempt to push up the cost of abortions which are constitutionally protected. Mr. Speaker, I suggest if that is what the sponsors of this bill are trying to do—and they will have their way here today—then they are creating for themselves an unnecessary constitutional problem. And while there is a severability clause in this legislation, it is not entirely clear that this particular section can be severed in a way to solve the constitutional defect which I believe they are going to put into this bill. We are going to be left in the same situation that we are in right now, with a State law that says we cannot have abortions after viability, with that State law being completely unenforceable because it has been declared unconstitutional. Have your way, Mr. Speaker, but I think it is a mistake. Thank you.

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

Mr. DAVIES. Mr. Speaker, on this subject while we are here, and again for the sake of clarity as far as the accounting of the fiscal note, would the maker of the amendment stand for a few brief questions of interrogation?

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

Mr. DAVIES. All right. And if I may extend that, Mr. Speaker, if Mr. Lloyd does not have the knowledge, if the maker of A4911 does, then possibly I could get it from that source.

Mr. Speaker, what would be the potential savings to the Commonwealth in your proposal? Do you have any idea of how many of those would be under the effects of subsidized abortion? And essentially, what would be that dollar value?

Mr. LLOYD. No, Mr. Speaker, I have not attempted, in forming my amendments, to put a price tag on human life. So

I do not have those figures, although I think it would be fair to say, since there are a substantial number of medicaid abortions, that the cost savings in the welfare budget would be significant.

Mr. DAVIES. All right. Then, Mr. Speaker, I would address it, is that part and parcel of the fiscal note in A4911? Would Mr. Freind or any one of the other makers of the amendment have that information?

Mr. FREIND. I am sorry, Mr. Speaker. Which information is that?

Mr. DAVIES. How many of the quoted abortions that you have been stating essentially are those that do come under the area of subsidization in which there are direct costs to this Commonwealth, and what would be either the additional cost by the bill where you are requiring the two doctors, as opposed to the period that he is requiring in the reduction of that to one doctor, so that I really do have some handle on the fiscal implications of this? Because in interrogating privately the people who drew the fiscal note on this, I am not getting answers to those inquiries, and I do want to have some information on which to base my judgment at a later date.

Mr. FREIND. Mr. Speaker, Mr. Lloyd's amendment has nothing to do with the one doctor. Mr. Lloyd's amendment keeps the two doctors in.

Mr. DAVIES. No, you misunderstand. I am asking what the cost would be to the Commonwealth, Mr. Speaker, in the subsidization relative to your proposal in toto and what it would be in the confines of the elements of Mr. Lloyd's amendment. Do you have those figures? That is what I am asking for.

Mr. FREIND. Mr. Speaker, if you are asking how much less would Mr. Lloyd's proposal cost if it were passed, the answer is, right now it would not cost a penny less, because it is clear that medical technology has not advanced to the point where when an abortion is performed on an unborn child in the first trimester, that—

Mr. DAVIES. Mr. Speaker. Excuse me, Mr. Speaker, but we are not on the same wave length.

What I am asking for are Mr. Lloyd's costs separately, for that provision that he is offering, and the total cost of your offering. That is essentially what I am asking for.

Mr. FREIND. Mr. Speaker, what is your impression of the Lloyd amendment? What do you think it does?

Mr. DAVIES. What is that, sir?

Mr. FREIND. Under what impression are you right now as to what the Lloyd amendment does?

Mr. DAVIES. My impression?

Mr. FREIND. Yes.

Mr. DAVIES. As I understand here, it provides that the matter of medical supervision would not be required for abortions in that first—I guess you would differ in time—trimester of pregnancy. Is that correct?

Mr. FREIND. That is right.

So the answer to your question, Mr. Speaker, is even if the Lloyd amendment passed right now, there would be no decrease in cost. As I was trying to answer you, Mr. Speaker

Mr. DAVIES. No.

Mr. FREIND. Excuse me. Would you like the answer or not, Mr. Speaker? It is your choice.

Mr. DAVIES. No. I do not want—I want to know what the costs are just specifically for his time period and then the total cost for yours, because I do not think they can be in the fiscal note that I have.

Mr. FREIND. Mr. Speaker, I am going by the fiscal note of the House Appropriations Committee - \$190,000 for reporting, \$120,000 for enforcement; \$310,000 total.

Now, I was also asked before how much the second-physician requirement costs. My statement was, you are not talking about abortion now; you are talking about a born human being. So my answer is, I do not know and I do not care, because you cannot put a dollar sign on a human by anyone's definition of life.

Mr. DAVIES. Oh, you do not know and you do not care, so therefore we are not going to get that in a fiscal note. Is that essentially the way evidently the whole fiscal note was drawn?

Mr. FREIND. No. Essentially, Mr. Speaker—

Mr. DAVIES. Because evidently from what I understand from that source, I am not getting that answer—

The SPEAKER. The gentleman will yield.

Mr. FREIND. Is that a question, Mr. Speaker?

The SPEAKER. The gentleman will yield.

The members are familiar with the House rules. The members engaged in interrogation address their remarks to the Chair.

Who was up first?

Mr. DAVIES. Well, I am where I was before, Mr. Speaker.

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

Mr. DAVIES. I am still trying to get straightened out whether I am going to get the fiscal note on those particular costs, whether the maker of the amendment cares or he does not care, as to what it is going to be for the Commonwealth. Evidently I have struck out. I am not going to get those, because that is somewhere or other buried in the confines of his interpretation of life or something of that nature.

Mr. FREIND. If that is a question—

The SPEAKER. The gentleman will yield.

Is the gentleman asking a question or making a statement?

Mr. DAVIES. I am still—

The SPEAKER. If the gentleman has questions, the gentleman knows to ask the questions, and the gentleman is in order to make a statement.

Mr. DAVIES. The question remains the same, Mr. Speaker. What is the fiscal cost to the Commonwealth for the subsidization of those particular operations in that first trimester under Mr. Lloyd's proposal and the total cost under Mr. Lloyd's and Mr. Freind's proposal?

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

Mr. FREIND. To answer your question, Mr. Speaker, this amendment, as with all other bills or amendments, was sent to the House Appropriations Committee and a fiscal note was

requested. A fiscal note was given and has been distributed to the members. The fiscal note states an annual cost of \$310,000, broken down to \$190,000 for reporting and \$120,000 for enforcement.

For the reasons I have stated before, Mr. Speaker, I do not know what the costs would be for the specific section as to the second physician. I do know, however, at this point that there are no savings if the Lloyd amendment is passed, for the simple reason that at this stage technology has not advanced to where an unborn child aborted in the first trimester would have a chance of viability. That may change in the future, and if it does, the fiscal impact will probably change somewhat. That is the best I can do, Mr. Speaker.

Mr. DAVIES. Thank you, Mr. Speaker. That evidently is the best that the Appropriations Committee could do as well. I will have more to say about that later. Thank you, Mr. Speaker.

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

Mr. RITTER. Mr. Speaker, would the gentleman, Mr. Freind, consent to interrogation?

The SPEAKER. The gentleman indicates that he will stand for interrogation. The gentleman, Mr. Ritter, may begin.

Mr. RITTER. Mr. Speaker, I believe you said earlier that the reason you wanted the second physician there was because there were these greedy doctors who were going to perform an abortion and then turn their back on that fetus that was aborted. That is why you wanted a second doctor there. I do not understand why you would be opposed to the Lloyd amendment, but I wanted to ask you this question: If you are concerned about that, then why would you let language in this proposal that says that that same greedy physician must have another physician on call? He might want to take one of his partners to stand there in that operating room with him on every abortion he performs, including those in the first trimester. Is that not a possibility?

Mr. FREIND. With the exception of avoiding death, anything is possible. But what that second physician could not do then, because you would have to have the second physician, is do what is being done now, which was documented by the Inquirer, and that is when there is only the one physician who performs the abortion, after the abortion is performed, to turn and take care of the woman, turn the back completely on the now-born child and allow that now-born child to die. The bill specifically states that the second physician, as soon as the abortion is performed, shall take charge of the now-born child—that is his only task—and do everything in his or her power to save the life of the now-born child.

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

It seems to me that the possibility does exist, and I do not share the gentleman's conclusion that there are greedy doctors out there who will do what he says they will do. But it seems to me that without the Lloyd amendment, that if there are those greedy doctors as he says there are, that in their good-faith judgment there is a possibility of a viable fetus being brought forth from that abortion, he could turn and say to one of his associates, one of his partners, I want you to come with me in

the operating room and we can both make a killing, we can both make a lot of money, because it is only up to my judgment as to whether or not there is a possibility that that fetus might be born alive.

Mr. Speaker, I think everyone in this chamber would agree that during the first trimester the possibility of that fetus being able to survive and become a living person is absolutely remote. But it seems to me that under the bill and under the definitions and under the language that is here, the possibility does exist that a doctor could in fact have one of his partners come with him just to be able to make an additional fee. So at the very least, since we rejected the Murphy amendment, at the very least we ought to accept the Lloyd amendment to make sure that during the first trimester, when there is not any possibility anyway, that the doctor would not have to be there, that second physician.

I just cannot see why there would be opposition to the Lloyd amendment, and I would ask for support for it.

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

Mr. STEWART. Would Mr. Freind stand for interrogation?

The SPEAKER. The gentleman indicates he will. The gentleman, Mr. Stewart, may begin.

Mr. STEWART. Thank you, Mr. Speaker.

Mr. Speaker, the provisions of this bill say that no Commonwealth funds will be expended via—in the case of my question—a health plan, Blue Cross/Blue Shield, for payments for abortions unless there is a separate rider. Is that correct?

Mr. FREIND. Are you talking about medicaid funding for abortions?

Mr. STEWART. I am talking about Commonwealth funds, which would be Commonwealth employees' Blue Cross/Blue Shield.

Mr. FREIND. There are a number of prohibitions. The prohibition on Commonwealth facilities, Commonwealth insurance plans, and medicaid funding is that no funds be expended except for abortions to avert the death of the mother and in cases of rape and incest.

Mr. STEWART. Okay. My question is then, Mr. Speaker, if a Commonwealth employee has a health plan that does not contain abortion except for the health of the mother, et cetera, and they are paying for the abortion on their own, in your opinion, would the health insurance, Blue Cross/Blue Shield, pay for the second doctor in his efforts to keep the fetus alive, or would that be considered all part of the abortion?

Mr. FREIND. Mr. Speaker, the abortion is ended when the pregnancy is terminated. You are now dealing with a born child. It is my opinion that that in fact would be covered by insurance.

Mr. STEWART. As a normal hospital procedure and routine?

Mr. FREIND. Depending on the plan. I do not know what every plan holds, but yes.

Mr. STEWART. Thank you, Mr. Speaker.

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

Mr. FLECK. Would Mr. Freind submit to brief interrogation?

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

Mr. FLECK. Thank you, Mr. Speaker.

Can you tell me, for my own benefit, in the case of a normal childbirth procedure where clearly you are intending to have a child born live, are there one or two physicians in attendance?

Mr. FREIND. That will vary, Mr. Speaker, but generally there is only one.

Mr. FLECK. I agree. That was my experience the three times I had children, or my wife did.

Mr. FREIND. That is correct, and the five times I had.

Mr. FLECK. Why do we need the additional one? Just explain it to me.

Mr. FREIND. Because you see, Mr. Speaker, in a delivery the purpose is to give birth to a live baby. In an abortion the purpose is to terminate a pregnancy and to kill the unborn child. And because there has been any amount of documentation, including again the cover story in the Inquirer 3 or 4 months ago, that when children survive abortions, the doctor who performs the abortion, and by definition has now botched it, Mr. Speaker, turns his back on the baby and permits the baby to die. And the Inquirer called that the "dreaded complication," the complication that a baby survives—

Mr. FLECK. I am familiar with that article. That concludes my interrogation.

The SPEAKER. Does the gentleman from Northampton, Mr. Gruppo, seek recognition?

Mr. GRUPPO. Yes.

Mr. Speaker, during the last few minutes there has been a considerable amount of confusion and, I might add, some noise in this chamber, and I have been having a little difficulty following exactly what Mr. Lloyd is proposing. I wonder if he would mind just repeating for this body what his amendment proposes to do.

The SPEAKER. Will the gentleman, Mr. Lloyd, please respond to the gentleman, Mr. Gruppo?

Mr. LLOYD. Thank you, Mr. Speaker.

If my amendment were to pass, all it would say is that during the first trimester of pregnancy, if there is going to be an abortion performed, there need not be two doctors in the operating room. Mr. Freind, in attacking that amendment, has suggested that that really is not going to make any difference because the scientific evidence is not available to save the life of a fetus aborted during the first trimester. And that might adequately take care of the problem if in subsection (c) Mr. Freind had used the same language as he did in subsection (b). If you look at page 9 of Mr. Freind's amendment where he is prescribing the degree of care, he says that this higher degree—

Mr. GRUPPO. What line is that, please?

Mr. LLOYD. Starting with line 9 on page 9. He talks about a higher degree of care being required in those cases in which there is viability. The problem with subsection (c) is that the presence of the second physician does not turn on somebody's good-faith judgment that there has been viability.

I suppose there were two ways I could have attacked this problem. One was to propose an amendment which would have section (c) reading, any person who intends to perform an abortion when he has made a good-faith judgment that the fetus is viable. The second way was simply to be more conservative and say, okay, I am willing to concede that what Mr. Freind is trying to do with this amendment is to avoid the constitutional decision in Colautti v. Franklin, which said that a fetus is either viable or not viable, that there is no such category as "may be viable."

So consequently, if Mr. Freind says that evidence says 19 weeks, and he says, I believe there is a possibility at 18 weeks, under Colautti there would be a chance that we could not require the physician to be present. So I think that is why he has chosen very artfully to make the presence of the second physician turn not on a finding of viability but on the abortion technique to be used. All I am trying to do is to be more conservative and say I am willing to grant him that, and if we can do that, if by the back door we can create an opportunity for a second physician to be present, when going into the operating room we do not know whether the fetus is going to be viable or not, I am willing to do that and to try to save the life of that fetus. But I think it is a needless expense to do that during the first trimester.

Mr. GRUPPO. Mr. Speaker, I would like to interrogate Mr. Lloyd.

Mr. Speaker, again I would just like to be sure I understand this. If I understand Mr. Freind and his concern in his amendment, it is to have a physician present in addition to the one performing the abortion, so that if there is viability, life, the physician performing the abortion will not turn his back on the baby, the viable fetus, and allow it to die.

Frankly, I support Mr. Freind in his concept, and I would like to know, in your amendment, if an aborted fetus was viable, then we would not have an attending physician if that fetus was in the first trimester. Is that correct?

Mr. LLOYD. That is correct, except that Mr. Freind has indicated that he knows of no evidence of a fetus being viable before 19 weeks.

Mr. GRUPPO. Okay. Thank you.

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

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

Mr. GRUPPO. From the information that I have, Mr. Speaker, it is my understanding that to a pediatrician, viability is measured by a number of factors. It is measured in gram weight; that is, under 1,000 grams, or 2 1/4 pounds, chances for survival are good to excellent for a fetus. Under 500 grams, survival is unlikely but can be managed, depending on the problems encountered by weeks of gestation, problems encountered in the location of the birth.

Also, I believe the previous speaker made comment to a Supreme Court decision. I just want to clarify by his acknowledgement if that was correct. Am I correct?

Mr. LLOYD. Colautti against Franklin. That is correct.

Mr. GRUPPO. Deciding on the trimester—

Mr. LLOYD. Deciding that the existing Pennsylvania State Abortion Control Act, insofar as it tried to create something called "may be viable," is unconstitutional.

Mr. GRUPPO. Okay. The Supreme Court in the past has tried to differentiate between a fetus at different stages of development based on a trimester classification of viability. However, the concepts of trimester and viability spring from medicine of the early to mid-1960's, when physicians lacked our present technology.

I think with what we know today in medicine and what is capable by our physicians and what I previously stated in terms of the viability nature of the fetus, I would strongly urge the members of this House to vote to defeat the Lloyd amendment. Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment No. A5053 to amendments No. A4911?

The following roll call was recorded:

YEAS—64

Anderson	Greenfield	Merry	Stairs
Barber	Greenwood	Michlovic	Stewart
Berson	Gruitza	Moehlmann	Sweet
Brown	Haluska	Murphy	Swift
Burd	Harper	O'Donnell	Van Horne
Cowell	Heiser	Oliver	Wambach
DeVerter	Hoeffel	Pendleton	Wiggins
DeWeese	Itkin	Pistella	Williams, H.
Davies	Jackson	Pott	Williams, J. D.
Deal	Kukovich	Rappaport	Wozniak
Dorr	Lashingier	Rasco	Wright, D. R.
Emerson	Lehr	Reber	Wright, R. C.
Evans	Levin	Richardson	Zwikl
Fargo	Livengood	Ritter	Ryan,
Fleck	Lloyd	Smith, B.	Speaker
Foster, W. W.	McVerry	Smith, L. E.	
Fryer	Madigan		

NAYS—127

Alden	Donatucci	Lettèrman	Rocks
Armstrong	Duffy	Levi	Rybak
Arty	Durham	Lewis	Salvatore
Belardi	Fee	Lucyk	Saurman
Belfanti	Fischer	McCall	Serafini
Beloff	Foster, Jr., A.	McClatchy	Seventy
Bittle	Frazier	McIntyre	Showers
Blaum	Freind	McMonagle	Shupnik
Borski	Gallagher	Mackowski	Sieminski
Bowser	Gallen	Maiale	Sirianni
Boyes	Gamble	Manderino	Smith, E. H.
Brandt	Gannon	Manmiller	Snyder
Burns	Geist	Marmion	Spencer
Caltagirone	George	Micozzie	Spitz
Cappabianca	Gladeck	Miller	Steighner
Cawley	Grabowski	Miscevich	Stevens
Cessar	Gray	Morris	Stuban
Cimini	Grieco	Mowery	Swaim
Civera	Gruppo	Mrkonic	Taddonio
Clark	Hagarty	Mullen	Taylor, E. Z.
Clymer	Hasay	Noye	Taylor, F. E.
Cochran	Hayes	Olasz	Telek
Colafella	Honaman	Perzel	Tigue
Cole	Horgos	Peterson	Trello
Cornell	Johnson	Petrarca	Vroon

Coslett	Kanuck	Petrone	Wargo
Cunningham	Kennedy	Phillips	Wass
DeMedio	Klingaman	Piccola	Wenger
Dawida	Kolter	Pitts	Weston
Dietz	Kowalshyn	Pratt	Wogan
Dininni	Laughlin	Punt	Wright, J. L.
Dombrowski	Lescovitz	Rieger	

NOT VOTING—3

Cohen	Cordisco	Hutchinson, A.
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EXCUSED—8

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

QUESTION OF PERSONAL PRIVILEGE

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

Mr. MERRY. Mr. Speaker, point of personal privilege.

The SPEAKER. The gentleman will state his point of personal privilege.

Mr. MERRY. I have had a difficulty for portions of 2 days with this bill. In reflecting about why we are here, it is my observation that when portions of the amendment were in the Health and Welfare Committee, that committee had difficulty getting adequate expert testimony and proving the constitutionality of the whole thing. Apparently, in that committee they had the benefit of expert legal advice, expert medical advice, and the benefit of hearings. None of those are available to us today.

Shortly before 12 noon today, Representative Fleck asked if there were any expert medical opinion in the House. There was not one person. I understood one of our members who has a past experience of being an attorney sought to answer that question.

MOTION TO RECOMMIT

Mr. MERRY. Mr. Speaker, I feel that we are so inadequate here of having the benefit of expert testimony, the benefit of public hearings, that I really feel that this bill should be recommitted to a committee, and if it would be proper, I would like to make that motion that it be recommitted to the Judiciary Committee.

The SPEAKER. The motion made by the gentleman, Mr. Merry, is that SB 742, together with its amendments, be recommitted to the Committee on Judiciary.

On the question,

Will the House agree to the motion?

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

Mr. FREIND. Thank you, Mr. Speaker.

It is true that this bill was referred to the House Health and Welfare Committee and that in fact three public hearings were held - in Philadelphia, Pittsburgh, and Harrisburg. There was medical testimony, legal testimony, on both sides of the issue.

The committee met on October 1 and, by a 13-to-11 vote, voted not to report the bill out of committee and voted also not to consider the amendments which the prime sponsors had drafted, rejected those amendments which we had drafted in response to some of the criticism.

Every one of us, Mr. Speaker, whether or not we were on that committee, had been aware for a tremendous period of time of this bill. Every one of us had been contacted by people on both sides of the issue - citizens, members of the clergy, members of the medical and legal profession. I do not think there has ever been an attempt by sponsors of any legislation to continue to keep the entire membership of the House as apprised as to what the bill did with analyses of the bill and any of the changes that have been made.

In addition, Mr. Speaker, a 2-week delay was granted so that more time could be spent to consider it. And in addition, Mr. Speaker, the prime sponsors took the unprecedented step to move to suspend the rules to give everyone the opportunity to be heard and to make any changes. And as you know, even now, yesterday, the prime sponsors introduced certain amendments in response to some of the concerns of the members.

Everyone knows what this issue is, Mr. Speaker. Nothing will be served by putting this off to another day. The time is now to act on this. For those reasons I sincerely hope that we reject this motion to recommit. Thank you.

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

Mr. DAVIES. Mr. Speaker, I would just like to support it, because in every aspect of trying to find out what the true fiscal implications of this thing would be, I have been getting nowhere, and I think that is one of the prime reasons why I have a figure right now about how much it would cost just to keep those children who would survive the process alive at a figure in excess of \$2.4 million. And figures like that have been completely ignored. So, therefore, I would support the motion.

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

Mrs. TAYLOR. Mr. Speaker, recently we had before us another piece of major legislation, and we struggled with the proposition, the motion, to recommit to the Judiciary Committee. It would appear to me, Mr. Speaker, that to do this again on this very important piece of legislation would really say to the folks back home that we are not ready and we are not capable as individual legislators to vote on a major piece of legislation. And I further suggest, Mr. Speaker, that if we keep referring all of the important bills to the Committee on Judiciary, we may well destroy the entire committee system. Thank you very much.

The SPEAKER. The Chair recognizes the gentleman from Crawford, Mr. Merry.

Mr. MERRY. Mr. Speaker, I have great faith in the committee system. Apparently all of us do here, or we would not have it.

I am uncomfortable in the fact that it has to go to the Judiciary Committee, because I do think it is a welfare problem, but the House ruled here that it was germane to the criminal code, so I think that is where it has to go.

But you have put every member here in the position of offering expert testimony, and I do not believe we are adequate to do that. This is the most important issue that we will ever have before us, and it deserves great concern, because it concerns unborn babies. I feel that it has to have good depth.

I want to bring to your attention that the last time I asked for a legal opinion on one issue, it took me 4 days to get it from a lawyer. You can go to a doctor and many times it takes hours to get an opinion on one situation. We have had over 100 amendments thrown at us to act upon yesterday and today, making momentary decisions on things that affect life itself. I feel that there has to be expert testimony given on each and every one of these. And when Mr. Fleck does not find an expert medical testimony in the entire place, when another gentleman asks a question concerning money and the maker of the bill does not even care, I feel that we have to have testimony from people who do care, and the place for this is in the committee.

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

Mr. DEAL. Mr. Speaker, I rise to support the motion to recommit. Mr. Speaker, my reason for supporting the motion is because I believe that if there was ever a time that most of us needed more in-depth information, it is on this serious question.

I have heard the question here today, what will our people think if we do not act? Well, the problem that bothers me, I wonder what will the public say when they look at us trying to rush this serious question through this House when it would take doctors several years to learn what you think you have learned overnight? I would wager to say, if this same matter was appearing before the Supreme Court with some of our greatest legal minds and persons appearing before them, that they would not be able to render a decision as quickly as you are trying to render one here today.

Mr. Speaker, I think the public respects their legislators when their legislators recognize that they cannot be experts in every field and need time and need the proper kind of testimony to come before them so that they can make the proper decision. I would not attempt to belittle the intelligence of the persons who have been elected to represent their constituency, but I do challenge many of you here today who are just running down the road as if you are filled with all of the knowledge, and some of you appear to have been ordained by God himself to make this decision on things that ought to be made personally by other individuals.

Mr. Speaker, I hope that those who are being stampeded would say to the stampeded that the time has come when we ought to slow down and take a hard look at this decision that we are going to make today. I tell you, Mr. Speaker, you can

run roughshod today, but you will have to stare this same issue in the face again, because this will not be the end.

I had hoped when I came to this great House that when we made decisions, we would make the kinds of decisions that could stand the test. Many of you learned attorneys who are speaking here today know full well, you know full well, what you are doing is totally wrong, and it has been wrong since you changed the rules to even insert something that has no relevance whatsoever to the issue, and you knew you were wrong, but you just believe sometimes that when you are in power, you do whatever you like. But I tell you, Mr. Speaker, that is not what we were elected to do. I think we were all elected to reach out to each other and do what is best for the entire Commonwealth of Pennsylvania. I beg you not to be afraid but to stand up and admit that you do not have all the knowledge to make the decision today and recommit this bill. Thank you, Mr. Speaker.

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

Mr. MULLEN. Mr. Speaker, I would like to remind the last gentleman he was not ordained by God to consider this thing; he was ordained by the people of his district. This is not a new issue. This issue has been before the General Assembly every year for the last 10 years. If you do not know enough about it now, you never will.

Now, we have been considering the amendments and the proposed bill for the last 2 days. We have had the bill on the calendar since last July, and we have a discharge resolution. Everyone had ample opportunity to consider it. The only issue before us now is whether to recommit it to the Judiciary Committee. This to me is ridiculous, because if it goes to the Judiciary Committee, they may consider it; they may not. The other committee did not consider it, the Health and Welfare Committee. In their judgment, they did not think that it should be reported out, but the majority of the members who were supporting this bill felt that it should be reported out.

You have to consider it. If you do not know enough about it, you go to the people who can give you the knowledge. We are trying to help you today.

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

The question before the House is the motion of the gentleman, Mr. Merry, to recommit the bill with all amendments to the Judiciary Committee.

Mr. MULLEN. Mr. Speaker, if we were to submit it to the Judiciary Committee, we would be only wasting the time of the House, because it will be back again. I think the thing to do is to vote on it today, up or down, and get it over with. To send it back to the Judiciary Committee is only wasting every member's time. Thank you.

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

Mr. J. D. WILLIAMS. Mr. Speaker, I rise in support of recommitment of this bill. First of all, Mr. Speaker, I have not been a member of this House for 10 years, and I do not claim to have all the knowledge of this bill. The proof of the pudding, Mr. Speaker, is, this morning in the session, supporters of this bill were searching for medical professionals to try to get some answers right on this House floor.

I also resent the unconstitutional method that was used to bring this bill before the House today, and I support recommitting this bill. Thank you.

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

Mr. BARBER. Mr. Speaker, as minority chairman of the Health and Welfare Committee, we had hearings across the State, we had committee meetings, and this bill was defeated in a committee meeting. So, therefore, they had to suspend the rules before they could bring this bill to a vote. So I do not agree with my colleague, Representative Mullen, for the simple reason that I think he does not know that we have worked on this bill each and every year for the last 14 years I have been here. So I would say this: I think we should leave this to the committee system, because it is seldom they ever suspend the rules on this floor unless it is pertaining to the abortion bill. Each time they suspend the rules, it is for an abortion bill. So, Mr. Speaker, I think we should recommit this bill.

The SPEAKER. Does the gentleman, Mr. Fleck, seek recognition? The gentleman, Mr. Fleck, is in order to proceed.

Mr. FLECK. Thank you, Mr. Speaker.

I just want to make a couple of points. We are marching down a road here with a very important bill. It is personally important to me that we pass this bill. I want this bill to pass, but I want it to pass in the right way, and I want it to pass effectively. I am concerned, when we finish our deliberations on this bill in this House, operating as a committee of the whole, it leaves here. It goes to the Senate directly to their calendar. It does not ever go into a committee where it might be amended or improved to take away flaws that could inadvertently be created. We have had amendments presented to us today and many, many, many yesterday presented, not too many accepted. Amendments have been divided; tops of amendments have been deleted; bottoms of amendments have been deleted; editorial changes within amendments have been made; and, quite frankly, during a great part of the debate, it has been my observation—and I apologize to the members for saying this—that the press has been paying better attention than many of us have.

Now, I question if we can really put this bill out this way. I do not seek to kill this bill; I want it to pass, but I think we have an obligation to act responsibly, and if ever there is an issue of life and death, this is it.

We should take this bill where we can do the job right, and we should do that job. We should not bury it; we should not hide it; we should not run from it, and we should stand up to it. Certainly all of your votes cast today put you on record wherever you are. You have nothing more to fear about your own position. You are completely exposed; you are disrobed, whether you are prolife, prochoice or prowhat. I say we all ought to be proresponsibility and put this bill where we can get a job done. Let us put the bill into a committee, act responsibly on it, and pass a good and worthy piece of legislation, please.

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

Mr. RITTER. Mr. Speaker, I rise to support the motion to recommit. There were some statements made in opposition to that, that in effect this would be destroying the committee system if we somehow load up the Judiciary Committee. I find that rather amusing when I recall when Mr. Wright offered an amendment to a bill to create the Commonwealth university system, the hue and cry then was, we cannot do that on the floor; we have to consider that in a committee; that is the best place to do that.

Mr. Speaker, if anything is going to destroy the committee system, it is considering legislation like this in the manner in which we are considering it. This proposal was already defeated by a committee of this House. Now, if you believe in the committee system and you are afraid that if you recommit the bill you are going to destroy it, I submit to you that if you vote this legislation in the fashion that it is now and the way it came before us, you will have destroyed the committee system. There will be no need any longer for a committee system.

Mr. Speaker, for all the reasons Mr. Fleck pointed out and all the reasons other members have pointed out, this bill needs to go back to a committee, and the Judiciary Committee is the proper committee because of all the legal ramifications that are involved.

Mr. Speaker, I urge an affirmative vote for the recommittal motion.

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

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

Mr. Speaker, I just wanted to comment on the motion very briefly because of the manner in which Mr. Mullen indicated that he basically could give us the precise knowledge on this. I just want to remind this House that Mr. Mullen has been the chief architect over a number of years for bills that we were constrained to put into law that were declared unconstitutional.

Now, for those people who really feel they must do something on this issue one way or the other, it is irresponsible to take the precedent of the fact that we have dealt with this for so long, because it has been proven that we have been ineffective in addressing the issue.

The motion to recommit says one simple thing: Whatever side you are on, let us do it correctly so it will be implemented one way or the other. For those who say it is such a fundamental, important issue to do, I ask you, the years have indicated that there was no real desire to do that, and those who call for recommitment say only one thing, and that is, if you have a desire to do it, one way or the other let us do it.

I say to Mr. Mullen in response to his comments that his leadership has been blind, not all-seeing. His leadership on the issue has been unconstitutional, illegal, and incorrect, and this House, all of this House, has an obligation and a right to thoroughly examine the issue and do it correctly and not to be subjected to a stampede, out of order, added to another bill, but in the committee system, one way or the other, and thoroughly.

I just wanted to say that, Mr. Speaker, because your remarks indicated to many people who have not been here that for all those years you have been right. You have been wrong in the manner, and you have been proven to be wrong, and we have a right—

The SPEAKER. The gentleman will yield.

The question before the House is the motion to recommit this bill to committee. It has nothing to do with prior years or the motives of any member. Will the gentleman, Mr. Williams, please hold his remarks to the question that is before the House.

Mr. H. WILLIAMS. I am sorry, Mr. Speaker. I just wanted to make sure that our processes in the past were put clearly out to members who were not here as being ineffective. I think that that augurs well for the motion to recommit so that we can get a job done well, one way or the other. Thank you.

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

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

First of all, we respect the committee system. We did everything the committee system is supposed to do. We respected the committee system; we appeared at hearings; we did everything we could. The committee by a vote of 13 to 11 decided not to report the bill out. There are 203 Representatives here who are representing all the people of Pennsylvania. That is your responsibility to consider it. What good does it accomplish to send it back to the Judiciary Committee where it would have the same problem again? It is ridiculous. We have the thing before us. Let us consider it. If you feel you are not intelligent enough to consider it, resign. But do your best, and then we will work it out.

The SPEAKER. It is the opinion of the Chair that the remarks of the gentleman, Mr. Mullen, were out of order. As the Speaker heard them—and the Speaker admits he caught only the tail end of the comment—I think the remarks were out of order. I have known Mr. Mullen for many years, and I know it was not intended that way.

The Chair recognizes the gentleman from Mifflin, Mr. DeVerter.

Mr. DeVERTER. I thank the Speaker for his preceding remarks. I think Mr. Mullen's intelligence was misplaced when he made those remarks, and I think he owes each and every member of this House an apology, sir.

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

Mr. MULLEN. Mr. Speaker, I certainly am sorry if I offended any member or members. First of all, what I said, I did not mean to insult anyone. All I was trying to do was point out the fact that we have been considering it, we are elected to consider these particular issues, and that is all we should do. That is all. Now, if I said anything, I do not recall what I said, except I think I said that if you did not feel you could handle the issue, you have no right being here. But I think that every member in this House is capable and is able to consider the issue, and I say that all we should do is consider the issue. If I said anything to offend anyone, it was not intentional, and I apologize.

The SPEAKER. The question before the House is, should the bill be recommitted to the Committee on Judiciary?

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

Mr. FLECK. Thank you, Mr. Speaker.

I would just refer one moment so we can judge everybody's motivations, if we choose to. One of the chief proponents of this bill, who has spoken twice—

The SPEAKER. The gentleman will yield.

The question before the House is the motion of the gentleman, Mr. Merry, to recommit the bill to the Committee on Judiciary.

Mr. FLECK. I will be pertinent.

The SPEAKER. The Chair intends to enforce that rule from here on, both sides of the issue.

The gentleman may proceed on that question.

Mr. FLECK. I would simply like to state that the sentiments of many people, expressed that we should get this over with, is an inappropriate way to approach a problem of the magnitude of which we are addressing. I think that this rush to justice, this kind of let-us-get-this-thing-out-of-our-hair-so-we-can-proceed attitude is truly detrimental. It is a mistake, it is a flaw, and it is an embarrassment to this House. I hope we do not persist.

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—62

Anderson	Greenwood	Miller	Smith, B.
Barber	Hagarty	Moehlmann	Smith, L. E.
Berson	Harper	O'Donnell	Snyder
Bittle	Heiser	Oliver	Spencer
Brown	Hoefel	Piccola	Stewart
Cornell	Itkin	Pistella	Stuban
DeWeese	Jackson	Pott	Sweet
Davies	Kukovich	Punt	Swift
Deal	Lashingier	Rappaport	Van Horne
Dorr	Levin	Rasco	Wiggins
Evans	Lewis	Reber	Williams, H.
Fargo	Livengood	Richardson	Williams, J. D.
Fleck	Lloyd	Ritter	Wright, D. R.
Fryer	Madigan	Saußman	Wright, R. C.
Gladeck	Marmion	Showers	Zwilk
Greenfield	Merry		

NAYS—129

Alden	Dombrowski	Laughlin	Rieger
Armstrong	Donatucci	Lehr	Rocks
Arty	Duffy	Lescovitz	Rybak
Belardi	Durham	Letterman	Salvatore
Belfanti	Fee	Levi	Serafini
Blaum	Fischer	Lucyk	Seventy
Borski	Foster, W. W.	McCall	Shupnik
Bowser	Foster, Jr., A.	McClatchy	Sieminski
Boyes	Frazier	McIntyre	Sirianni
Brandt	Freind	McMonagle	Spitz
Burd	Gallagher	McVerry	Stairs
Burns	Gallen	Mackowski	Steighner
Caltagirone	Gamble	Maiiale	Stevens
Cappabianca	Gannon	Manderino	Swaim
Cawley	Geist	Manmiller	Taddonio
Cessar	George	Michlovic	Taylor, E. Z.
Cimini	Grabowski	Micozzie	Taylor, F. E.
Civera	Gray	Miscevich	Telek
Clark	Grieco	Morris	Tigue
Clymer	Gruitza	Mowery	Trello

Cochran	Gruppo	Mrkonic	Vroon
Cohen	Haluska	Mullen	Wambach
Colafella	Hasay	Murphy	Wargo
Cole	Hayes	Noye	Wass
Cordisco	Honaman	Olasz	Wenger
Coslett	Horgos	Pendleton	Weston
Cowell	Hutchinson, A.	Perzel	Wogan
Cunningham	Johnson	Peterson	Wozniak
DeMedio	Kanuck	Petrarca	Wright, J. L.
DeVerter	Kennedy	Petrone	
Dawida	Klingaman	Phillips	Ryan,
Dietz	Kolter	Pitts	Speaker
Dininni	Kowalyszyn	Pratt	

NOT VOTING—3

Beloff	Emerson	Smith, E. H.
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EXCUSED—8

Daikerer	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. MURPHY offered the following amendment No. A4946 to amendments No. A4911:

Amend Amendments (Sec. 3211), page 10, lines 21 through 41, by striking out all of lines 21 through 40 and "(c)" in line 41, and inserting

(d)

On the question,

Will the House agree to the amendment No. A4946 to amendments No. A4911?

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

Mr. MURPHY. This amendment is on page 52 in the packet.

This amendment strikes the section entitled "Analysis of dead child." Very briefly, this section requires that a pathological examination be done on every aborted fetus after the first trimester. I think it is unnecessary. I do believe that this type of analysis would be necessary if there is some expectation that the baby was going to be viable or there was some evidence of live birth. But in every abortion, I believe it stretches the constitutional question, and it is simply unnecessary. Thank you, Mr. Speaker.

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

Mr. FREIND. Very briefly, Mr. Speaker, I rise to oppose this amendment. This section, which the Murphy amendment would strike, its major purpose is to determine whether or not there have been abortions on unborn children who are viable or who might be viable in contravention of the standards set forth in this bill. It calls for a gross examination, which is just looking at the unborn child, and also a microscopic examination, looking at the tissue through a microscope. I do not think it is an unnecessary regulation, and I think the goal to ensure that we are not performing abortions, in fact in contravention of the Supreme Court, on unborn children who are viable makes this extremely important. For those reasons I sincerely hope we reject the amendment. I urge a "no" vote.

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

Mr. MURPHY. Mr. Speaker, I would like to read very briefly from page 9, line 3, of this bill, the very preceding page where it says, "It shall be a complete defense to any charge brought against a physician for violating the requirements of this section that he had concluded in good faith, in his best medical judgment, the unborn child was not viable...." With that statement in this bill, it seems to me absolutely unnecessary then to second-guess the physician with an analysis of the dead child in every case. I think that is unnecessary. If there are suspicions that the physician acted out of reckless or criminal intent, then that is a different case, and I think those examinations should be done, but in every case is absolutely unnecessary to do. Thank you.

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

Mr. FREIND. Just briefly, we discussed before on a number of occasions the issue of viability and how medical science will continue to change on it. Another reason for this requirement is to have the opportunity to examine the aborted child who has been aborted after the first trimester, to determine for purposes of research and for purposes of compiling records as to the status of that unborn child, as to whether or not that unborn child at a particular age could be viable. I think this is very necessary, I do not think it will provide any kind of a hardship, and I sincerely hope we reject the amendment.

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

Mr. POTT. Mr. Speaker, I rise to support the Murphy amendment. It is obvious that the sponsors and proponents of the legislation are only interested in driving up the costs to any woman who considers having an abortion to the prohibitive level and increasing the regulations to the medical community to the point where, although legal, there will be no abortions performed in Pennsylvania. If we do not support amendments like the Murphy amendment, we are missing the true point of what this legislation will do. You may think that you are prolife, prochoice, whatever. I would like to read some of the correspondence which I have received from people in my district on both sides, but I will not bother the House with that. I just think, Mr. Speaker, that a back-door way of prohibiting abortion is to drive up the cost and increase the regulation. That is what the bill in its present format is designed to do, a surreptitious means of prohibiting abortion.

I feel Mr. Murphy's amendment is absolutely necessary. There is no good medical reason whatsoever for analysis of dead tissue other than to increase costs. We talk about inflation; we talk about increased costs of health care. This is an absolutely unnecessary increase in the cost of health care, and it is going to be borne by citizens all over Pennsylvania. If you want to pay for that, vote against the Murphy amendment. Do you really think that an extracted fetus needs analysis by a doctor or a laboratory and reports filed to an increased bureaucracy? If you really feel that way, vote against the Murphy amendment. If you are really conservative and con-

cerned about the increasing and spiraling costs of government, of health care, vote in favor of the Murphy amendment.

### THE SPEAKER PRO TEMPORE (JOHN HOPE ANDERSON) IN THE CHAIR CONSIDERATION OF SB 742 CONTINUED

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

Mr. ROCKS. Thank you, Mr. Speaker.

Very briefly, and in response to the last speaker, there is no effort at all in this legislation anywhere to drive up cost. However, the particular section that we are talking about and the amendment that is in front of us and the reason for opposing it is that there is a critical need in this State, as there is in this Nation, to look at the question of viability, and that is what the bill will allow for, and this amendment would make it prohibitive. It certainly has nothing to do with increased costs.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny, Mr. Murphy, for the third time.

Mr. MURPHY. Thank you, Mr. Speaker.

I would like to interrogate Mr. Freind, please.

The SPEAKER pro tempore. The gentleman, Mr. Freind, indicates that he will submit to interrogation.

Mr. MURPHY. Thank you, Mr. Speaker.

Mr. Speaker, in the last discussion we had about this bill, Mr. Freind indicated a major reason for this particular section was for research. I would like some explanation of what he plans to do in regard to research on dead children.

Mr. FREIND. I did not state we would be researching on dead children. As a matter of fact, there is an express prohibition on experimentation.

There are two major goals for this section, and the one is to ensure as best as possible that we are not performing abortions on viable unborn children, except with the two exceptions that are in the bill in sync with the Supreme Court, to preserve maternal life or health. But secondly, on those occasions where a pathologist finds a discrepancy, not for criminal purposes for the doctor but a discrepancy with the determination by his pathology of the doctor who said the child is not viable, there is a reporting requirement so that we can continue in effect to garner additional data which will work in conjunction with the Health Advisory Board's responsibility to continue to explore the area of viability and promulgate ongoing standards as to viability.

That is the reason, Mr. Speaker. If I gave any implication that we would be doing research on the unborn children, that is totally incorrect.

Mr. MURPHY. Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment No. A4946 to amendments No. A4911?

The following roll call was recorded:

YEAS—98

Anderson	Frazier	Lucyk	Seventy
Barber	Fryer	McVerry	Showers
Belfanti	Geist	Manmiller	Sieminski
Berson	Gladeck	Marmion	Smith, B.
Bittle	Greenfield	Merry	Smith, L. E.
Brown	Greenwood	Michlovic	Snyder
Burd	Gruitza	Miller	Spencer
Cohen	Hagarty	Miscevich	Spitz
Cornell	Haluska	Moehlmann	Stevens
Coslett	Harper	Mowery	Stewart
Cowell	Hasay	Murphy	Struban
DeVerter	Heiser	O'Donnell	Sweet
DeWeese	Hoeffel	Oliver	Swift
Davies	Hutchinson, A.	Pendleton	Van Horne
Dawida	Itkin	Piccola	Wambach
Deal	Jackson	Pistella	Wass
Dininni	Johnson	Pott	Wenger
Dorr	Klingaman	Punt	Wiggins
Duffy	Kukovich	Rappaport	Williams, H.
Emerson	Lashingier	Rasco	Williams, J. D.
Evans	Levi	Reber	Wozniak
Fargo	Levin	Richardson	Wright, D. R.
Fischer	Lewis	Ritter	Wright, R. C.
Fleck	Livengood	Saurman	Zwilk
Foster, W. W.	Lloyd		

NAYS—95

Alden	Dietz	Lehr	Rocks
Armstrong	Dombrowski	Lescovitz	Rybak
Arty	Donatucci	Letterman	Salvatore
Belardi	Durham	McCall	Serafini
Beloff	Fee	McClatchy	Shupnik
Blaum	Foster, Jr., A.	McIntyre	Sirianni
Borski	Freind	McMonagle	Smith, E. H.
Bowser	Gallagher	Mackowski	Stairs
Boyes	Gallen	Majale	Steighner
Brandt	Gamble	Manderino	Swaim
Burns	Gannon	Micozzie	Taddonio
Caltagirone	George	Morris	Taylor, E. Z.
Cappabianca	Grabowski	Mrkonic	Taylor, F. E.
Cawley	Gray	Mullen	Telek
Cessar	Grieco	Noye	Tigue
Cimini	Gruppo	Olasz	Trello
Civera	Hayes	Perzel	Vroon
Clark	Honaman	Peterson	Wargo
Clymer	Horgos	Petrarca	Weston
Cochran	Kanuck	Petrone	Wogan
Colafiglia	Kennedy	Phillips	Wright, J. L.
Cole	Kolter	Pitts	
Cordisco	Kowalshyn	Pratt	Ryan,
Cunningham	Laughlin	Rieger	Speaker
DeMedio			

NOT VOTING—1

Madigan

EXCUSED—8

Daikeler	Iris	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. FRAZIER offered the following amendment No. A5135 to amendments No. A4911:

Amend amendments, page 9, line 43, by inserting after "viable"

and shall, from time to time, issue, promulgate, report and maintain standards for the likelihood of viability

together with a discussion thereof in a manner reasonably calculated to provide notice to the medical profession of this Commonwealth for the purposes set forth in this subsection

On the question,

Will the House agree to the amendment No. A5135 to amendments No. A4911?

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny, Mr. Frazier.

Mr. FRAZIER. Thank you, Mr. Speaker.

This amendment is an agreed-to amendment, as I understand.

Very briefly, what this amendment does is on the annual meeting date of the board of examiners, when they issue their opinions, it creates a legal reporting system whereby records are maintained at a central location at the discretion of the board and the Commonwealth. That creates a reporter where physicians and lawyers can go to see the positive regulation which has been enacted by the board.

I think it is very important that we be able to know what the positive regulations are in dealing with any cases that may come or litigation that may come from the act. Thank you, Mr. Speaker.

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

Mr. FREIND. Thank you, Mr. Speaker.

This does serve a worthwhile purpose in making sure that these records are maintained. I support the amendment.

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

Mr. HOEFFEL. Thank you, Mr. Speaker.

Our packet contains a different printer's number, I believe. I am confused as to which amendment we are voting on.

The SPEAKER pro tempore. The amendment is A5135 on page 53 of your book.

Mr. HOEFFEL. Was that the amendment that Mr. Frazier described?

The SPEAKER pro tempore. Does the gentleman wish to interrogate the sponsor of the amendment?

Mr. HOEFFEL. Yes, Mr. Speaker.

The SPEAKER pro tempore. The gentleman indicates he will. The gentleman, Mr. Hoeffel, may continue.

Mr. HOEFFEL. Mr. Speaker, your explanation did not seem to describe this amendment.

Mr. FRAZIER. The key term in the amendment is "maintain." There is language in the subsequent paragraph for the 30-, 60-, and 120-day reporting periods after the hearings, but not in the annual-meeting paragraph. This adds the same language as in the rest of the bill, except it adds an additional word to "maintain" standards.

Mr. HOEFFEL. I am very confused, Mr. Speaker. I still do not think we are reading the same amendment.

Mr. FRAZIER. May I ask the interrogator to state his question again and then perhaps I can answer him?

Mr. HOEFFEL. Mr. Speaker, the amendment that I see labeled "5135" talks about requiring the annual hearings to be on viability, to issue and promulgate and report standards

for the likelihood of viability, and that is not what you are describing.

Mr. FRAZIER. Yes; that is precisely what I was describing, so that at all times there is a reporting service on what the legal standard of viability is to which you will hold physicians in the criminal cases.

Mr. HOEFFEL. Okay. I apologize to the gentleman.

I would like to make a statement.

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

Mr. HOEFFEL. Thank you.

I did not mean to give Mr. Frazier a hard time. I did not understand him to say what he thought he said.

Mr. Speaker, I am not surprised that the supporters of the legislation would agree to this amendment. It simply continues their desire to create a second kind of viability or a second kind of standard labeled "viability" that doctors have to adhere to. Mr. Frazier is trying to make sure that doctors know what the board decides regarding viability.

It is my judgment that it is going to be extremely difficult for the board to come up with a standard of viability. They are being asked to determine the likelihood of viability. Viability itself is defined in the bill as the likelihood of sustained survival outside of the womb. Therefore, the board will be asked to determine the likelihood of a likelihood. I do not see how that is going to happen. I think the amendment is poorly conceived and should be defeated. Thank you.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny, Mr. Frazier, for the second time.

Mr. FRAZIER. Thank you, Mr. Speaker.

This is a brief conclusion. I disagree, respectfully. I believe in a defense lawyer mentality that it is extremely important that physicians who may be held to a standard of viability in criminal prosecutions, that it be available in an official agency reporter the precise standard that can be cited in the cases, so that in their defenses or in the prosecution thereof, that standard is made available. I do not believe that this supports actually the process in the bill. I believe that it provides positive law. The problem that I found in the bill and the conception in the amendment that I spoke to with Mr. Freind was to develop positive agency law that can be cited in criminal defenses of physicians, and that is the thrust of the amendment. Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment No. A5135 to amendments No. A4911?

The following roll call was recorded:

YEAS—128

Alden	Duffy	Lescovitz	Seventy
Anderson	Durham	Letterman	Shupnik
Armstrong	Fargo	Levi	Sieminski
Arty	Fee	McCall	Sirianni
Belardi	Fischer	McClatchy	Smith, B.
Belfanti	Fleck	McVerry	Smith, E. H.
Bittle	Foster, W. W.	Mackowski	Snyder
Blaum	Foster, Jr., A.	Madigan	Spitz
Borski	Frazier	Manmiller	Stairs
Bowser	Freind	Marmion	Steighner
Boyes	Fryer	Merry	Stevens
Burd	Gallen	Michlovic	Stewart

Burns	Gamble	Micozzie	Stuban
Caltagirone	Gannon	Miller	Swaim
Cawley	Geist	Miscevich	Taddonio
Cessar	George	Moehlmann	Taylor, E. Z.
Cimini	Greenfield	Morris	Taylor, F. E.
Civera	Grieco	Mrkonjc	Telek
Clymer	Gruitza	Noye	Tigue
Cochran	Gruppo	Perzel	Vroon
Cohen	Haluska	Peterson	Wambach
Colafella	Hasay	Petrone	Wargo
Cornell	Hayes	Phillips	Wass
Coslett	Horgos	Piccola	Wenger
Cowell	Hutchinson, A.	Pitts	Weston
Cunningham	Johnson	Pott	Wogan
DeMedio	Kanuck	Punt	Wozniak
Davies	Kennedy	Rasco	Wright, J. L.
Dawida	Klingaman	Rocks	Wright, R. C.
Dietz	Kolter	Rybak	
Dininni	Kowalshyn	Salvatore	Ryan,
Donatucci	Laughlin	Serafini	Speaker
Dorr	Lehr		

NAYS—64

Barber	Gray	McIntyre	Richardson
Berson	Greenwood	McMonagle	Rieger
Brandt	Hagarty	Maiale	Ritter
Brown	Harper	Manderino	Saurman
Cappabianca	Heiser	Mowery	Showers
Clark	Hoeffel	Mullen	Smith, L. E.
Cole	Honaman	Murphy	Spencer
Cordisco	Itkin	O'Donnell	Sweet
DeVerter	Jackson	Olasz	Swift
DeWeese	Kukovich	Oliver	Trello
Deal	Lashinger	Pendleton	Van Horne
Dombrowski	Levin	Petrarca	Wiggins
Evans	Lewis	Pistella	Williams, H.
Gallagher	Livengood	Pratt	Williams, J. D.
Gladeck	Lloyd	Rappaport	Wright, D. R.
Grabowski	Lucyk	Reber	Zwikl

NOT VOTING—2

Beloff	Emerson
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EXCUSED—8

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. RASCO offered the following amendment No. A5114 to amendments No. A4911:

Amend amendments, page 11, line 59, by striking out "hire or"

On the question,

Will the House agree to the amendment No. A5114 to amendments No. A4911?

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny, Mr. Rasco.

Mr. RASCO. Mr. Speaker, on page 11, line 59, in section (d), in this particular section it reads that you cannot refuse to hire anyone where abortions are performed. Now, I would like to give an example of this particular section.

In Magee Hospital in Pittsburgh, for an example, suppose the personnel director or the administrators of the hospital

were looking for an operating-room nurse and a woman came into that hospital looking for this job to work in the operating room. Now, the policy at Magee Hospital is to perform abortions. Now, this was stated to the woman that their policy is to perform abortions. If she says she will not work on abortions or she will not support abortions in any way, they cannot hire her. This puts the people in these hospitals in such a position that if a woman says she will not work on abortions but she wants to work in the operating room, they have to hire her.

Now, I think this is very ridiculous to put these people in this type of position. There is no other business that I know of in this State that would interview a person to be hired, and when they state the policies of their plant or their business, if the person says, I will not do this or I refuse to do this, then they have to hire them. I think this is very ridiculous to be in this particular section, and I would ask that this be removed. I ask support for my amendment. Thank you, Mr. Speaker.

**THE SPEAKER (MATTHEW J. RYAN)  
IN THE CHAIR  
CONSIDERATION OF SB 742 CONTINUED**

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

Mr. FREIND. Thank you, Mr. Speaker.

I rise to oppose this amendment. You know, it is interesting in the law right now, there are any number of things, bases which you cannot use for refusing to hire a person - sex, age, religious convictions, and in many cases political affiliation. But if we adopt this amendment, what we are saying is, one of the things that it is okay to use is someone's unwillingness to kill unborn children. I do not think that is consistent with the body of law that we already have. I think an individual ought to have a right to their conscience on an issue like that and should not be refused hiring, particularly in light of all of the other prohibitions we have against refusing to hire people. I ask for rejection of this amendment.

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

Mr. RASCO. Mr. Speaker, I think with this amendment, I know the prime sponsor of this amendment that is going in keeps referring to killing babies. I think abortion would be a better term. I do not respect that term in the early points of pregnancy that that is killing.

Another thing is to say that in a hospital—and if we could realize what we are doing here—there are many hospitals in the Pittsburgh area and throughout this State, that a woman does not have to work in a hospital where they perform abortions, but there is no way that the administrators or personnel people can refuse to hire someone and they refuse to perform the policy of the hospital. It is established policy in many of these hospitals that they perform abortions, and it is legal. Now, for a person to try to work in the OR (operating room) and say they will not perform abortions, what do you do? You hire the woman and she goes to the OR—it takes two nurses, for example, possibly for an abortion—and every time they come to abort, she walks out of the operating room. She

refuses to work and refuses to be a part of that abortion. Therefore, those people should not be in a position that they have to hire her for that particular job.

I would appreciate a "yes" vote on my amendment. Thank you, Mr. Speaker.

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

Mrs. HARPER. Thank you, Mr. Speaker.

I would just like to ask the prime sponsor of the bill a question.

The SPEAKER. Mr. Freind indicates he will stand for interrogation. The lady, Mrs. Harper, may begin.

Mrs. HARPER. Mr. Speaker, has the Supreme Court set a time when a fetus becomes an unborn child?

Mr. FREIND. The Supreme Court never ruled on that.

Mrs. HARPER. Well, I wish you would refrain from calling a fetus an unborn child.

Mr. FREIND. With all due respect to the lady, whom I admire very much, I think I discussed that point yesterday. One of the problems we have here is we use terms which are meant not to mean anything. Instead of "unborn child," we say "fetus" or "product of conception," and we say "terminate a pregnancy." But as I pointed out yesterday, the point of the matter is no one disagrees as to when life, not human life, but when life begins.

Now, if something is living and you want to stop it from living, there is only one way you can do it, and that is to kill. So abortion precisely is killing, the killing of an unborn child, and I think we should be aware of that when we discuss this, because, you know, if you call it another name, then it is easier to do that, and I think we should know exactly what we are doing when we are talking about abortion.

We just disagree, but I certainly respect you and your opinion very much.

Mrs. HARPER. Well, I think we should call it by the proper name, a fetus.

On the question recurring,

Will the House agree to the amendment No. A5114 to amendments No. A4911?

The following roll call was recorded:

**YEAS—29**

Anderson	Fryer	Michlovic	Richardson
Barber	Greenwood	Moehlmann	Saurman
Berson	Hagarty	Oliver	Spencer
Burd	Itkin	Pistella	Wiggins
DeVerter	Jackson	Punt	Williams, H.
Davies	Levin	Rappaport	Williams, J. D.
Deal	Livengood	Rasco	Wright, R. C.
Evans			

**NAYS—160**

Alden	Fargo	Lewis	Rybak
Armstrong	Fee	Lloyd	Salvatore
Arty	Fischer	Lucyk	Serafini
Belardi	Fleck	McCall	Seventy
Belfanti	Foster, W. W.	McClatchy	Showers
Beloff	Foster, Jr., A.	McIntyre	Shupnik
Bittle	Frazier	McMonagle	Sieminski
Blaum	Freind	McVerry	Sirianni
Borski	Gallagher	Mackowski	Smith, B.
Bowser	Gallen	Madigan	Smith, L. E.
Boyes	Gamble	Maiale	Snyder

Brandt	Gannon	Manderino	Spitz
Brown	Geist	Manmiller	Stairs
Burns	George	Marmion	Steighner
Caltagirone	Gladeck	Merry	Stevens
Cappabianca	Grabowski	Micozzie	Stewart
Cawley	Gray	Miller	Suban
Cessar	Grieco	Miscevich	Swaim
Cimini	Gruitza	Morris	Swift
Civera	Gruppo	Mowery	Taddonio
Clark	Haluska	Mrkoncic	Taylor, E. Z.
Clymer	Harper	Mullen	Taylor, F. E.
Cochran	Hasay	Murphy	Telek
Cohen	Hayes	Noye	Tigue
Colafella	Heiser	O'Donnell	Trello
Cole	Hoeffel	Olasz	Van Horne
Cordisco	Honaman	Pendleton	Vroon
Cornell	Horgos	Perzel	Wambach
Coslett	Johnson	Peterson	Wargo
Cowell	Kanuck	Petrarca	Wass
Cunningham	Kennedy	Petrone	Wenger
DeMedio	Klingaman	Phillips	Weston
DeWeese	Kolter	Piccola	Wogan
Dawida	Kowalyszyn	Pitts	Wozniak
Dietz	Kukovich	Pott	Wright, D. R.
Dininni	Lashinger	Pratt	Wright, J. L.
Dombrowski	Laughlin	Reber	Zwikl
Donatucci	Lehr	Rieger	
Dorr	Lescovitz	Ritter	Ryan,
Duffy	Letterman	Rocks	Speaker
Durham	Levi		

NOT VOTING—5

Emerson	Hutchinson, A.	Smith, E. H.	Sweet
Greenfield			

EXCUSED—8

Daikeler	Iris	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

REMARKS ON VOTES

The SPEAKER. For what purpose does the gentleman from Allegheny, Mr. Grabowski, rise?

Mr. GRABOWSKI. Mr. Speaker, on that previous vote on the Frazier amendment A5135, I inadvertently was recorded in the negative. I would like to be recorded in the affirmative.

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

Does the gentleman from Allegheny, Mr. Pendleton, desire recognition?

Mr. PENDLETON. Yes, Mr. Speaker. I inadvertently voted in the negative on the Frazier amendment 5135, and I would like to be recorded in the affirmative.

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

CONSIDERATION OF SB 742 CONTINUED

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. FRAZIER offered the following amendments No. A5136 to amendments No. A4911:

Amend amendments, page 16, line 9, by striking out "not" and inserting

except where

Amend amendments, page 16, line 9, by inserting after "or" where necessary

On the question,

Will the House agree to the amendments No. A5136 to amendments No. A4911?

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

Mr. FRAZIER. Mr. Speaker, the only thing this amendment does is make the language in this paragraph consistent with other exception language in other locations of the bill. Thank you, Mr. Speaker.

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

Mr. FREIND. Mr. Speaker, that is just a language change. It does nothing substantive, and I support the amendment.

On the question recurring,

Will the House agree to the amendments No. A5136 to amendments No. A4911?

The following roll call was recorded:

YEAS—190

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

Duffy	Levi	Rieger	
Durham	Levin	Ritter	Ryan,
Evans	Lewis	Rocks	Speaker

NAYS—0

NOT VOTING—4

Brandt	Emerson	Honaman	Hutchinson, A.
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EXCUSED—8

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. ITKIN offered the following amendments No. A5091 to amendments No. A4911:

Amend amendments, page 16, lines 51 through 58, by striking out all of said lines

Amend amendments, page 16, line 59, by striking out "(e)" and inserting

(d)

Amend amendments, page 17, line 16, by striking out "(f)" and inserting

(e)

Amend amendments, page 17, line 23, by striking out "(g)" and inserting

(f)

Amend amendments, page 17, line 30, by striking out "(h)" and inserting

(g)

On the question,

Will the House agree to the amendments No. A5091 to amendments No. A4911?

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

Mr. ITKIN. Mr. Speaker, this amendment would delete a section in the bill which deals exclusively with employees who are supported by Commonwealth funds. Basically, this amendment treats them as second-class citizens by denying such employees the right to negotiate a health plan to provide abortion to be included in such plan.

There is a very severe restriction that says the only type of health plan negotiated for abortion would be under those severe restrictions when you could have an abortion performed at a public facility. That means the only type of health-care plan negotiated to include any procedure for abortion would be the areas of life of the mother, rape, or incest.

Nowhere in the bill does it say that any employee who works in the private sector is so unduly restricted. It basically gives those employees the right to elect to have abortion coverage as part of their health plan, but it very clearly states that if you happen to be a Commonwealth employee or you happen to be an employee funded in part with Commonwealth funds, then you may not have a health plan that includes abortion as part of its coverage.

I think that is unfair denial of public employees. I really think that they should be afforded the same opportunities in

the law that we afford any other person, and I would appeal to the membership of this House not to treat our employees any differently than we treat anyone else's. Thank you, Mr. Speaker.

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

Mr. FREIND. Thank you, Mr. Speaker.

I rise to oppose this amendment. Actually, this is something in this section that we should have done last year when we passed the medicaid-funding abortion bill, and what that did, as you remember, was block State fundings for medicaid abortions except when the life of the mother is endangered and in the case of rape and incest. But we were queried on the floor, would you support taking away coverage from Commonwealth employees, including State legislators? And we said, absolutely. The only reason we did not put it in that bill was we were tracking specific language of the Supreme Court decision.

The Congress of the United States has gone a lot further. They blocked medicaid funding for all abortions except where the life of the mother is endangered. And they have been blasted as hypocrites, and I think justifiably so, because they did not go the full distance and they did not block that kind of funding for Federal employees, including Congressmen and Senators.

What we are talking about here and why we prohibit it is this: a freedom-of-choice issue. I hear a lot of prochoice arguments. The point of the matter is, if I happen to oppose abortion and you happen to support abortion, but we have public funding, public funding of abortions, then my right is being taken away from me. This legislature time and again has expressed its opposition to abortion and its preference for childbirth over abortion. What this section does is keep us from being hypocrites, and it says, what we did for those who qualify for medicaid, the poorer people, in limiting the coverage for them, we are also doing for ourselves, because we are not going to be hypocritical.

I think it is important that this section remain, and for that reason I would ask for the defeat of this amendment.

#### ANNOUNCEMENT BY SPEAKER

The SPEAKER. The Chair interrupts the proceedings at this time to call to the attention of the House that Steve Thompson, who is here every day with me, who identifies you each day and keeps track of the members, was missing today because his wife had a baby boy this morning, his first child.

#### CONSIDERATION OF SB 742 CONTINUED

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

Mr. ITKIN. Mr. Speaker, this is really undue interference in an activity that should be reserved to labor negotiations. These are negotiated benefits. We work on the assumption that when an indirect compensation like a health-care plan is negotiated, that that is an indirect compensation and that is figured in the total package. Basically what you are doing is

taking the right of public employees to accept this type of coverage as part of a form of compensation. It is not in addition to; it is not as if the taxpayers are paying extra money to the employees for this purpose; it is part of a total package. And if the Commonwealth employees, through their bargaining agent, feel that this is what they want, then why should they not have it like any other employee's organization outside of the Commonwealth?

It seems to me that you are really getting to the heart of the issue of trying to treat public employees as second-class citizens, different than the way you treat other employees. I would like to point out that nothing in this bill would prohibit this type of extension to all group plans in Pennsylvania, but you have elected to single out public employees and take away a right from them that you take away from no other class of employees. I think this is unfair; I think this is antilabor, and I urge the House to support this amendment.

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

Mr. CUNNINGHAM. Thank you, Mr. Speaker.

The issue here is the expenditure of public money on abortion. It is the expenditure of public money on abortion, whether we are spending it for the abortions of medicaid recipients or for the abortions of public employees. This General Assembly has spoken overwhelmingly, by better than a two-thirds majority, and the Governor has signed into law a bill that prohibits the expenditure of public funding on abortions. We have expressly excluded any contracts that are currently in existence, and as a result of that, we are only talking about prospective contracts. I would urge the defeat of this amendment.

The SPEAKER. Does the gentleman from Allegheny, Mr. Michlovic, seek recognition?

Mr. MICHLOVIC. Yes, Mr. Speaker.

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

Mr. MICHLOVIC. Mr. Speaker, just one correction on that. These funds are not public moneys. They are no more public moneys than your or my individual salaries are. These benefits are negotiated, as Mr. Itkin said earlier. They are part of a package of labor negotiations that are rightfully that employee's. If that employee makes the decision or his family makes a decision to have the abortion, then all the laws and even this particular act permits them to do so, because abortion is allowed under the law. We should not further harass them by withdrawing the funds to do so. I ask for your support of the amendment.

On the question recurring,

Will the House agree to the amendments No. A5091 to amendments No. A4911?

The following roll call was recorded:

YEAS—52

Anderson	Greenwood	Moehlmann	Stairs
Barber	Harper	Mowery	Stewart
Belfanti	Hoeffel	O'Donnell	Stuban
Berson	Hutchinson, A.	Oliver	Sweet
Brown	Itkin	Pendleton	Swift
Burd	Jackson	Pistella	Van Horne
DeWeese	Kukovich	Pott	Wambach

Davies	Lashinger	Rappaport	Wass
Deal	Letterman	Rasco	Wiggins
Dorr	Levin	Richardson	Williams, H.
Fryer	Livengood	Ritter	Williams, J. D.
Gladeck	Michlovic	Showers	Wright, R. C.
Greenfield	Miscevich	Smith, B.	Zwikel

NAYS—139

Alden	Duffy	Lehr	Reber
Armstrong	Durham	Lescovitz	Rieger
Arty	Fargo	Levi	Rocks
Belardi	Fee	Lewis	Rybak
Beloff	Fischer	Lloyd	Salvatore
Bittle	Fleck	Lucyk	Serafini
Blaum	Foster, W. W.	McCall	Seventy
Borski	Foster, Jr., A.	McClatchy	Shupnik
Bowser	Frazier	McIntyre	Sieminski
Boyes	Freind	McMonagle	Sirianni
Brandt	Gallagher	McVerry	Smith, E. H.
Burns	Gallen	Mackowski	Smith, L. E.
Caltagirone	Gamble	Madigan	Snyder
Cappabianca	Gannon	Maiale	Spencer
Cawley	Geist	Manderino	Spitz
Cessar	George	Manmiller	Steighner
Cimini	Grabowski	Marmion	Stevens
Civera	Gray	Merry	Swaim
Clark	Grieco	Micozzie	Taddonio
Clymer	Gruitza	Miller	Taylor, E. Z.
Cochran	Gruppo	Morris	Taylor, F. E.
Cohen	Hagarty	Mrkonjic	Telek
Colafella	Haluska	Mullen	Tigue
Cole	Hasay	Murphy	Trello
Cordisco	Hayes	Noye	Vroon
Cornell	Heiser	Olasz	Wargo
Coslett	Honaman	Perzel	Wenger
Cowell	Horgos	Peterson	Weston
Cunningham	Johnson	Petrarca	Wogan
DeMedio	Kanuck	Petrone	Wozniak
DeVerter	Kennedy	Phillips	Wright, D. R.
Dawida	Klingaman	Piccola	Wright, J. L.
Dietz	Kolter	Pitts	
Diminni	Kowalshyn	Pratt	Ryan,
Dombrowski	Laughlin	Punt	Speaker
Donatucci			

NOT VOTING—3

Emerson	Evans	Saurman
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EXCUSED—8

Daiker	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. ITKIN offered the following amendment No. A5101 to amendments No. A4911:

Amend amendments, page 17, line 28, by inserting after "chooses"  
to have or

On the question,

Will the House agree to the amendment No. A5101 to amendments No. A4911?

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

Mr. ITKIN. Mr. Speaker, I hope this is an omission by the sponsors of the Freind-Cunningham amendment. They have

on page 17, subsection (g), "Public officers; limiting benefits prohibited." And the paragraph states that "No court, judge, executive officer, administrative agency or public employee of the Commonwealth or of any local governmental body shall withhold, reduce or suspend or threaten to withhold, reduce or suspend any benefits to which a person would otherwise be entitled on the ground that such person chooses not to have an abortion." I would just like to balance that by adding the phrase "chooses to have or not to have an abortion," so irrespective of what one's position is on abortion, they cannot be threatened in this type of fashion. I would hope that it is an omission on the part of the sponsors of the amendment.

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

Mr. FREIND. Thank you, Mr. Speaker.

We looked at this amendment very closely, and first we tried to figure out what abuses could occur if the amendment were defeated, and we could not find any. Then we tried to figure out what abuses could occur if the amendment passed, and there are several scenarios, because what the language says is that the woman would be entitled to the same benefits that she would have been entitled to had she opted not to have the abortion. Women who are pregnant qualify very frequently for health care. Once they deliver, they qualify for public assistance - aid for dependent children. Once they have a child, they qualify for support. If in fact this were passed, the legal argument could be made that despite the fact that she had an abortion and in fact did not have the child, she still qualified for those benefits. Because that argument can be made and because we can think of no abuse that could happen if the amendment were defeated, I urge the defeat of this amendment.

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

Mr. ITKIN. Mr. Speaker, I am concerned that we may have employers who are of Mr. Freind's strife and might pertinently use his biases against employees, his own employees. Therefore, I think this is a legitimate entry, that no matter what your position is on abortion, an employer cannot withhold, reduce, or suspend or threaten to withhold, reduce, or suspend any benefits. I think it just makes simple sense. Irrespective of what you feel or believe on this issue, you shall be free from unnecessary intimidation in the workplace. That is all I am asking. You are saying I do not want any intimidation in the workplace for a person who might believe or wish not to have an abortion, and I am saying just give the same rights to those who might prefer to have one. It just makes good sense and fairness to me. Thank you.

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

Mr. FREIND. Again, Mr. Speaker, if we could envision any type of abuse that might take place, we would support the amendment. We cannot. There is no specific example. I have given those specific examples of what could happen if the amendment passed. Women who are pregnant have certain benefits. Once they deliver their child, there are additional

benefits in many cases. If this language passes, you can make the technical and specific legal argument that the woman would still be entitled to those benefits - aid for dependent children, support - which she would have if the child were born, despite the fact she had an abortion. For that reason I would urge defeat of the amendment.

On the question recurring,

Will the House agree to the amendment No. A5101 to amendments No. A4911?

The following roll call was recorded:

#### YEAS—61

Anderson	Greenfield	Michlovic	Showers
Barber	Greenwood	Moehlmann	Smith, B.
Berson	Hagarty	Morris	Spencer
Burd	Harper	Murphy	Stairs
Cornell	Hoeffel	O'Donnell	Swaim
Cowell	Hutchinson, A.	Oliver	Sweet
DeVerter	Itkin	Pendleton	Swift
DeWeese	Jackson	Pistella	Van Horne
Davies	Kukovich	Pott	Wambach
Dawida	Lashinger	Rappaport	Wiggins
Deal	Levin	Rasco	Williams, H.
Dorr	Livengood	Reber	Williams, J. D.
Evans	McVerry	Richardson	Wright, D. R.
Fargo	Madigan	Ritter	Wright, R. C.
Fryer	Merry	Saurman	Zwilk
Gladeck			

#### NAYS—128

Alden	Fee	Levi	Rybak
Armstrong	Fischer	Lewis	Salvatore
Arty	Fleck	Lloyd	Serafini
Belfanti	Foster, Jr., A.	Lucyk	Seventy
Bittle	Frazier	McCall	Shupnik
Blaum	Freind	McClatchy	Sieminski
Borski	Gallagher	McIntyre	Sirianni
Bowser	Gallen	McMonagle	Smith, E. H.
Boyes	Gamble	Mackowski	Smith, L. E.
Brandt	Gannon	Maiale	Snyder
Brown	Geist	Manderino	Spitz
Burns	George	Manmiller	Steighner
Caltagirone	Grabowski	Marmion	Stevens
Cappabianca	Gray	Micozzie	Stewart
Cawley	Grieco	Miller	Stuban
Cessar	Gruitza	Miscevich	Taddonio
Cimini	Gruppo	Mowery	Taylor, E. Z.
Civera	Haluska	Mrkonjc	Taylor, F. E.
Clark	Hasay	Mullen	Telek
Clymer	Hayes	Noye	Tigue
Cochran	Heiser	Olasz	Trello
Colafella	Honaman	Perzel	Vroon
Cole	Horgos	Peterson	Wargo
Cordisco	Johnson	Petrarca	Wass
Coslett	Kanuck	Petrone	Wenger
Cunningham	Kennedy	Phillips	Weston
DeMedio	Klingaman	Piccola	Wogan
Dietz	Kolter	Pitts	Wozniak
Dininni	Kowalshyn	Pratt	Wright, J. L.
Dombrowski	Laughlin	Punt	
Donatucci	Lehr	Rieger	Ryan,
Duffy	Lescovitz	Rocks	Speaker
Durham	Letterman		

#### NOT VOTING—5

Belardi	Cohen	Emerson	Foster, W. W.
Beloff			

#### EXCUSED—8

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. DAWIDA offered the following amendments No. A5157 to amendments No. A4911:

Amend amendments, page 2, line 20, by striking out all of said line

Amend amendments, page 2, line 21, by striking out "3217" and inserting  
3216

Amend amendments, page 2, line 22, by striking out "3218" and inserting  
3217

Amend amendments, page 2, line 23, by striking out "3219" and inserting  
3218

Amend amendments, page 2, line 24, by striking out "3220" and inserting  
3219

Amend amendments, page 12, line 48, by inserting a period after "Commonwealth"

Amend amendments, page 12, lines 48 through 53, by striking out "and if" in line 48, and all of lines 49 through 53

Amend amendments, page 17, lines 35 through 60; page 18, lines 1 through 17, by striking out all of said lines on said pages

Amend amendments, page 18, line 18, by striking out "3217" and inserting  
3216

Amend amendments, page 18, line 31, by striking out "3218" and inserting  
3217

Amend amendments, page 18, line 38, by striking out "3219" and inserting  
3218

Amend amendments, page 18, line 42, by removing the semicolon after "herself" and inserting a period

Amend amendments, page 18, lines 43 through 45, by striking out all of said lines

Amend amendments, page 18, line 46, by striking out "3220" and inserting  
3219

On the question,

Will the House agree to the amendments No. A5157 to amendments No. A4911?

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

Mr. DAWIDA. Mr. Speaker, I have no qualms about being known in the State of Pennsylvania and in my district as a prolife legislator. I voted for this bill in committee, and in committee I offered the same amendment you will be voting on in a few minutes. This amendment was passed in committee 24 to 0, which was quite unusual given the nature of the bill and the split on the committee regarding this bill. Essentially what I do here is delete section 3216 of the bill.

Thomas Jefferson said that the God who gave us life also gave us liberty. And I assume that if he were here today, he would not know how to handle this particular problem any more wisely than we have. However, one thing I know is clear in my mind, that section 3216, "Private action for injunctive relief and damages," is a bad piece of legislation. If I may

read just briefly the beginning of section 3216, "Any adult person or any agency or association by its representative may file a petition in a court of competent jurisdiction alleging" — and this is the important part— "that a person or persons has violated this chapter, is about to violate this chapter or is in the course of a continuing violation of this chapter...."

Now, we are pretty near 1984, and I do not think that that was the intent of this bill. I believe that we have a right to create a bias for life in this State. I believe that we have the right to legislate on this particular issue. However, I do not believe we have the right to look into people's minds and determine whether they may be about to break the law concerning regulating abortions.

This particular section should be deleted. People who are prolife or prochoice, or proabortion or antiabortion, however you choose to label yourself, should all be unanimously opposed to this concept. I would refer you, once again, to the committee vote, 24 to 0 in favor of this amendment, and urge that you adopt it today.

#### AMENDMENTS DIVIDED

The SPEAKER. The Speaker calls to the attention of the gentleman, Mr. Dawida, that on the first page of his amendments, about two-thirds of the way down the page, "Amend amendments, page 12, line 48," and the next sentence, "Amend amendments, page 12, lines 48 through 53," these amendments right now would be ineffective in that that section has been deleted by prior amendments from amendment A4911. The Chair would request that the gentleman, Mr. Dawida, divide his amendment and eliminate that. It is the understanding of the Chair it would have no effect on what the gentleman is attempting to do.

Mr. DAWIDA. I agree to that.

The SPEAKER. The question, then, is on the divided amendment. For the benefit of the membership, on page 1, that portion that reads, "Amend amendments, page 12, line 48, by inserting a period after 'Commonwealth,'" and "Amend amendments, page 12, lines 48 through 53, by striking out 'and if' in line 48, and all of lines 49 through 53," this portion will be deleted from consideration on this vote. It is divided out.

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

Mr. FREIND. Thank you, Mr. Speaker.

I rise to oppose this amendment. It is extremely true that in the committee there was concern about the private civil action section. But it is also true that with an amendment which we passed yesterday, we alleviated many of those concerns. First, there was concern about the wrongful-death action, which related only to the prohibitions on in vitro fertilization, and as you know, yesterday we took out all the prohibitions against in vitro fertilization. We also took out all of the sections in this private civil action section that related to that.

The second thing that was of concern was the language "is about to violate." We feel we took care of that, too, because with the amendment we passed yesterday, we changed that language. We changed that language to the words, that there is a clear and present danger of imminent violation of this

chapter. Clear and present danger has a specific meaning in the law dealing with urgency and immediacy.

Now, the reason why we still have to have something in there before the fact is this: This is basically an equity section where you can have a suit in equity. And equity, when you sue, is to have something done or to have something stopped, rather than suing for money. This is not at all unusual in the law. We have this right now.

The example that I used yesterday I will use again. If in fact your house has been condemned and you think improperly so, you do not wait until after the bulldozer comes and demolishes your house until you file the suit. Any of you here who are from southeastern Pennsylvania know what the words "the Blue Route" mean. The people who oppose the Blue Route did not wait until the Blue Route was constructed to file their suits, because then it would have been too late.

What we are dealing with here is a situation that if there are certain violations of the act and you permit them to happen first, regardless of what you do after the fact, it is too late. An unborn child has been aborted or killed; a regulation has not been followed.

Now, we grant standing here to anyone. Standing only means the right to file a petition. It does not mean that the court must entertain and grant the petition. It only permits you to begin the action. The court will then determine, on the merits, whether or not the petition should be granted. There is fear that people would stand outside abortion clinics and try to have them stopped from having abortions. Keep in mind that the lawsuit section only relates to violations of this chapter. This chapter does not prohibit abortions.

If you have ever filed a petition, you know the time that it takes, that in fact you have to file it and it has to be heard, and there is a hearing to which both sides have a right to be present. It is a time-consuming process.

There was some concern in another section where we granted intervention as a matter of right to certain organizations who have a longstanding interest in the abortion question on either side. The issue was raised that by doing this, we were giving them greater credibility than anyone else. We took that section out.

Why do we grant standing to anyone? For the precise reason why, in a number of cases involving capital punishment where an individual has been sentenced to death; he does not appeal that sentence; he states he wants to die; a petition has been filed by an individual or an organization which is in no way related to that individual, does not represent the defendant, is not related in any way, yet frequently the courts have entertained that because they said the overall policy issue, the issue of life, is one that overcomes that standing problem, since it relates to all of us. All this section does is give an individual the opportunity to file a petition in court.

There was another criticism. If the petitioner is successful, there is a provision that he has his attorney's fees paid, only if he is successful. People have criticized that that is unfair, but that is the present law right now, Mr. Speaker, in many other cases. For example, we are all aware of the situation which we discussed on the floor of this House about 6 months ago

where Planned Parenthood, which receives State funds, went into court and filed an action against the 1974 Abortion Control Act. They were successful in knocking out a number of sections of that act. They then turned around and went back into Federal court and, under existing civil rights legislation, requested that the Commonwealth of Pennsylvania, which helped to fund Planned Parenthood, also would now be responsible to pay their legal fees to the tune of over \$100,000. The court granted that request and ordered this Commonwealth to pay more than \$100,000 in attorney fees. So what we are doing is nothing unusual whatsoever here, Mr. Speaker. That is already procedure.

There is one other thing. This permits the petitioner or another individual to be appointed guardian ad litem for an unborn child or a class of children. Some people think this means that the guardian ad litem would then have control of the pregnant woman. That is not the case at all. Guardian ad litem means guardian for the purposes of litigation and only that purpose. There is no physical custody or control whatsoever; it is only for the purpose of litigation.

This section is necessary. This section categorically will not result in vigilante actions for two reasons. One, the court will have the discretion to weigh all of the facts in the petition to determine whether or not even to grant a hearing, or to grant the petition. Two,—well, actually three reasons—if it is frivolous and the party loses, he or she has to pay his own attorney fees. And three, as you know, last year, at the request of Mr. Joseph Dragonetti, we reversed the English Rule, which now permits people to sue for malicious use of process, and the people who sue do not have to have been imprisoned or suffer economic detriment. They are the safeguards there, Mr. Speaker.

On the other hand, the benefits of this, it does permit individuals to go in when there is a violation or a clear and present danger of a violation of this act. Keep in mind the subject matter we are dealing with. We are dealing with the subject matter of life. Because that is the issue, we feel it is necessary to have this section. We feel we have redressed the problems there with the amendment you passed yesterday overwhelmingly. For those reasons I would ask for the defeat of this amendment.

## WELCOME

The SPEAKER. The Chair interrupts the proceedings at this time to welcome to the hall of the House a former distinguished member from Lawrence County, the Honorable Donald Fox.

## CONSIDERATION OF SB 742 CONTINUED

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

Mr. MULLEN. Mr. Speaker, Mr. Freind is absolutely right. What he is talking about here, and we are only talking about it in rare instances, is really protecting life.

If we adopt the amendment, we may not have a chance to protect that life, because we have to wait until the law is vio-

lated. If we follow Mr. Freind's suggestion and vote against the amendment and keep in what we have, then if a clear and present danger presents itself, we have a right to go into a court of equity and perhaps save that life. That is why it is important that what we have in there stays in there and that the amendment be defeated, because I think we will be able to save some lives. So I ask, if you can, please vote against the amendment. Thank you.

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

Mr. HOEFFEL. Thank you, Mr. Speaker.

Mr. Speaker, I do not believe that we are talking in this amendment about saving life at all. I think the issue is harassment. I disagree very strongly with the previous speaker. Nowhere in our law today do we give individuals who have no relationship with a provision in the criminal code the authority to go to court to try to get an injunction because that criminal law may be about to be violated. It is just absolutely unprecedented, and it is going to cause an awful lot of problems in this State.

Mr. Freind likes to downplay the impact of this section. Mr. Mullen said it is going to happen in rare cases. Well, I think one time is too many. But if it is such a minor, little thing for them, then why is it in here at all?

It seems to me that this is simply a blank check. If we enact this section and fail to adopt the Dawida amendment, this is just an invitation to every fanatic in this State who wants to take people to court, who wants to file petitions to harass doctors, to harass women, to harass clinics. Mr. Mullen says we are going to save lives. We are not going to save lives with this entire amendment. Mr. Freind has admitted that. We cannot stop abortions. The only thing we are going to do with this section, if it is not taken out, is add harassment. That is the only possible thing we can do.

Now, this bill requires all kinds of new reporting statistics to be filed in Harrisburg by doctors and by clinics. Harrisburg is going to be the repository now of a great deal of information about abortions being performed in Pennsylvania. The names of the women will not be included in that information, but everything else will be - the owners of clinics, the doctors, the names of clinics, and so on and so forth. That is going to be a fertile shopping list for anybody who wants to file lawsuit after lawsuit to tie up this process.

Mr. Freind suggests that, you know, the courts might ignore it, and if it does not have merit, it is no big deal. Well, every suit that is filed will have to be responded to or answered in some way. The petitions cannot be ignored, and even if the response is done through pleadings and so forth, it is still harassment for the people who have to respond.

If we were only concerned about violations that had occurred, that would be bad enough, but we are giving people the authority to go to court and file petitions because they think a violation is about to occur, and the language Mr. Freind put in does not correct that problem at all. I urge you in the strongest, strongest terms to approve the Dawida amendment.

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

Mr. CUNNINGHAM. Mr. Speaker, this bill most importantly protects the lives of babies who are born alive when an abortion is improperly performed. Once that baby is killed or is allowed to die, no legal action is going to bring that baby back to life. There is nothing that we can do to remedy the wrong that has been done without this provision in the bill. There is no practical way that we have to see that this kind of act is precluded before it occurs.

We have built very thoughtful, very systematic protections into the use of this mechanism to see that it is not abused. This is the only way that we can maximize the likelihood that human lives are saved as a result of the enforcement of the provisions of this bill, and I would urge the House in the strongest possible terms to not strip the mechanism out by approving the Dawida amendment. Thank you.

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

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

Mr. Speaker, I have been listening to this debate upstairs in my office while taking care of some legislative business of high importance, and I was a bit shocked that the proponents of the provision have inaccurately stated the law. I challenge Mr. Freind or anybody on this proposition. I have never ever heard of any legal provision in any law under our law that would permit injunctive relief because of some threat about the commission of a crime. It is just unheard of.

The clear-and-present-danger concept never ever has applied to the situation you are talking about, to an individual act purportedly against an individual person. I just wanted to say that, because what is being proposed here is just, as Mr. Mullen says, in terms of absolute, absolutely unheard of, absolutely unprecedented, and just nowhere in the fabric of our law.

I am not a betting man, but I would suggest that if this provision did get passed, it would be clearly and substantially declared unconstitutional by precedent after precedent after precedent found in the law. It seems as though the thrust of the provision tends to play Big Brother. There is no place and no room in the American system of jurisprudence which allows you to do what you want to do. It is just out of place, it is illegal, it is improper, and it is unconstitutional. I just want the members here to know that if the provision is sustained, Pennsylvania would be performing a failing act and also participating in trying to erode something that has just never been and has been tested many, many, many times. Thank you.

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

Mrs. HAGARTY. Thank you, Mr. Speaker.

Mr. Speaker, I would like to interrogate Representative Cunningham on this amendment.

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

Mrs. HAGARTY. Mr. Speaker, I am trying to understand the practical implications of how this would work. Could you tell me, if someone believes, for example, a right-to-life organization, that there is about to be a violation of this act and they proceed to court to get an injunction, upon whom would the injunction be served, the notice of injunction?

Mr. CUNNINGHAM. Mr. Speaker, I would like to yield the microphone to Representative Freind.

The SPEAKER. Will the gentleman, Mr. Freind, respond to the lady's question?

Mr. FREIND. I am sorry, Mr. Speaker. Would you repeat it, please?

Mrs. HAGARTY. Mr. Speaker, I am trying to understand the practical implications of how this complicated legal section would work. My question to Mr. Cunningham and now to Mr. Freind is, would you tell me if a group, for example, learned that a doctor was to perform an abortion prior to waiting 24 hours—for instance, maybe he thought the mother's health might be jeopardized—and a right-to-life group learned of that, went to court and got an injunction, upon whom would the injunction be served?

Mr. FREIND. Well, of course, number one, in the case of a medical emergency, it is totally up to the doctor, so there would be no case there whatsoever. But if, for example, we are not talking about a medical emergency—using that hypothetical—it would depend on how the petition was drafted. There is one of two options.

Clearly, none of the provisions of this bill are geared to the woman, the mother, or the mother-about-to-be, the pregnant woman. The provisions of this bill are geared to the responsibility of medical facilities and medical personnel. So the injunction would be served upon either the medical facility, depending upon how it was drafted, or the physician who was going to perform that abortion.

As you know though, Mr. Speaker, for practical purposes for something like that within 24 hours, it is virtually impossible to get that type of an injunction.

Mrs. HAGARTY. That did not answer my question. I wanted to know upon whom the paper would be served to stop that abortion.

Mr. FREIND. If in fact the petition were drafted alleging that the facility was permitting this to happen, it would be served on the administrator of the facility. If it were drafted vis-a-vis the physician, it would be served upon the physician. But I want to point out again, nothing in the bill—and you can only sue for violations of the chapter, the bill—is geared toward the pregnant woman. It is geared toward the responsibility of medical personnel and medical institutions, so it clearly would not be served upon the woman.

Mrs. HAGARTY. Mr. Speaker, how then would the woman learn that she could not have her abortion because an injunction paper had been served?

Mr. FREIND. Quite obviously, from either the medical facility where the abortion was to be performed or, if it were served upon the physician, from the physician.

Mrs. HAGARTY. Okay. So she now has been told that she cannot have an abortion. She may or may not have been served with legal papers since you said it depends upon how they were phrased. What would she do during the pendency of this injunction proceeding?

Mr. FREIND. Mr. Speaker, as you know, she is not going to learn that she cannot have an abortion, because, for the 100th time, the bill does not prohibit abortions.

If, in your example, there was an injunction—if it could happen that quickly, and I doubt it could—that you were about to have an abortion without the 24-hour waiting period, then the very worst that could happen is that the informed consent would have to be given and there would then be a 24-hour waiting period, unless there is a medical emergency, in which case everything, as you know by the bill, goes out the window and it is performed immediately without any requirements whatsoever.

Mrs. HAGARTY. Mr. Speaker, this provision has been touted as being necessary because it saves the lives of unborn children and because it stops the abortion prior to it happening. So my question is, what happens to the woman while she is awaiting this court proceeding?

Mr. FREIND. I am not sure I understand your question.

Number one, it was not touted as to stop the abortions. As a matter of fact, I think Mr. Cunningham made the statement that the key was that it was touted to prohibit a violation of the section which we have in there, which—and again I apologize to Mr. DeWeese—is the heart of the bill with respect to when there is the possibility of a child being born alive, surviving an abortion, that there have to be two physicians within the operating room.

Now, all that would be required there, if in fact there were a petition and an injunction, the injunction would be against that prohibited activity. If in fact the doctors decided to obviate the prohibited activity and have the second doctor, the injunction would therefore be irrelevant and the abortion would be performed with the two doctors in attendance as we are requiring, if this bill passes by this amendment.

Mrs. HAGARTY. Mr. Speaker, does this provision only apply to abortions where unborn children may be viable?

Mr. FREIND. No. The provision relates to any violation of this chapter, and as you know, there are a number of provisions in the chapter, not very stringent provisions - informed consent, a 24-hour waiting period, a determination of viability where appropriate, and where appropriate the two physicians in the same operating room. And I again say that the bill in no way prohibits abortions, so in fact no petition could prohibit an abortion, because abortions are not prohibited by the bill.

Mrs. HAGARTY. Mr. Speaker, does this language in any way prohibit a pregnant woman from being served with a legal document enjoining her from proceeding with that abortion?

Mr. FREIND. Mr. Speaker, I again have to answer you, the answer to that would be "no." Nothing in the bill prohibits abortions. There therefore could be no injunction against a woman having an abortion. The only injunction would be against a violation of a provision of the chapter.

Mrs. HAGARTY. May I make a statement now, Mr. Speaker?

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

Mrs. HAGARTY. Thank you.

Mr. Speaker, this provision of the bill, I believe, is probably the most frightening in terms of the psychological, emotional, and harassing kind of difficulty that could occur to women.

The problem with it is, it provides for injunctions to be granted not by people who have any specific interest in that woman or that unborn child. This provision has nothing to do with parents being concerned with minors. It has nothing to do with children who might be born and there should be an attempt to keep them alive. It has nothing to do with those kinds of laudable goals that many people in this provision support. It has everything to do with making it difficult, with creating a terribly frightening situation, particularly for young women, and with disturbing to a great degree what is now a legal right.

Whether we agree with it or not, a woman today who chooses, with her doctor or the counselor or whoever the person is, the legal option of having an abortion is proceeding under the law; she is proceeding under the Constitution; and she has not done anything wrong. The sponsors of this bill concede that. In fact, there are no penalties directed for the woman for that very reason. And yet the kind of situation that could occur here is— Clearly the purpose of this is to stop an abortion from occurring if there could be a violation of this act. Well, if that is going to happen, the woman is going to have to wait. I do not know how long she is going to have to wait for this. I know our courts are not that speedy in making these kinds of determinations.

Frankly, all I can envision is a woman who has been subjected to a very frightening legal process, and there is going to be a guardian ad litem for her fetus or her unborn child, or whatever name you want to use, that is going to be appointed. This person is not even going to be someone she knows, who is going to be there to protect it. The person is probably going to be someone who is in an organized group whose purpose in that group is to stop abortions. She is going to have to wait until the court proceeding is over to have that abortion. This might endanger her health. The medical emergency definition in this bill, as I read it, has nothing to do with her health; it only has to do with whether it would be necessary to avert her death. She is going to have to wait. We may have a situation then of a baby that does become viable, an abortion that does become unsafe, because of this waiting period. We have those very same judges making these kinds of delicate decisions whom this legislature has time and time again said we do not trust with many decisions, and so we legislate in that area. But now we are going to have our courts facing petitions on behalf of unborn children to stop that proceeding.

I would like to share with you some testimony that was given before the Health and Welfare Committee. I guess one of the unfortunate things about the way this bill has proceeded is that those of us who served on that committee had an opportunity on three separate occasions to hear testimony about all of the provisions of this bill. Some of that testimony was very enlightening, and it brought out things that sitting on the floor and listening to the debate we are not able to think of, and so I want to bring to you this one example that I think brings home the point of the kinds of potential harassment and fright that could occur if this particular amendment does not pass.

This was testimony that was given in Harrisburg by Janet Benshoof, who is an attorney for the American Civil Liberties Union. She described a case that happened in Texas 2 years ago where there was a similar provision in the Texas statute. A young woman in Texas called the number she found in the Houston yellow pages and asked an abortion service listed there under birth control information where she could obtain an abortion. This was a young woman who had recently moved to Texas, 18 years old, who found herself pregnant. The people who answered the phone, who were a front for a right-to-life group, rushed down to the Surrogate Court of Texas with the girl's name and address. In the surrogate court they applied, without notifying anyone, for an order allowing them to act as guardian ad litem for her fetus. The judge complied. He appointed one of them the guardian ad litem of the fetus and then proceeded to enjoin her from having an abortion, requiring her to show up in court with the fetus intact 2 weeks later. This right-to-life group then rushed to her home, rang her doorbell, and thrust upon this young, pregnant teenager a court order stating that they had been appointed guardians of the fetus and that she was enjoined from having an abortion, that she was required to show up in court with the fetus intact to see whether or not she could have a legal abortion.

Since this happened in direct opposition to *Roe v. Wade* and in dramatic violation of her constitutional rights, the surrogate court's order was overturned by the District Court of Harris County. However, the lasting impact on this young girl's life and privacy can never be erased by the subsequent court order.

Mr. Speaker, I bring this example to you because I believe this is an important amendment. This is not, as Mr. Freind says, the heart of the bill. The heart of the bill has civil penalties. It has criminal penalties. It has every kind of penalty imaginable for any kind of violation that can be imagined. This section goes beyond that. It goes to involving outsiders in court proceedings involving pregnant women. It is a frightening prospect, and I urge adoption of this amendment.

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

Mrs. WESTON. Thank you, Mr. Speaker.

I would suggest that we are not harassing doctors and women, as Representative Hoeffel and others have said, but rather we are encouraging these people to think seriously and responsibly before acting on a final decision to have an abortion. The passage of this amendment would weaken our intent to encourage this type of reasoning before making a final decision. I urge defeat of this amendment.

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

Mr. H. WILLIAMS. Mr. Speaker, just one additional observation, if I may by way of interrogation indicate my point, if Mr. Freind or Mr. Cunningham would stand for interrogation.

The SPEAKER. The gentleman, Mr. Freind, will stand for interrogation.

Mr. H. WILLIAMS. Mr. Speaker, in that these matters deal with the criminal code and injunctive relief, I want to get some understanding. My question to you is, if there were an alleged drug ring or transaction taking place at a certain place, it is true, is it not, that one could not go to court and get an *injunction on the mere say-so* of just a person, without something additional. Is that correct?

Mr. FREIND. *Just like any other petition*, there is an affidavit stating that the information is true and correct to the best of their knowledge, information, or belief. Clearly the judge would receive all of the evidence on both sides before determining whether or not to grant the *injunction*.

Mr. H. WILLIAMS. Mr. Speaker, my question by way of analogy is, if the most serious international drug ring were doing something at the Harrisburg Hotel, and a citizen petitioned the court and said, *I know it is taking place over there* and I want an injunction against all those foreign people in the international drug ring and I want it to stop, that could not take place, would you agree, by injunctive relief?

Mr. FREIND. Not necessarily, Mr. Speaker. It would be determined on the form of the petition and what the status was of the petitioner. For example, if the petitioner alleged that he was a taxpayer of Dauphin County and in fact the activity that was taking place in Dauphin County was costing the taxpayers money, he as a taxpayer might be granted standing on the basis of a taxpayer's suit. I cannot answer your question yes or no.

Mr. H. WILLIAMS. Mr. Speaker, you are avoiding my question, because I am not talking about standing. I am talking about whether one could get an injunction because they alleged—and they are a taxpayer; let us say they have standing—that some most serious international drug ring is about to sell the most serious drugs in the Harrisburg Hotel. Would not they be laughed out of court because injunctively you cannot do that under the present law?

Mr. FREIND. Mr. Speaker, to answer your question, the answer is probably not, but it would take literally weeks to determine that. This fear that this could immediately happen by *walking into court* just does not happen.

Mr. H. WILLIAMS. No; I am not talking about— You are avoiding my question, too.

Mr. FREIND. I am trying not to, Mr. Speaker.

Mr. H. WILLIAMS. Mr. Speaker, let me give you one other instance. Let us say that I am really angry at Representative Freind, and it has been established that you and I had a passionate, provocative argument, and one of your friends and one of my friends knows that I keep my gun in the shack. They know my very bad, angry attitude, and they know by past experience that this ornery dude is going to pick up a shotgun and go to shoot Steve. Now, Mr. Speaker, just because that was their opinion, could they go to court to get an injunction against me shooting you?

Mr. FREIND. Number one, Mr. Speaker, there would be any number of people who would want to file to encourage you to engage in that activity when it relates to me, but if your answer is just on the basis of one person saying he thinks he has information, no, of course not.

Mr. H. WILLIAMS. Okay. Mr. Speaker, one final question by way of analogy. Mr. Speaker, before a police officer could search your house for a gun or any kind of illegal contraband, is it not true that that officer must have some probable cause upon which to get some warrant to search or some authority by law to search?

Mr. FREIND. Sure.

Mr. H. WILLIAMS. And, Mr. Speaker, I take it there is nothing in your— Just one final analogy.

Mr. FREIND. The answer to that question is “no,” because in a civil action you are not talking about the criminal law, and the rules of civil procedure would apply.

Mr. H. WILLIAMS. But, Mr. Speaker, the point that you miss is that in your case and in the case I just gave you, you seek to stop a crime by injunction. My question to you is, by law we do not allow someone to be able to stop that action, that criminal action, unless there is some probable cause. And I suggest that by civil action, because you call it injunctive, you want to stop the criminal activity. We agree it is criminal activity in both instances. Is that correct?

Mr. FREIND. Sure, Mr. Speaker, the same way you can include criminal activity. If some person under a proper condemnation order bulldozed down your house, that would clearly be the criminal activity of trespass, and yet you were permitted under our present law to enjoin that activity before the bulldozer goes across your backyard and takes away your home.

Mr. H. WILLIAMS. Okay.

Mr. Speaker?

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

Mr. H. WILLIAMS. I am not going to deal with the standing provisions. I just want you to know that.

Do I understand you to say that a criminal activity can be stopped by a stranger to that activity without some probable cause? Is that your understanding? That is what your bill suggests. Is that correct?

Mr. FREIND. As you well know, being a learned attorney whom I respect very much, there are many actions which are both criminal and civil violations and in fact you can deter the civil aspect by an injunction. Yes; it is not unusual.

Mr. H. WILLIAMS. Mr. Speaker, then let us move to the obscenity laws which do provide a civil kind of step for a criminal-type activity. In the obscenity laws, because the constitutional laws I am referring to say that you cannot do certain things, those very obscenity laws require a court or district attorney or someone to do a previous examination to base some probable cause on or something like that. Is that not true, that the obscenity laws call right into question what you and I are talking about, and that is that some people want to stop the pornography, criminally and civilly, and our courts have consistently said that you cannot invade certain activity unless there is some preliminary proof that there is dangerous criminal or nuisance activity taking place without respect to whether it is criminal or civil. Is that not correct?

Mr. FREIND. Well, I am certainly not the expert on the obscenity laws that the gentleman, Mr. Mullen, is, but I would assume you are correct, yes.

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

Mr. Speaker, if I may comment.

The SPEAKER. The gentleman is in order.

Mr. H. WILLIAMS. I think an additional Achilles' heel to what is being proposed without the Dawida amendment is exactly this. Nowhere do we allow any police officer, even if murder is involved, to move in and do anything unless there is some proof, some probable cause on which to base that. The bill as it stands now allows none of that to exist and for some court to enjoin that activity.

I only want to point that out to say that what the bill proposes is to civilly do something that we do not even allow to happen in a most dangerous criminal case, whether it is murder or arson or even drugs, and I think that the provision, because of that additionally, is fatal. And I say again that the precedents of law have so clearly indicated that to this body that we had to be very careful in how we drafted the obscenity laws, which require not only standing by some public official or a court but some proof before this society will allow anybody to go in and say, we are going to stop you before you start. Thank you, Mr. Speaker.

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

Mr. FRAZIER. Mr. Speaker, will the proponent of the main amendment, Mr. Freind, stand for interrogation?

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

Mr. FRAZIER. Mr. Speaker, do I recall correctly, in answer to an interrogatory from the lady from Montgomery, Representative Hagarty, that you propose that this section, the thrust of this section, is aimed at the institution and the performers of the abortion and that it is not at all concerned with the woman?

Mr. FREIND. Mr. Speaker, all of the prohibitions, which are what the civil section is keyed to—all right?—are against either the institution or the medical personnel. Now, with respect to the provision of a guardian ad litem, even then the mother would not be served as a party. But in fact there was a situation with a specific known woman who was pregnant or who in fact was the subject of an abortion where the child survived and the provisions were being violated as to keeping the child alive, she of course would be notified of the proceeding. She would not be a defendant in the proceeding. No process as a defendant would ever be served upon the pregnant woman, because all of the violations are keyed to medical personnel or medical facilities.

Mr. FRAZIER. Thank you, Mr. Speaker.

Mr. Speaker, would it be germane to make a statement?

The SPEAKER. It would be in order. The gentleman may proceed.

Mr. FRAZIER. Thank you, Mr. Speaker.

That is precisely what I thought I heard Mr. Freind say to the distinguished Representative, Mrs. Hagarty, from Montgomery County. But I find that there is a cascade of provisions in this bill which I had found in caucus and which Mr. Freind and I debated quite at length 2 weeks ago. The cascade of provisions involves the construction of criminal penalties in

section 3219. In section 3219 we find that a woman who induces or attempts to induce or is in the process of inducing an abortion upon herself shall not be subject to criminal penalties, but she will be subject to all of the penalties carried in section 3216. In fact, this does apply to women. The answer that it does not apply, that its thrust is only at the institution, is not correct. There is a thrust with respect to women. Whether the conduct is considered odious or not, the criminal laws can be used to enforce that.

I am a prolife attorney from Allegheny County, like Mr. Dawida, my colleague on the other side of the aisle. I should like to urge this House to look very carefully to the substitution of civil remedies by organizations on the right, on the left, on the center. We have managed to convince Mr. Freind not to give them special standing. He has removed that so that now they must suffer preliminary objections, but I must urge you not to allow organizations or persons outside the family to become guardians ad litem, to interfere in court suits, to interfere in the family.

When we failed to amend 3206, that section, we made a profamily vote. We said that the unemancipated female minor child must consult with her parents mandatorily, but now we are antifamily. If we enact this section, we say that organizations like NOW (National Organization for Women) can come in and come into our various cities and counties, that they can open up offices like neighborhood legal services; they can employ attorneys; they can interfere in family life; they can appoint guardians ad litem; they can interfere in legislation; they can interfere in the process time and time again. This is extremely dangerous. I must agree with my colleague, the distinguished lawyer from Allegheny County, Mr. Dawida. I must urge rejection of this particular portion by an affirmative vote on the amendment.

One little sidelight if you will. Again I found myself in an unusual situation as a long-established prolife supporter, in caucus, privately, in the sacrosanct area where conversations are privileged, to be opposed to my distinguished lawyerly colleague, Mr. Freind. In attempting to get a 2-week delay so that we could exercise ourselves "informed consent," we got the 2-week delay. I now find myself during that 2-week time period with statements only made in caucus, in the sacrosanct areas that are privileged, going back to my prolife groups and finding that I was confronted with all sorts of questions about amendments that were never offered. I will tell you how I answered these questions. I answered these questions that I sought informed consent for this House. If you allow this section to go unamended, you will allow a rage of lawsuits, a rage of interferences in the orderly processes of the law, in the family.

One last item that I wish to share with you and then I shall thank you for your graciousness and terminate my discussion. I also found that my prolife groups had among them not only doctors but distinguished lawyers of the largest law firms in Pittsburgh. These lawyers of the largest law firms in Pittsburgh live in the 41st district where they own their single-family homes, where they have unemancipated female minor children, and they urged me as a prolife attorney to come

back here and protect the 41st district by debating against injunctive relief. My lawyers in my prolife groups have urged me to debate against injunctive relief as an unwarranted and unbelievable intrusion in the orderly processes of the law and our families.

*I urge you to support the family as you have done all day. Support the Dawida amendment. Thank you.*

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

Mr. PRATT. I would like to interrogate Representative Freind.

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

Mr. PRATT. Mr. Speaker, as I understand the amendment being offered, it would gut section 3216. That portion of 3216 which concerns me is the language dealing with wrongful death. Does the State of Pennsylvania currently have a wrongful-death statute?

Mr. FREIND. It does, Mr. Speaker, but all the wrongful-death language in that section has already been taken out by an amendment passed overwhelmingly yesterday. You see, the wrongful death only related to the *in vitro* fertilization section. We had a prohibition there and a wrongful-death section. In response to concerns of members, we took all of *in vitro* out and then corresponding took the wrongful-death section out of the civil section. It is not in there anymore at all.

Mr. PRATT. Mr. Speaker, then this amendment would only deal with those provisions within this section which deal with injunctive relief.

Mr. FREIND. *That is correct.*

Mr. PRATT. Thank you, Mr. Speaker.

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

Mr. LLOYD. Thank you, Mr. Speaker.

We have heard often in the last 2 days something about anatomy, the anatomy of a bill. We have heard said many times that this goes to the heart of the bill. In my opinion, Mr. Speaker, this section on injunctive relief is not the heart of the bill; *it is the Achilles' heel.*

Now, Mr. Freind has said that in the case of a medical emergency, we do not have to worry about a woman dying because there is some kind of injunctive relief action being sought, because in a medical emergency everything is out the window. Mr. Speaker, reasonable minds can differ on that, but I would point out the fact that the definition of "medical emergency" as we amended it *this morning* says that the determination is to be made by the physician based on his best clinical judgment. The fact of the matter is, Mr. Speaker, that a lawsuit could be filed not questioning the quality of that judgment but whether that judgment was ever made or whether the doctor had simply chosen to say there was an emergency so he could proceed with the abortion as a matter of convenience. So, Mr. Speaker, if that matter were brought into the court, there is entirely the possibility—as Mr. Freind pointed out, *these things do not get decided quickly*—there is entirely the possibility that a woman's life could be further

jeopardized while this injunctive relief is being sought. Furthermore, Mr. Speaker, even if the action is defeated, *the fact of the matter is that the delay would be there. Throughout the bill, even in a case of nonmedical emergency, even if there is no merit to the action, the defendant is still going to be put to the cost of bearing his legal fees, because I do not believe Mr. Freind's language has his fees reimbursed.*

Finally, Mr. Speaker, the suggestion has been made that somehow we need this section because it is the only way to make sure that everybody seriously considers whether or not to have an abortion. *Let us step back from that a minute and think. We have a situation here in which we have an unemancipated teenage female who wants an abortion. She goes to her mother and father, as this bill will require her to do, and they both agree with her. They go to the physician, and he determines in his best clinical judgment that the abortion is necessary, but they also go to see their minister, because they want to be sure that they are morally doing the right thing. After consultation with their minister, they are convinced that an abortion is right.*

What this bill allows to happen is some disgruntled person down the street, not a part of that family unit, not even privy to all the conversations and consultations which have gone on, to run down to the courthouse and to force those people to come into a court and to demonstrate that they are acting in good faith and that they are in compliance with the law.

Mr. Speaker, there is going to be an amendment offered here today to put criminal penalties in every section of this bill. *That amendment will pass, and we do not need this meddler section, Mr. Speaker. I urge adoption of the Dawida amendment.*

The SPEAKER. The Chair recognizes the gentleman from Luzerne, Mr. Stevens.

Mr. STEVENS. Very briefly, Mr. Speaker, I have been supporting the prolife position today, but I do support this amendment.

I think we are being misled if we are being told that a woman will not end up in court on this petition. First of all, you have to prove the fact of pregnancy, name and address of the woman, and she will either be subpoenaed or she will be made a party to this petition.

I also think that we are being misled if we think a petition will not be heard for weeks and weeks, because under a rule to show cause, you can get a hearing within 5 days in some counties, such as Luzerne.

Most importantly, I am concerned that this section of the bill is going to lead to vigilante squads filing petitions left and right. While it is great business for lawyers, I just do not think this legislature should be in the business of subsidizing the legal profession. For those reasons I urge support of the amendment. Thank you.

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

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

I cannot believe that we have gone so far and digressed so far on this amendment. When I think of it, we are just talking about remedial penalties within the existing framework of the

law. Certain actions are so irreparable, so unremedial that they have to be prevented. I mean, what we are talking about, if you do not take action early, it is tantamount to the two people who were sitting at the breakfast table. Someone steals their car outside the window, and the one chases the car for about 3 blocks and comes back and he is asked, well, did you get it? No, but I got the license number. That is about what we are dealing with here. After someone is so permanently, totally dead, it is pretty darn late to think then, oh, yes, we will go through the normal, existing, legal procedure. Here we are going through the normal, existing, legal procedure. We have that through the injunctive relief. I ask for an affirmative vote on the amendment, and let us get at it quickly.

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

Mr. DAWIDA. Mr. Speaker, if I may have the attention of the House for a few brief moments, I would like to address myself more particularly to those of you who believe that the State has a right to create a bias for life, as I do. Those are the people I most want to get my argument across to.

There are many ways to encourage women to have children instead of an abortion, and I support all those ways. Having an injunction process that opens up the injunction process to every person in Pennsylvania is not such a way. It is distinctly antilife and antifamily, antihuman being.

I have to tell you that the greatest single moment in my life occurred not last January 7 when we were sworn in, but last January 8 when I had my first child. I was in the delivery room, and there is nothing in this world that I have ever experienced and I doubt if there will be anything I will ever experience again that will top that thrill. But what I am saying to everyone here is that this particular section of the bill will create unnecessary problems for people that could be avoided. It is not necessary to have a special injunction process giving standing to everyone in this State. If the bulldozer is cutting across your land and you want to stop it, certainly you have standing to enjoin that, but you do not have standing to go to Philadelphia and enjoin someone else's.

This law is proper; it is just; and it is something that I am going to vote for, because I believe in the bias that we are allowed to create for life, but I do not think we want to jeopardize a prolife bill by putting in this open-ended standing, creating such ability for abuse that will not save one life. If I thought it was going to save one life, I would have never ever introduced this amendment.

I would ask you to give it serious thought, particularly if you believe in the prolife concept, that this is not an antilife but rather a prolife idea. I urge you very seriously, before you cast this vote, examine your conscience and decide if you believe the prolife idea is advanced by having standing for people to bring anybody in court through an injunction process. It will not do what the makers of this amendment, this bill, intend it to do. It will cause nothing but tremendous grief in the State of Pennsylvania. So I would urge you to vote "yes" for this amendment, and do it knowing that you are not voting against life.

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

Mr. CUNNINGHAM. Mr. Speaker, we have a provision in this bill that dictates that where a baby is so fully developed that it is viable and is capable of independent survival, an abortion technique has to be used that is best calculated to produce a live birth, and a second physician has to be present whose only responsibility will be to preserve the life of that baby.

We have a provision in this bill that requires that where a baby is born alive as a result of an abortion that has misfired, a physician has to take every lifesaving precaution available to him through medical science to save that baby's life, and he has to take them immediately.

We have a provision in the bill under the infanticide section that says when a baby is born during the normal birthing process and is birth defective, is in some way injured or is in some way possessed of a congenital birth defect, the hospital, the physician, et cetera, has to use whatever rehabilitative lifesaving techniques are available to save that baby.

Now, if the Dawida amendment goes in and somebody violates those provisions of this bill, we will be able to deal with that in a remedial way.

Mr. Speaker, I think you are being paged.

#### POINT OF ORDER

Mr. DAVIES. Mr. Speaker, is he speaking to the motion in front of us or the other sections of the bill? I think he is going back and speaking to the other sections of the bill and not speaking to the amendment before us, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The question before the House is amendment A5157. The various people debating the bill understand that. The Chair thanks the gentleman, Mr. Davies.

The gentleman, Mr. Cunningham, may proceed.

Mr. CUNNINGHAM. Thank you, Mr. Speaker.

If any of those three violations occur, a baby will die, and we can deal remedially with that. We can impose criminal penalties and/or we can impose civil penalties on the people who are responsible for allowing that baby to die. That can occur even if the Dawida amendment goes in, but what will not occur is our ability to bring that baby back to life. We cannot do that, and we will not be able to do it without the mechanism contained in this private enforcement section that allows a prospective action that stops misconduct for which there is no remedy, misconduct that takes a human life that cannot be brought back to life. I urge a "no" vote on the Dawida amendment.

The SPEAKER. Does the gentleman, Mr. Foster, desire recognition on the question?

Mr. A. C. FOSTER. Yes, Mr. Speaker, solely for the purpose of clarification.

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

Mr. A. C. FOSTER. In concluding my previous statement, someone was not clear on what I said with respect to voting on

the amendment. Whatever I might have said, I meant very clearly to say I urge a negative vote on the amendment and an affirmative vote on the bill itself. Definitely a negative vote on the amendment.

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

Mr. FREIND. Very briefly, Mr. Speaker, several points. First, a number of legislators have gotten up and stated that they are prolife, but they will be perceived not to be if they vote for this amendment. Let me just say that I on no occasion have ever characterized or attempted to characterize whether or not you are prolife. That is not up to me. Everybody has to decide for themselves. I know that there are a number of members who are deeply committed to the prolife cause who strongly believe in this amendment, and I respect your opinion.

I think this is a very important section. I will be disappointed if it is defeated. It will still be an excellent bill. Responding to Mr. DeWeese, I am not going to say it goes to the very heart of the matter, although it is extremely important. I agree with Mr. Dawida that the 5 best days in my life were when I watched my five children born. It is an absolute miracle.

I would not have drafted a section in this bill if I believed that it would open the floodgates to vigilantism. I think the one thing we forget when we give this special standing is we are dealing in a very unique area, and it is the area of life. That is the only reason that I would take that step with all of its safeguards, and I repeat it is the same reason the courts have given standing to individuals totally unrelated to an individual who is about to be executed, because once again it is the issue of life. I hope you will think about that. I hope you will think and realize that none of the prohibitions are keyed to the woman.

I also want you to think about one other thing we did not mention. We formerly had a paternal notice section in here, where the father of the child could not prohibit, by court ruling, his child from being aborted, but had—

The SPEAKER. The gentleman will yield.

The question before the House is the adoption of amendment A5157.

Mr. FREIND. That is precisely right, Mr. Speaker, and I promise you I will show you where I am coming from.

The SPEAKER. Would you also show Mr. Davies, who is about to ask the same question?

Mr. FREIND. That, Mr. Speaker, is a heck of a lot more difficult, but I will try.

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

Mr. DAVIES. I do not want to know what the other sections were in it for. I would like it to be addressed to what is in front of us, if he would, Mr. Speaker. Thank you.

The SPEAKER. The gentleman is exactly right. The gentleman, Mr. Freind, may continue.

Mr. FREIND. Because of certain implementation problems, there is nothing in the bill right now which provides any form of notice whatsoever to the father of an unborn child.

He has no say and no right to be notified. This provision right here very frequently may be the only opportunity which he has, Mr. Speaker, not to prevent the abortion, because he cannot, but to prevent a violation. And if he succeeds in having the 24-hour waiting period where the mother of his child-to-be is advised of what an abortion is and is given 24 hours to reflect, maybe, just maybe, there is that possibility that that child will be born. No guarantee. I think that is something else we have to remember. I do not characterize anyone who is prolife or not prolife. I think our section in here is good, and I would hope that we would defeat this amendment. Thank you, Mr. Speaker.

On the question,

Will the House agree to the amendments No. A5157 as divided to amendments No. A4911?

The following roll call was recorded:

YEAS—137

Anderson	Fargo	Lewis	Ritter
Barber	Fischer	Livengood	Saurman
Belfanti	Fleck	Lloyd	Seventy
Berson	Foster, W. W.	Lucyk	Showers
Bittle	Frazier	McCall	Sieminski
Bowser	Fryer	McClatchy	Sirianni
Boyes	Gamble	McVerry	Smith, B.
Brown	Geist	Madigan	Smith, L. E.
Burd	George	Maiale	Snyder
Burns	Gladeck	Manderino	Spencer
Cappabianca	Grabowski	Manmiller	Spitz
Cessar	Greenfield	Marmion	Stairs
Cimini	Greenwood	Merry	Steighner
Clark	Grieco	Michlovic	Stevens
Clymer	Gruitza	Miller	Stewart
Cochran	Gruppo	Miscevich	Stuban
Cohen	Hagarty	Moehlmann	Swaim
Cole	Haluska	Morris	Sweet
Cordisco	Harper	Mowery	Swift
Cornell	Hasay	Murphy	Taylor, E. Z.
Coslett	Hayes	Noye	Van Horne
Cowell	Heiser	O'Donnell	Wambach
DeMedio	Hoeffel	Oliver	Wass
DeVerter	Hutchinson, A.	Pendleton	Wenger
DeWeese	Itkin	Peterson	Wiggins
Davies	Jackson	Petrone	Williams, H.
Dawida	Klingaman	Piccola	Williams, J. D.
Deal	Kolter	Pistella	Wozniak
Dininni	Kukovich	Pott	Wright, D. R.
Dombrowski	Lashingier	Pratt	Wright, R. C.
Donatucci	Laughlin	Punt	Zwinkl
Dorr	Lehr	Rappaport	
Duffy	Letterman	Rasco	Ryan,
Emerson	Levi	Reber	Speaker
Evans	Levin	Richardson	

NAYS—55

Alden	Durham	McIntyre	Salvatore
Armstrong	Fee	McMonagle	Serafini
Arty	Foster, Jr., A.	Mackowski	Shupnik
Belardi	Freind	Micozzie	Smith, E. H.
Beloff	Gallagher	Mrkonic	Taddonio
Blaum	Gallen	Mullen	Taylor, F. E.
Borski	Gannon	Olasz	Telek
Brandt	Gray	Perzel	Tigue
Caltagirone	Horgos	Petrarca	Trello
Cawley	Johnson	Phillips	Vroon
Civera	Kanuck	Pitts	Wargo
Colafella	Kennedy	Rieger	Weston
Cunningham	Kowalshyn	Rocks	Wright, J. L.
Dietz	Lescovitz	Rybak	

NOT VOTING—2

Honaman Wogan

EXCUSED—8

Daikeler Irvis Pievsky Wachob  
Hutchinson, W. Nahill Pucciarelli Wilson

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

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. LLOYD offered the following amendments No. A5144 to amendments No. A4911:

Amend amendments, page 10, line 46, by striking out "filed" and inserting failed

Amend amendments, page 12, line 8, by striking out "nor" and inserting or

Amend amendments, page 16, line 37, by striking out "who"

Amend amendments, page 18, line 53, by inserting after "reporting)" nothing

On the question,

Will the House agree to the amendments No. A5144 to amendments No. A4911?

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

Mr. LLOYD. Mr. Speaker, this will be brief, because I believe this is an agreed-to technical amendment. There should be one change.

I believe, Mr. Speaker, that as a result of a prior amendment, we have stricken the section which I had proposed to amend by the second "Amend amendments, page 12, line 8, by striking out 'nor' and inserting or." It is my belief that one of the prior Freind amendments has stricken that section from the bill entirely, and therefore there is no need to make the technical change.

Mr. Speaker, I am advised that that was amendment 5070.

AMENDMENTS DIVIDED

The SPEAKER. Is the gentleman suggesting that the amendment be divided to delete the center section?

Mr. LLOYD. To delete the section which reads "Amend amendments, page 12, line 8, by striking out 'nor' and inserting or."

The SPEAKER. The amendment will be so divided. The House will be voting on the first, third, and fourth sentences of the amendment.

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

Mr. LLOYD. Mr. Speaker, I believe this is agreed to.

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

Mr. FREIND. That is absolutely correct, Mr. Speaker, it is agreed to. There was one word that should have been "failed" and it was "filed." We saw it once, looked for it again, could not find it, and Mr. Lloyd found it. I appreciate that. I hope we support this amendment.

On the question,

Will the House agree to the amendments No. A5144 as divided to amendments No. A4911?

The following roll call was recorded:

YEAS—190

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

NAYS—1

Telek

NOT VOTING—3

Brandt Honaman Klingaman  
EXCUSED—8

Daikeler Irvis Pievsky Wachob  
Hutchinson, W. Nahill Pucciarelli Wilson

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

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. FREIND offered the following amendments No. A5282 to amendments No. A4911:

Amend amendments, page 5, by inserting between lines 54 and 55

(c) Penalty.—Any physician who violates the provisions of this section commits a misdemeanor of the first degree.

Amend amendments, page 8, line 58 by inserting after "basis."

Any physician who violates the provisions of this section commits a misdemeanor of the first degree.

Amend amendments, page 11, line 3 by inserting after "handicap."

Any individual who violates the provisions of this subsection commits a felony of the third degree.

On the question,

Will the House agree to the amendments No. A5282 to amendments No. A4911?

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

Mr. FREIND. Thank you, Mr. Speaker.

Yesterday we had an amendment rejected because a number of the members of the House, with justification, had a problem with us introducing an amendment which said that for any section where we do not have a penalty, it will be a first-degree misdemeanor. They objected to taking that kind of a blanket approach. So what we did is went through the amendment again and found that there were only three sections that were appropriate to add a penalty to.

Now, if you will follow me on the major amendment, the first one deals on page 5, and that comes at the end of the informed-consent section, where there is a 24-hour waiting period and the informed consent. We state that any physician who violates this—and keep in mind there is an exception for medical emergency—a misdemeanor of the first degree.

The second section is page 8, line 58, and that follows the requirement that abortions after the first trimester have to be performed in a hospital on an inpatient basis. Again we state that any physician who violates this, it is a misdemeanor of the first degree.

Finally, on page 11, line 3, this follows the section which states that no child born alive with any defect, disability, deficiency, disease, or handicap whatsoever shall be deprived of any necessary sustenance or medical treatment solely because of such defect, disability, deficiency, disease, or handicap. In this violation we state that any individual who violates the provisions of this commits a felony of the third degree.

Mr. Pratt, I believe, yesterday raised the issue as to whether or not there are others in the Crimes Code provisions, and I would say that there would also probably be some type of manslaughter or homicide on this, but we felt, as we stated yesterday, that it should be put in here, a penalty, also, and a prosecutor would determine under which section to prosecute. It is three sections where we put in three specific penalties, rather than the blanket approach which you rejected yesterday. I would appreciate your support.

#### AMENDMENTS DIVIDED

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

Mr. FLECK. Is it the opinion of the Chair that the amendment is divisible?

The SPEAKER. It is the opinion of the Chair the amendment is divisible into the three sections that appear thereon. Is that the way the gentleman wanted it divided?

Mr. FLECK. Yes, it is, sir.

The SPEAKER. And how would the gentleman suggest that a vote be taken? First paragraph, second paragraph?

Mr. FLECK. Yes, in order, top to bottom.

The SPEAKER. The question before the House is the divided amendment offered by the gentleman, Mr. Freind, being A5282.

The first vote on amendment A5282 will be the first section beginning "Amend amendments, page 5," down to and including the word "degree."

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

Mr. FREIND. Mr. Speaker, this is the first-degree misdemeanor for a physician who violates the informed-consent section. I think that is an appropriate penalty, and I think we determined by our vote that it is necessary to have this informed-consent section. I would ask for your support.

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

Mr. SPENCER. Thank you, Mr. Speaker.

I just want to point out to the members of the House, there was some confusion yesterday as to what these penalties are. The penalty for a misdemeanor of the first degree is a fine up to \$10,000 and imprisonment up to 5 years. And the third-degree felony, the fine is up to \$15,000, with imprisonment up to 7 years. I thought the members would be interested in that. Thank you.

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

Mr. FLECK. I would like to just comment on this first amendment.

If you read the language in this section that is being amended under "Emergency," it says, "Where a medical emergency compels" —now first off, you have a judgment on medical emergencies, so a first judgment— "compels the performance of an abortion, the physician shall inform" —now you again have a judgment as to whether or not he completed his information— "the woman, prior to the abortion if possible...." This seems unnecessarily complex and vague. How are we going to decide? You are going to put a physician under a penalty of a \$10,000 fine, 5 years in prison. If first he makes a judgment that it is a medical emergency, are you going to challenge on that judgment? Are you going to challenge on whether or not he adequately and completely informed the woman? Then you have to decide if it was possible.

I do not think you can put a person in a situation of a medical emergency under that kind of a penalty with that kind of a vague statute. I would urge we vote this one down.

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

Mr. FREIND. Any physician performing any emergency surgery must, if possible, always on all occasions, inform the individual of the operation to be performed. In those cases where it is impossible because of the fact the patient is unconscious or because of the fact the patient even if conscious cannot comprehend, then you perform the operation and make the information available afterwards. This is nothing new, nothing unusual, and if we are to have an informed-consent section which we have overwhelmingly supported, we have to put teeth in it where a willful violation—and I want to point out that Mr. Frazier made it clear in his amendment that we certainly keep the standards in this act of a guilty mind and mens rea, which are present in all of the criminal law of Pennsylvania, that that remains. I think that this penalty is absolutely necessary and that in fact we place the doctor in no jeopardy whatsoever. I would urge support for this section of the amendment.

The SPEAKER. The question is on amendment A5282; that is, the first section beginning "Amend amendments, page 5," down to and including the words "first degree."

On the question,

Will the House agree to Part I of the amendments No. A5282 to amendments No. A4911?

The following roll call was recorded:

YEAS—91

Alden	Fee	McIntyre	Salvatore
Armstrong	Foster, Jr., A.	McMonagle	Serafini
Belardi	Freind	Mackowski	Seventy
Beloff	Gallagher	Madigan	Shupnik
Blaum	Gallen	Maiiale	Smith, E. H.
Borski	Gannon	Merry	Steighner
Bowser	George	Micozzie	Stevens
Brown	Gray	Miscevich	Suban
Caltagirone	Gruitza	Moehlmann	Swaim
Cappabianca	Gruppo	Morris	Swift
Cawley	Haluska	Mrkonic	Taddonio
Civiera	Horgos	Mullen	Taylor, E. Z.
Clymer	Jackson	Olasz	Taylor, F. E.
Colafella	Johnson	Perzel	Telek
Cole	Kanuck	Peterson	Tigue
Cordisco	Kennedy	Petrone	Trello
Cunningham	Kowalyszyn	Phillips	Vroon
DeMedio	Kukovich	Pistella	Wargo
Dietz	Lescovitz	Pitts	Wass
Dombrowski	Lloyd	Pratt	Weston
Donatucci	Lucyk	Rieger	Wogan
Duffy	McCall	Rocks	Wright, J. L.
Durham	McClatchy	Rybak	

NAYS—100

Anderson	Fischer	Levi	Saurman
Barber	Fleck	Levin	Showers
Belfanti	Foster, W. W.	Lewis	Sieminski
Berson	Frazier	Livengood	Sirianni
Bittle	Fryer	McVerry	Smith, B.
Boyes	Gamble	Manderino	Smith, L. E.
Brandt	Geist	Manmiller	Snyder
Burd	Gladeck	Marmion	Spencer
Burns	Grabowski	Michlovic	Spitz
Cessar	Greenfield	Miller	Stairs
Cimini	Greenwood	Mowery	Stewart
Cochran	Grieco	Murphy	Sweet
Cohen	Hagarty	Noye	Van Horne
Cornell	Harper	O'Donnell	Wambach
Coslett	Hasay	Oliver	Wenger

Cowell	Hayes	Pendleton	Wiggins
DeVerte	Hoeffel	Petrarca	Williams, H.
DeWeese	Honaman	Piccola	Williams, J. D.
Davies	Hutchinson, A.	Pott	Wozniak
Dawida	Itkin	Punt	Wright, D. R.
Deal	Klingaman	Rappaport	Wright, R. C.
Dininni	Kolter	Rasco	Zwilk
Dorr	Lashinger	Reber	
Emerson	Laughlin	Richardson	Ryan,
Evans	Lehr	Ritter	Speaker
Fargo	Letterman		

NOT VOTING—3

Arty	Clark	Heiser
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EXCUSED—8

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

The question was determined in the negative, and Part I of the amendments was not agreed to.

The SPEAKER. Will the House agree to A5282, the second section of that particular amendment beginning "Amend amendments, page 8," down to and including "misdemeanor of the first degree." Are there any questions as to what is being voted upon?

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

Mr. FREIND. Once again, Mr. Speaker, we have a prohibition against any abortion performed after the first trimester except in a hospital on an inpatient basis. Any physician who performed an abortion in violation of this, it would be a first-degree misdemeanor. I would ask support for the amendment.

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

Mr. FLECK. I simply feel the bill has sufficient penalties already. I do not think there is a necessity for this. I think it is too heavy. You are absolutely getting too heavy-handed in what you are dealing with. You have a judgment call as to where you are anyway. At what point are we going to have someone come into court and charge a physician who made an honest error or maybe he just chose to judge lightly whether he was in the first trimester or not? I do not think you can send a man to prison for 5 years for that.

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

Mr. FREIND. Number one, let me repeat that a first-degree misdemeanor is a maximum of 5 years with no minimum. Secondly, if in fact we are going to approve prohibitions, then it is a little bit ludicrous for us not to put penalties in it.

There is a reason why an abortion should only be performed in the first trimester outside of a hospital, a prohibition which was specifically approved by the Supreme Court about 5 months ago. There are two reasons for it. One is the protection of the woman. As everyone will state on both sides of the issue, the later term the abortion, the more danger to the life of the mother. It should be in the hospital with all the medical facilities available. Secondly, to the heart of the bill, we have a section in there that whenever there is the possibility that the unborn child might be viable, there be the second independent physician. The intent of that is to have all of the

equipment and individuals necessary to save the life of the child who is now born through an abortion, born alive as a human being. If we do not have this prohibition against abortions after the first trimester being anyplace but a hospital, we cannot enforce that section. If we believe—and the legislature has supported this section—if we believe that this is a proper prohibition, we have to put in a penalty that has a maximum of 5 years but no minimum.

When we are talking about an honest mistake, let us get back to what a crime is. You cannot convict a person of a crime unless you can prove intent in any crime. So I hope we will be consistent here and I hope we will support this section of the amendment.

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

Mr. FLECK. The speaker was absolutely correct. There are no minimums. However, I would hasten to point out that we are currently and we have decidedly voted in favor of looking at minimum penalties. We are looking at sentencing standards. We are not saying that it is a first-degree misdemeanor with no minimum. We are saying it is a first-degree misdemeanor, and this House has very clearly stated that they are going to pass stiff sentencing guidelines or minimum penalties for that type of a crime. I just do not think it is appropriate.

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

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

First of all, we have to use some good common sense here. We are providing in the proposed law something that, if violated, the person is doing wrong. If we have no penalties in there, what is going to prevent them from doing wrong? If they do wrong, we are talking about lives. It is only a few lives, but we are talking about them. So I think you ought to put the penalty in and vote for it. Thank you.

On the question,

Will the House agree to Part II of the amendments No. A5282 to amendments No. A4911?

The following roll call was recorded:

YEAS—82

Alden	Fee	McIntyre	Salvatore
Armstrong	Foster, Jr., A.	McMonagle	Serafini
Arty	Freind	Mackowski	Seventy
Belardi	Gallagher	Maiale	Shupnik
Blaum	Gallen	Micozzie	Smith, E. H.
Borski	Gamble	Miscevich	Stevens
Burns	Gannon	Moehlmann	Stewart
Caltagirone	George	Morris	Swaim
Cappabianca	Grabowski	Mrkonjic	Taddonio
Cawley	Gray	Mullen	Taylor, F. E.
Civera	Gruppo	Olasz	Telek
Clymer	Haluska	Perzel	Tigue
Colafella	Horgos	Phillips	Trello
Cordisco	Jackson	Pitts	Vroon
Cunningham	Johnson	Pratt	Wargo
DeMedio	Kanuck	Punt	Wass
Dawida	Kowalyshyn	Rieger	Weston
Dietz	Laughlin	Ritter	Wozniak
Dombrowski	Lescovitz	Rocks	Wright, J. L.
Duffy	Lloyd	Rybak	Zwilk
Durham	Lucyk		

NAYS—109

Anderson	Fargo	Levi	Saurman
Barber	Fischer	Levin	Showers
Belfanti	Fleck	Lewis	Sieminski
Beloff	Foster, W. W.	Livengood	Sirianni
Berson	Frazier	McCall	Smith, B.
Bittle	Fryer	McVerry	Smith, L. E.
Bowser	Geist	Madigan	Snyder
Boyes	Gladeck	Manderino	Spencer
Brandt	Greenfield	Manmiller	Spitz
Brown	Greenwood	Marmion	Stairs
Burd	Grieco	Merry	Steighner
Cessar	Gruitza	Michlovic	Stuban
Cimini	Hagarty	Miller	Sweet
Clark	Harper	Mowery	Swift
Cochran	Hasay	Murphy	Taylor, E. Z.
Cohen	Hayes	Noye	Van Horne
Cole	Heiser	O'Donnell	Wambach
Cornell	Hoeffel	Oliver	Wenger
Coslett	Honaman	Pendleton	Wiggins
Cowell	Hutchinson, A.	Peterson	Williams, H.
DeVerter	Itkin	Petrarca	Williams, J. D.
DeWeese	Kennedy	Piccola	Wogan
Davies	Klingaman	Pistella	Wright, D. R.
Deal	Kolter	Pott	Wright, R. C.
Dininni	Kukovich	Rappaport	
Donatucci	Lashinger	Rasco	Ryan,
Dorr	Lehr	Reber	Speaker
Evans	Letterman	Richardson	

NOT VOTING—3

Emerson	McClatchy	Petrone
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EXCUSED—8

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

The question was determined in the negative, and Part II of the amendments was not agreed to.

The SPEAKER. Will the House agree to the third section of amendment A5282?

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

Mr. FREIND. Mr. Speaker, I see a mood setting in here, but I think this one is very important.

This one says that "No child born alive with any defect, disability, deficiency, disease...shall be deprived of any necessary sustenance or medical treatment solely because of such defect...." We are talking now not about abortion but about a born-alive child.

We had a situation not too long ago out in Chicago where there were Siamese twins who were born and in fact an attempt was made by the parents and by some medical personnel to deprive those now-born children of in fact any food or sustenance, which would cause their death.

I think we should make this a penalty. I think this is extremely serious. It is a third-degree felony which carries a maximum—and again a maximum, and these are not in the sentencing guidelines, all right—a maximum sentence of 7 years. And once again, there is no minimum.

We are talking now about born children. I hope that we pass this amendment.

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

Mr. FLECK. I agree with the speaker. I think we should vote in favor.

On the question,

Will the House agree to Part III of the amendments No. A5282 to amendments No. A4911?

The following roll call was recorded:

YEAS—159

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

NAYS—33

Anderson	Evans	Levin	Smith, B.
Barber	Gladeck	Lewis	Smith, L. E.
Berson	Greenfield	Livengood	Spencer
Brandt	Hagarty	Oliver	Stairs
DeVertter	Harper	Rappaport	Wiggins
DeWeese	Honaman	Richardson	Williams, H.
Davies	Itkin	Ritter	Williams, J. D.
Deal	Kukovich	Saurman	Zwikel
Dorr			

NOT VOTING—2

Emerson	Wright, R. C.
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EXCUSED—8

Daikeler	Irviss	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

The question was determined in the affirmative, and Part III of the amendments was agreed to.

REMARKS ON VOTES

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

Mr. RITTER. Mr. Speaker, on the second part of the Freind amendment A5282, I inadvertently voted in the affirmative. I would like the record to show I wanted to vote in the negative.

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

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

Mr. KUKOVICH. Thank you, Mr. Speaker.

I voted erroneously on the first part of A5282. I would like to be recorded in the negative.

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

The Chair recognizes the gentleman from Lehigh, Mr. Zwikel.

Mr. ZWIKL. Mr. Speaker, I inadvertently voted in the affirmative on the second portion of the Freind amendment A5282. I wish to be recorded in the negative.

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

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

Mr. PISTELLA. Mr. Speaker, on the first part of amendment A5282, I was voted in the affirmative. I wish to be recorded in the negative, please.

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

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

Mr. GRUITZA. Mr. Speaker, on the first part of the Freind amendment A5282, I inadvertently voted in the affirmative and wish to be recorded in the negative.

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

Will one of the gentlemen who just spoke tell me what was going on in that section during the vote?

CONSIDERATION OF SB 742 CONTINUED

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. BOWSER offered the following amendments No. A5283 to amendments No. A4911:

Amend amendments, page 19, by inserting between lines 7 and 8

Section 4. The provisions of Title 18 Pa.C.S. Ch. 32(relating to abortions) shall not apply to any person until a question thereon is submitted to the electors of the Commonwealth at the next municipal or general election occurring at least 60 days after the effective date of this act and a majority voting thereon vote in the affirmative.

The question shall be in substantially the following form:

Do you favor the regulation of abortions as provided in the "Abortion Control Act?"

Amend amendments, page 19, line 10, by striking out all of said line and inserting

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On the question,

Will the House agree to the amendments No. A5283 to amendments No. A4911?

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

Mr. BOWSER. Thank you, Mr. Speaker.

The SPEAKER. Will the gentleman yield?

### CONSTITUTIONAL POINT OF ORDER

The SPEAKER. For what purpose does the gentleman, Mr. McClatchy, rise?

Mr. McCLATCHY. Mr. Speaker, I would like to raise the issue of constitutionality on this amendment, please.

The SPEAKER. The question now before the House is the question of constitutionality raised by the gentleman from Montgomery County, Mr. McClatchy, as to the amendment offered by the gentleman from Erie, Mr. Bowser, being amendment A5283.

On that question, the Chair recognizes the gentleman from Montgomery, Mr. McClatchy.

Mr. McCLATCHY. Mr. Speaker, this amendment deals with an issue of referendum. Patently, we do not have the process of referendum in the State Constitution. We cannot do that kind of thing, whether we would like to do it or not. I am sure many of us would like to do it on many sensitive issues. Certainly many of us would like to do it on this sensitive issue. It is unconstitutional. It is not provided as a process in our State Constitution, and I would therefore ask for a vote of nonconstitutionality on this amendment, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Erie, Mr. Bowser, on the question of constitutionality.

Mr. BOWSER. Thank you, Mr. Speaker.

I am not sure whether this amendment would be constitutional or not. I am not sure that this bill is constitutional. I would recommend that we try this and let the courts decide. Thank you.

The SPEAKER. On the question of constitutionality, the Chair recognizes the minority whip.

Mr. MANDERINO. Mr. Speaker, wherever your mind may be on the abortion control act, I would hope that members of this assembly, on the issue of constitutionality, would not decide that referring anything to the people of Pennsylvania could in any way be unconstitutional. The ultimate power rests with the people. We are here representing those people and only stand here as their representatives.

Mr. Speaker, there is not one single word or section in the Constitution that anyone can point to to say that referring this question to the people would be unconstitutional. We refer horseracing issues to the people; we refer movies, motion pictures, to the people, and we have done that in the past; liquor questions are referred to the people. Certainly this particular issue is important enough that if we decide that it ought to be referred to the people, it will not be unconstitutional.

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

Mr. ROCKS. Thank you, Mr. Speaker.

On the issue of constitutionality, and at this point I guess in direct response to the minority whip of the House, the language in the Constitution is very clear, and it is two lines long. It is in Article II. It says, "The legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives."

Mr. Speaker, we are the elected representatives of the people, and we are sent here to vote on issues of this Commonwealth and even the most difficult issues.

Closely related to the very academic question of constitutionality is the question of precedence that we would create if this amendment is voted tonight. We should then be prepared for any difficult issue that comes before the Pennsylvania General Assembly to be shifted out of gear on a similar amendment to be put on referendum.

I believe, Mr. Speaker, that the Constitution is very, very clear. I believe that the highly technical issue that we have spent 2 days of rather intense legislative debate on is one that we, the representatives of the people, should in fact decide. It would be my hope that we would decide it tonight, and I hope that we would concur with Mr. McClatchy in questioning the constitutionality of the amendment that is in front of us. Thank you, Mr. Speaker.

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

Mr. KUKOVICH. Thank you, Mr. Speaker.

Neither the maker of the motion nor the previous speaker has cited to us a specific prohibition under the Constitution of the Bowser amendment. Now, that being the case, I find it ironic that both of these individuals have voted for what courts have held to be unconstitutional, and on issues of constitutionality, they have voted erroneously on the floor of this House.

The SPEAKER. The gentleman will yield.

That is not the point that is before this House, how any member of this House votes. The question before this House is whether or not the amendment offered by the gentleman, Mr. Bowser, is or is not constitutional. The gentleman is reminded to restrict his remarks to that subject.

Mr. KUKOVICH. Thank you, Mr. Speaker.

The point is, if there is no prohibition, if there is no case law in the Commonwealth of Pennsylvania in opposition to this amendment—and I submit to you that there is not, or at least we have been presented with none—then in good conscience we have to vote in favor of constitutionality.

I would appreciate a "yes" vote on the Bowser amendment.

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

Mr. SWEET. Thank you, Mr. Speaker.

I would rise to agree with the minority whip, Representative Manderino, and hold that this matter is clearly constitutional. In real theoretical terms, very briefly, the Constitution is a document where the powers of the legislature are derived from the people. And there are countless times, as recently as

last fall in the city of Pittsburgh, where a legislative body granted to the people the right to make a decision. In that instance, it was the at-large or special election of members of city council.

The gentleman, Mr. Rocks, pointed to, I believe, Article II, section 1, and talked about legislative power, but there are other provisions of the Constitution that talk about improper delegation. I would refer him to Article III, section 31. That provision limits the kinds of delegation that the legislature may make, but the limit is to delegating to another body. We cannot delegate legislative power to a commission or to another level of government if the responsibility is properly ours. However, it is not ever improper for this body to in effect give power back which has been granted from the people. So I think what Mr. Bowser wants to do is clearly constitutional, aside from whether or not you want to agree or disagree with the Freind-Cunningham amendment. Thank you, Mr. Speaker.

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

Mr. SPITZ. Mr. Speaker, I think if Representative Bowser's amendment were to be enacted into law, it would certainly present an interesting spectacle on referendums throughout the State. I think that instead of seeing the various sample ballots of the parties, I think throughout the State you would have prolife—

The SPEAKER. Will the gentleman, Mr. Spitz, yield.

The question before the House is on the question of constitutionality. The debate the gentleman is going forward with appears to the Speaker to be more on the issue of the amendment.

Mr. SPITZ. Perhaps the Speaker is right. I just think it would be awfully interesting to watch the slates of people.

If it please the House, Mr. Speaker, I think that this issue is clearly constitutional. We have very broad powers. The Constitution gives us almost absolute legislative powers with one exception. In Article III the Constitution is very specific that we must submit to referendum a change of the site of the capital. That is the only area which we must submit to a public referendum.

There is no prohibition on submission of any other referendum to the populace. We have done it on numerous occasions. It has been held to be sound on numerous occasions and clearly it would be constitutional, although, perhaps, very unwise if we enacted it.

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

Mr. LEVIN. Mr. Sweet has basically made the argument I wished to make to you, but I would like to just repeat it very quickly. It is a question of whether or not the Constitution prohibits this, and it is clear that the Constitution does not prohibit it. We cannot delegate power to some other entity. But since our power comes from the people, we are simply giving the people the opportunity.

This is a constitutional amendment. The wisdom of it will be judged at a later time, but it certainly is not unconstitutional.

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

Mr. RITTER. Mr. Speaker, there is no doubt in my mind that this amendment is constitutional. Article I, section 25, says: "To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government and shall forever remain inviolate." And in Article I, section 2, the Declaration of Rights, it says: "All power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety and happiness. For the advancement of these ends they have at all times an inalienable and indefeasible right to alter, reform or abolish their government in such manner as they may think proper."

Mr. Speaker, the submission of this question to the people to decide is clearly constitutional, and it is something, frankly, that a lot of my constituents were urging, and I would vote that we declare that this amendment is constitutional.

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

Mr. ITKIN. Mr. Speaker, I appreciate what the minority whip has said about the various laws we have had regarding proposing referenda to the people.

I can recall just in 1975 a bill that I sponsored into law, Act 151, which provided for the election of school directors in the city of Pittsburgh. That particular piece of legislation, which was passed by this House, signed by the Governor, and enacted into law, provided a referendum to the people of the School District of Pittsburgh to determine if they wanted an elected school board, and if they answered in the affirmative, then the provisions specified in Act 151 would occur.

This is exactly what the Bowser amendment does. It says, if you approve this question, then the procedures outlined in SB 742 would occur. It is certainly constitutional. I am very—

#### CONSTITUTIONAL POINT OF ORDER WITHDRAWN

The SPEAKER. The gentleman will yield.

It is the understanding of the Chair that the gentleman, Mr. McClatchy, is willing to withdraw his question on constitutionality. Is that correct?

Mr. McCLATCHY. Yes, Mr. Speaker. After listening to comments, I think rather than argue that, they should argue the merits of the amendments. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The question recurs, will the House agree to the amendment offered by the gentleman, Mr. Bowser, being amendment A5283?

On that question, the Chair recognizes the gentleman from Erie, Mr. Bowser, on the question of your amendment.

Mr. BOWSER. Thank you, Mr. Speaker.

I think the record will show here today that I have supported this legislation, and I intend to vote for it in final form whether this amendment goes in or not.

I think when I was elected, nobody ever told me that I was anointed, and I know that I was not. And I have the feeling,

sitting here these last 2 days, that what right do I have to force this type of thing, even though I believe in it, onto the whole of the people out there unless I know they want it? That is basically what I am trying to do with this amendment. Let the people in the Commonwealth of Pennsylvania tell us that they do indeed want this type of legislation. Thank you.

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

Mr. BURD. Thank you, Mr. Speaker.

I rise to support the Bowser amendment, and I would like to say at this time that I have sat for 2 days being very quiet on this whole particular subject, even though, as a member of the House Health and Welfare Committee, I have been through this thing for about a year, and I have recognized it to be a very highly emotional, very controversial subject.

I think Representative Bowser has come up with a solution for this whole House of Representatives, and if you would bear with me for a second, I would like to point out the reasons I feel that way.

I feel very strongly that what we are dealing with here—And the House in their judgment yesterday decided that this issue was germane. I did not agree with that, and I voted “no,” that it was not germane. They voted also that it was constitutional, and I voted “no,” that it was not constitutional, that we are dealing with a subject that this General Assembly should not be dealing with. We also dealt with the subject of amending an amendment yesterday, if you all back off for a day and realize what we did yesterday in getting ourselves into a position to vote for this particular language.

I think Mr. Bowser has finally come along with a very logical solution to this problem that we are dealing with here today, and I would ask the General Assembly, as a member of the House Health and Welfare Committee, to please listen for a moment to someone who has gone through a complete year of testimony and realize that there are two issues to be considered in this particular case.

We are dealing with the abortion issue for the State of Pennsylvania. We are dealing with a law. I do not feel that we as a General Assembly should be dealing with that law, and I feel that Mr. Bowser has come up with the solution by saying that we should put this to referendum. Let the people of this State decide on this very, very highly emotional issue that we are talking about.

Mr. Speaker, at this time I wholeheartedly would ask my colleagues in this House to vote “yes” for this amendment. Thank you, Mr. Speaker.

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

Mr. MULLEN. Mr. Speaker, I think that if this amendment is adopted, it is going to set a terrible precedent.

In the 28 years I have been in the House, we have never adopted an amendment like this before applicable statewide. It is true that in the past we did permit local municipalities to vote on various referenda. We never did it statewide, and I will tell you why we never did it statewide, because we wanted to protect the rights of minorities. Now, if we adopt this precedent—And I am not a bit fearful, because in the past in

other States where this has taken place, for example, in Michigan, where the question was put on the ballot back in 1972, we won 3 to 2. In North Dakota we won 4 to 1. But it sets a terrible precedent, because that will mean that every controversial issue that will be presented to the General Assembly in the future will be bypassed by the General Assembly; it will be put on the ballot in the form of a referendum. This is very, very bad, in my opinion, because it is going to trample on minority rights. Why could we not put the question as to whether we should pay public assistance on the ballot? You can imagine what would happen there. It sets a terrible precedent.

And what question are we going to put on the ballot if we adopt this amendment? The question we are going to submit to the voters is the following: “Do you favor the regulation of abortions as provided in the ‘Abortion Control Act?’ ” Are they referring to the 1974 act, which has been declared unconstitutional except for the one provision relating to informational services? It is certainly not clear. If you want to have a referendum, you put on, do you favor abortion or are you against abortion? But I think that by doing this we are really forgetting about our obligations as legislators.

We as legislators have an obligation to protect people, and what we are trying to do in this bill that is before us today is to protect the lives of individual children. Now, are we going to say we are going to submit to the people the question? And let us assume that the majority of the people of Pennsylvania vote in favor of this. Are we still as legislators going to disregard our responsibility under the Constitution to protect the lives of our citizens? We cannot do that. I think it is a terrible precedent to begin with. Every tax increase that we would have in the future, before we would adopt a tax increase, we would put it on the ballot. We will never get a tax increase. That may be good, but we are going to hurt a lot of people. We are going to hurt a lot of poor people and people who are deserving.

It is a terrible precedent, and I wish each and every one of you would think clearly before you vote on this issue. I do not think you should abdicate your responsibility; you should accept responsibility, and then if the people do not like what you do, let them vote you out of office. But you do not submit a question which is not clear, which is vague, which creates all kinds of problems for the people, especially where you are saying, you have the right to decide whether we should save lives or not. I think it is a terrible precedent. Thank you.

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

Mr. D. R. WRIGHT. Mr. Speaker, I rise to support the Bowser amendment. I do not know how other people feel about this debate that has been going on for the past couple of days, but I am often ambivalent about it. I would not want to be accused of being in favor of abortion. That is part of my ambivalence, I guess. We label each other and each other's positions and attitudes. I personally find abortion abhorrent, but I also find some of the methods that are used to control abortion objectionable, sometimes outrageous. I wish I could be as certain about any one of the provisions of this bill as

some people seem to be certain about every provision. I have some reservations about some of these provisions.

I do want to say one thing, though, that I think is important. It is commonly said that you cannot legislate morality. There is enough in that cliché, enough truth in that cliché, to perpetuate it. The fact of the matter is that there are some kinds of morality that you can legislate, and there are some kinds that you cannot. When there is broad consensus about behavior, about a standard of conduct, you can legislate it. There is broad consensus about stealing; there is fairly broad consensus about perjury. We can legislate in those areas. But here is one issue, Mr. Speaker, where there is not clear consensus. There are those who say that, well, almost everybody believes in one side, and the majority believes in the other, but we really do not know. And we come here not trying, I suppose, to get divine guidance, get revelations on this issue, but what is the right thing for me to do? How can I best represent my people? How can I best represent the people of this Commonwealth? How can I do the right thing about this issue? And I do not know, Mr. Speaker, what the anxiety would be to let the people answer. What is the fear in letting the people say, this is our consensus, this is our agreement about the kind of morality that will be legislated in the Commonwealth of Pennsylvania.

This is an important amendment. It has been said that we ought not to do it because it has not been done before. We do not often deal in these kinds of issues. It has been said that this is a peculiar area of law, and there are extraordinary requirements for this extraordinary circumstance. I say this is the extraordinary method we ought to use to deal with this extraordinary circumstance. We ought not to fear to let the people of Pennsylvania decide this issue once and for all.

**THE SPEAKER PRO TEMPORE  
(JOHN HOPE ANDERSON) IN THE CHAIR  
CONSIDERATION OF SB 742 CONTINUED**

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny, Mr. Marmion.

Mr. MARMION. Thank you, Mr. Speaker.

I rise in support of Mr. Bowser. If this question was big enough to be important in Michigan and in North Dakota, as Mr. Mullen related, I think it is big enough to be discussed by the people of Pennsylvania.

I ask support for Mr. Bowser's amendment.

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Burd, from Butler, for the second time.

Mr. BURD. Thank you, Mr. Speaker.

One of the previous speakers talking against this particular amendment made mention of the fact that we are dealing with life, and I would like to turn that around for a moment, because I have heard that for 2 days - we are dealing with life; we are dealing with where life starts. He is saying that we should not be doing this; we should not be passing the buck; we should not be allowing our people who voted us to come here to Harrisburg to actually in fact vote for them. I would like to turn that argument around and say that this is the first

time that I know of that we are dealing in the General Assembly with the facts of life, when life starts, and I think that it is an important enough issue for the people who sent me to Harrisburg to at least have a chance to say something about that.

For those reasons, Mr. Speaker, I wholeheartedly hope that this General Assembly would certainly go along with the Bowser amendment, because I think that we are dealing with a subject here that this General Assembly just does not know what the percentages out there are.

There are two sides to this very highly emotional issue, and it is highly emotional. There are no two ways about it. I have been condemned as a member of the Health and Welfare Committee because I voted "no" on something that I felt was bad language, and the press brought it out that I voted against abortion, and I am not for or against abortion. As a matter of fact, I profess to be a prolife person, because I do not believe in abortion, but by the same token I believe that in some instances there are reasons for abortion.

And so, therefore, Mr. Speaker, I ask the members of this House of Representatives to please vote for this amendment and let those people who sent us to Harrisburg, those people out there, let it go to a referendum; let them decide what is right for the people of this State. Thank you, Mr. Speaker.

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

Mr. SPITZ. Mr. Speaker, I would rise in opposition to the Bowser amendment. I believe in an issue of this nature it is incumbent on us to make this decision, and we should not delegate it back to the people.

I want to finish the thought I had on constitutionality. About a month ago the Reverend Jerry Falwell was preaching in my little town of Prospect Park, and that brought out protesters pro and con. Those individuals lined themselves up on two sides of Lincoln Avenue in Prospect Park, and the prolife people were on one side and the prochoice people were on the other side. And if we pass the Bowser amendment and it gets enacted into law, and in the next general election or the municipal election after that, if the people are going to answer a referendum on this issue, they will identify that election as the issue, and every candidate in it—and everybody in here, if it is next year—is not going to be a Republican or a Democrat; they are going to be a prochoice or a prolife. This is one issue and a very important issue and we should face it tonight and go on, but it should not become the only issue in every election process in Pennsylvania.

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

Mr. MICHLOVIC. Mr. Speaker, I do not know about the rest of you, but I feel rather inadequate about making this kind of a decision. I look around me at the 203 Representatives in this hall, and there are 7 women. We are deciding when life begins and whether that life shall be regarded as a person under law and whether persons involved with aborting life shall be criminals under our law. I feel the weight of that decision these last 2 days, and, frankly, I could use some help. I could use the help of my constituents in making this deci-

sion. I would like you to give me that opportunity to get that help in making that decision.

A colleague of mine told me today that his wife and mother disagreed with him on this issue. That is the kind of issue this is that we are dealing with, and it is a terribly weighty one that can divide families and divide those kinds of loyalties. In our statutes and laws regarding pornography, our courts decide that issue many times on the community's interests. Basically, what we are saying in the Bowser amendment is, we are trying to determine the community of interest in the Commonwealth of Pennsylvania.

I ask for those reasons that you support this amendment and give the people of Pennsylvania the chance to give their views. Thank you.

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

Mr. LASHINGER. Thank you, Mr. Speaker.

Mr. Speaker, I rise to strongly urge support of the Bowser amendment. As a number of members know, over the last few years I have been deeply involved in this area of initiative and referendum, and I have long awaited the opportunity to debate this issue on the House floor.

It is interesting to note, with all due respect to Representative Mullen, that he indicates that we have not addressed this issue during his period of over some 20 years while he served in this General Assembly. I am happy to see that we are finally addressing this issue, and it could not come at a better time, Mr. Speaker. He also, in his opposition and his remarks opposing this referendum concept, indicated that if anything, the minorities in the Commonwealth would not be represented on this referendum. I cannot think of anything that is less true, any one statement that was made that is less true. As you look about this General Assembly, you have to ask yourself, would not women be better represented? Would not it be more truly democratic in allowing those people, those individuals in the community, to make those decisions? Would not minorities themselves be represented through a referendum process?

Some of the debate has centered around the difference between initiative and referendum. We are talking about allowing the citizens of the Commonwealth to confirm an action that is being taken by the General Assembly. We are not asking the citizens of Pennsylvania to initiate this action. We are not undermining our representative form of government. We have sat here for 2 days and debated this amendment at length. We have done the work, and now we are presenting this final end product to the citizens of Pennsylvania to confirm the work that we carried out over these last 2 days. If we were debating the issue of allowing the citizens of Pennsylvania to put together this abortion control act, to put in the time that Representatives Freind and Cunningham and many others have put in, then I would have some concern whether it were not too technical or too cumbersome a task for the citizens. But we have done the work, and we are now asking for a confirmation of that work. So I think the debate has been mostly in opposition to an initiative concept as opposed to a referendum concept.

In 1978 a Gallup Poll revealed that by a margin of 57 percent to 21 percent, by a wide margin, the citizens, not only of Pennsylvania but as a country, like the idea of being able to pass judgment on proposed legislation, and that is just what we are doing today, so I think we meet the demands of that poll. I could understand the resentment in doing this some 150 years ago, if we were not in this era of mass communication where we will have the opportunity between today when we pass on this and when this should arise at the next general election to communicate with our constituency, and both factions will be able to disseminate information so that people are educated on the issue. So I think that any argument that this conflicts with what our Founding Fathers had envisioned for us in history just does not hold water today.

In ending, let me just use an example. In 1976 the State of New Jersey confronted a somewhat similar problem. They had no constitutional provision for the initiative or the referendum concept. They were confronted with the issue of casino gambling in Atlantic City. They decided to do just what we are doing today. Both the House and the Senate in the State of New Jersey passed a comprehensive piece of legislation, then decided at the end of that, even though there was no provision in the constitution to allow for a referendum and even though it affected only a specific region in the State of New Jersey, to provide for a statewide referendum on the issue of casino gambling.

I think with our neighboring State doing that there is some precedent. I think it sets an example, and I imagine it is something that many States will be doing as we attempt to tackle these issues that there is clearly no majority opinion on. So with that, Mr. Speaker, I would urge the members of the House to strongly support the Bowser amendment. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the lady from Lancaster, Mrs. Honaman.

Mrs. HONAMAN. Thank you, Mr. Speaker.

One of the main criticisms I have heard about this bill under consideration today is the women from both sides of the issue who say they are not represented because there are not enough women in the House. I would just remind you gentlemen, 51 percent of the voters in Pennsylvania are women. Let us give them a chance to see how they really feel. Thank you.

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

Mr. RITTER. Mr. Speaker, I have been here for 18 years, 9 terms, and in all those terms, I cannot recall a single instance in any one of those terms, a single time, when this issue did not come up. Now, I know there are issues that are controversial, and some members may want to put them on a ballot, but I cannot believe there has been a single issue which has divided this House as much as abortion has. It transcends party lines. It has nothing to do with party, but it is an issue which has torn this House apart time and time again. I do not know how many times I have gone back home and my constituents said to me, why do you not let us make that decision if you are going to keep arguing about it out there?

I agree with Mrs. Honaman. There are only 10 women in this legislative body—10—but more than 50 percent of the population of this Commonwealth are women. I think we ought to let them have a right to make a decision on an issue of this instance on which we cannot get a clear opinion. There is no majority opinion, Mr. Speaker. Then let the people speak. Let them tell us what it is they want us to do, and anybody who says they are afraid to let the people make the decision ought to remember that come next election. Thank you, Mr. Speaker.

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

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

I oppose the amendment, and I intended to speak to the constitutional question. What we are doing here is clearly unconstitutional. We debated that matter in previous abortion debates, I believe, in 1977. What we have is an unconstitutional delegation of power. In effect, we are charged with the responsibility of making decisions. We cannot abdicate that decision and turn it back to the people in that fashion.

This is not to be confused with local option. Local option is where we pass a law and make its implementation effective upon the adoption by a majority of the members of a particular precinct, borough, or township. What we have here is a different question of abdication of authority.

Secondly, on the practical aspects of the matter, I rather imagine if we begin this principle, we will become a glorified debating society here that will spend our time passing resolutions endorsing Santa Claus, because everything of a controversial nature that comes up, there will be a referendum amendment approved, whether it be welfare benefits, whether it be no-fault insurance, or whatever. As a result, we will spend our time here in debate only.

In the final analysis, we are charged with the responsibility to make decisions. We cannot evade that. We cannot toss back to the electorate that decision. I warn you, we are making mischief here that will come back to haunt us later in this matter of referendums if we adopt it. I strongly urge a negative vote on the amendment.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny, Mr. Taddonio.

Mr. TADDONIO. Thank you, Mr. Speaker.

In general, I agree with submitting issues to the voters where it is possible for them to make an informed decision. The question here is, how could it possibly be possible for them to make an informed decision on this bill? Here we have not a single issue; 19 pages that we have debated for 2 days; very complex. I can see you putting a simple question on the ballot like, are you for abortion or are you against abortion? Does human life begin at conception or does it not? That is a question that is easy to explain, to get to the voters so they can make an informed decision. The way it is now, they cannot make an informed decision. How many people have called you today or yesterday or the week before, telling you to vote for this bill or against this bill? And when you talk to them, they had not read it. They have no idea what they are supporting or opposing, but we have. We have the ability to make

that decision ourselves. We have to take that responsibility here. We cannot cop out. It sounds real good to submit this to the voters, but it is not really what we are doing.

I do not know if anyone here has had an experience with a referendum like this. I have. It was not on this issue; it was on a highway issue, believe it or not. When an issue gets emotional, the facts disappear. I had a community that actually voted against a highway that 90 percent of them were in favor of, because they were so confused they did not know what they were voting on. That very thing could happen again.

On something like this that is this complicated, you just cannot submit things like this to the electorate. It has to be something that can be explained to them, that they can vote intelligently on. We just do not have the wherewithal to get this kind of information to the electorate. I would appreciate a negative vote.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Bucks, Mr. Clymer.

Mr. CLYMER. Thank you, Mr. Speaker. Just a few remarks.

Number one is that I am identified in my local district as prolife. The problem that I would have if indeed we turn this issue back to the people is that if you indeed, whether you be Republican or Democrat, are a leader in your party, they will come to you and say, where do you stand on the issue? So we will not evade the issue if we do not address it this evening. It will come back to haunt us when and if the people have that opportunity. So I would urge my fellow colleagues to look at this issue very closely and take full consideration of what you plan to do this evening. I will not support the amendment.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Northumberland, Mr. Belfanti.

Mr. BELFANTI. Mr. Speaker, for 2 days we all have voted on this most difficult issue. I wish I would have had time to discuss each of these amendments back home with my constituents. I am and will always be prolife, but that is my personal conviction. It does not necessarily mean that I have agreed with every amendment proposed by the prolife group here over the last 2 days, and it does not mean that I have disagreed with every amendment proposed by those who are considered prochoice.

Mr. Speaker, I feel that the majority of the voters in my district are prolife. However, my correspondence on this issue has run fairly even. I feel, Mr. Speaker, that each of us should go on record "yes" or "no" on this SB 742 here this evening. However, Mr. Speaker, if we vote "no" on the Bowser amendment, we are really telling the voters back home that we do not trust their judgment nor respect their intelligence.

We do not abrogate our responsibility if we pass this bill here today, but let the final say rest with the citizens of Pennsylvania. They put trust in us when they elected us here. I feel we should put our trust in them. I urge a "yes" vote on the Bowser amendment, and then I urge a "yes" vote on the entire amendment as amended. Thank you.

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

Mr. GAMBLE. Mr. Speaker, I would just like to have one moment. I think we should face one fact, that this amendment is a last-ditch effort by those who oppose the Freind-Cunningham amendment. After over 100 considerations, after over 100 amendments, we get this amendment. After the newspaper headlines have already printed what this House is going to do on the Freind-Cunningham amendment, we are now attempting, some of us, to cop out and let this rest with the people.

I am a representative, and I was sent here by 60,000 people to represent them, and they know that I am prolife. If they vote me out for that reason, all well and good. There is no way that after 2 days of considering amendments we should now pass this amendment which turns this into a referendum. If we are, let us be consistent, and the next time that the pay raise comes up—that is a very volatile issue with our people, with those people out there—let us send that back and let them vote on the pay raise. Or maybe we want them to consider also when we are going to consider an increase in our expenses. So I say, let us vote this down. This is a last-ditch effort, and do not be taken in by it. Thank you.

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

Mr. GRUPPO. Mr. Speaker, we have spent many hours debating and discussing this 20-some pages of legislation in the Health and Welfare Committee of which I am a member and here in this chamber for the last 2 days. It is a complex and controversial piece of legislation. It cannot be easily placed on a referendum for the citizens of this Commonwealth to consider when this body has continually debated these over 100 separate amendments.

We have been elected to represent the people of this Commonwealth both on simple issues and on the complex and difficult ones. This is one of those difficult ones, and we must not shirk our responsibility, the responsibility which the people have placed in us. We cannot continue to defer and refer and bury our heads in the sand when it comes to these difficult issues. I have been elected to represent the people of my district, and I am here today prepared to vote on this amendment and on the final passage of this bill. I would hope that the members of this chamber will vote against the Bowser amendment. Thank you.

### THE SPEAKER (MATTHEW J. RYAN) IN THE CHAIR

#### CONSIDERATION OF SB 742 CONTINUED

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

Mr. POTT. Thank you, Mr. Speaker.

Will the gentleman, Mr. Cunningham, submit to brief interrogation?

The SPEAKER. Does the gentleman from Centre, Mr. Cunningham, consent to interrogation? The gentleman indicates he will. The gentleman may proceed.

Mr. POTT. Mr. Speaker, do you support the Bowser amendment?

Mr. CUNNINGHAM. No, Mr. Speaker, I do not.

Mr. POTT. Thank you.

I have concluded my interrogation, Mr. Speaker.

The legislative power of this Commonwealth shall be vested in the Senate and House of Representatives but the people reserve to themselves the power to propose laws and amendments to the Constitution, and to adopt or reject the same, at the polls independent of the Legislature, and also reserve the power, at their own option, to so adopt or reject any act, or section or part of any act, passed by the General Assembly.

That language is a direct quote from HB 420, introduced into this House of Representatives February 9, 1981, with the person I asked to interrogate as the only sponsor. Thank you.

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

Mr. SNYDER. I will yield to the gentleman, Mr. Gladeck, from Montgomery.

Mr. GLADECK. Will the gentleman, Mr. Freind, stand for brief interrogation?

Mr. FREIND. Yes, Mr. Speaker.

Mr. GLADECK. Could you tell me if you support the Bowser amendment?

Mr. FREIND. No, despite the fact that I have supported initiative and referendum for initiative purposes in the past, although not recently. We will see.

As a wise old philosopher once said, a foolish consistency to detail is the hobgoblin of little minds.

Mr. GLADECK. Excuse me, Mr. Speaker, but I do believe that Mr. Freind is listed as a cosponsor on HB 409.

The SPEAKER. The question before the House is, will the House agree to amendment A5283 offered by the gentleman from Erie, Mr. Bowser?

The Chair recognizes the gentleman from Lehigh, Mr. Snyder.

Mr. SNYDER. Thank you, Mr. Speaker.

I am not sure what my fellow colleagues in the legislature are afraid of on this issue of allowing the people to decide what the control should be on the issue of abortion. The most common complaint I have heard on this issue from people on both sides is that it does not belong in the legislature alone. This is an issue that affects religious beliefs and makes a determination of moral values. If society does not accept a law of this nature, it will not be worth anything that we do in this House anyway. This is still a democracy, and I feel the majority of the people should be heard.

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

Mr. GALLEN. Mr. Speaker, I would like to interrogate the gentleman from Westmoreland, Mr. Manderino.

The SPEAKER. Would the gentleman, Mr. Gallen, advise the Chair if this is on the subject of A5283?

Mr. GALLEN. Yes, it is, Mr. Speaker.

The SPEAKER. Does the gentleman, Mr. Manderino, consent to interrogation?

Mr. MANDERINO. Yes, Mr. Speaker.

Mr. GALLEN. Mr. Speaker, you spoke earlier in favor of this amendment. I would like to know your considered opinion with regard to this question. I am being very serious about this particular question. I think it behooves us to pay attention to this question.

Mr. Speaker, in the event that the Senate passes this bill with this amendment in it, and it goes to the Governor and he signs it, and then the question is put in a referendum to the people, and the people vote preponderantly in the negative, and then the question of constitutionality is appealed to the Pennsylvania courts, and it is decided at that point that this amendment is unconstitutional, what do you feel would then be the status of this legislation?

Mr. MANDERINO. That sounds like a Rube Goldberg question.

Mr. GALLEN. Mr. Speaker, I am very serious about this.

Mr. MANDERINO. But let me say this to you, Mr. Gallen—and I know you would rather have it pronounced Gallen—but, Mr. Gallen, let me say this to you: I spoke on the issue of constitutionality, and I am glad that you are giving me the opportunity through the question to let some of the members who have come and asked me privately whether I favor this amendment and whether I was asking them to vote for this amendment. I was simply saying that in my opinion, referring a question of this sort to the people can in no way be unconstitutional. Whether or not we should refer the question to the people is what we are deciding now, and I have not publicly expressed an opinion on that, because in many respects I agree with Mr. Mullen that we must make decisions, having been elected by the people, and must not, when the going gets tough, refer it back to the people.

On the other hand, the kinds of questions that we have referred to the people in the past are those kinds of questions that there is a moral and a conscience implication to—horse-racing, gambling, liquor. Where we as representatives of some 60,000 people ordinarily want to represent them and do in the assembly what we think they would want us to do if they were here, on questions of conscience we cannot do that if we are true to ourselves. So even if I knew my district was pro-abortion and I were pro-life, I would have to vote pro-life. So this may be the kind of question that ought to be referred. I have not made up my mind yet on how I will vote on this question. Thank you.

### PARLIAMENTARY INQUIRY

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

Mr. GALLEN. Mr. Speaker, you are next. I am finished with my interrogation of Mr. Manderino. I would now like to make a parliamentary inquiry.

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

Mr. GALLEN. Do you understand my original question of Mr. Manderino, that question being, in the event that a negative vote prevails on a referendum on this question and that is appealed and the referendum itself is found to be unconstitu-

tional, what would be the status of this legislation which has been passed with that referendum provision in it?

The SPEAKER. Not having been elected to the Supreme Court, I do not think it is a question that is properly put to the Speaker of the House, although I do have an opinion.

Mr. GALLEN. I would like to have that opinion, Mr. Speaker.

The SPEAKER. The gentleman should feel free to come up here and I will express that opinion to him.

### POINT OF ORDER

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

Mr. DEAL. Mr. Speaker, I rise to a point of order.

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

Mr. DEAL. Mr. Speaker, the question that was posed to the Speaker does not appear to deal with a question of asking for an answer to a parliamentary question.

The SPEAKER. The gentleman is exactly right, and it is for that reason that the Speaker did not answer the gentleman but suggested that if he wanted my opinion, I would be happy to give it to him on the side.

Mr. GALLEN. Mr. Speaker, I think there is a severability clause in this legislation.

The SPEAKER. If the gentleman is making a statement in connection with A5283, the gentleman is in order and may proceed.

Mr. GALLEN. Mr. Speaker, I think this is a serious question in that since there is a severability clause, if this particular section is the one that is severed, what status does this bill, this enacted law, then have? Can this particular section be severed after it has been acted on by the people? It is an extremely serious question, Mr. Speaker, and I agree with those people who feel that we were elected to make these tough decisions, and I oppose this amendment.

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

Mrs. HARPER. Thank you, Mr. Speaker.

Mr. Speaker, I rise to support the Bowser amendment. We have received thousands of letters and cards from women. Some women are for the bill; some women are against the bill. We have received thousands of telephone calls from women. I say to the men, what are you afraid of? Let the women speak at the ballot box. Give them an opportunity to speak for themselves. I am the only Democratic woman on this side of the aisle, and I cannot speak for all of the women. Therefore, I would like to give them the opportunity to speak for themselves. Give them that opportunity. Thank you.

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

Mr. PITTS. Mr. Speaker, I would like to ask the gentleman from Erie if he would submit to interrogation, please.

The SPEAKER. The gentleman from Erie, Mr. Bowser, consents to interrogation. The gentleman, Mr. Pitts, may proceed.

Mr. PITTS. Mr. Speaker, in looking at your amendment, I notice you have, "The question shall be in substantially the following form: Do you favor the regulation of abortions as provided in the 'Abortion Control Act?'" Could you tell me what you mean by the words "in substantially"?

Mr. BOWSER. That is to allow them leeway to word this properly so that it will be a legal and binding vote.

Mr. PITTS. That is to allow whom leeway? Who is going to write this question?

Mr. BOWSER. I guess we are doing that right now, Mr. Speaker.

Mr. PITTS. If you say that it shall be in substantially the following form, you are saying that it may change from what is written on this piece of paper. Is that correct?

Mr. BOWSER. It may change only to make it legal. The substance will remain the same.

Mr. PITTS. All right. What happens if the Senate amends this bill? Will it be in the form that is finally passed by both bodies?

Mr. BOWSER. I do not believe they can amend this, can they?

Mr. PITTS. Well, you will have to tell me. I believe they can suspend their rules also.

Mr. BOWSER. I think, Mr. Speaker, we will have to cross that bridge when we come to it.

Mr. PITTS. All right. What happens, Mr. Speaker, if the courts find certain provisions of this act unconstitutional? How will this question then relate to the act? Which act are you talking about, the present Abortion Control Act or this abortion control act?

Mr. BOWSER. This abortion control act as identified by A4911 inserted into SB 742.

Mr. PITTS. And if the major portion of that is found to be unconstitutional, will this appear on the ballot?

Mr. BOWSER. Mr. Speaker, the ballot question will come first after this bill is passed.

Mr. PITTS. I am sorry; I did not understand you. Would you repeat that, please?

Mr. BOWSER. Mr. Speaker, there will be no act until after the referendum is held, and that will determine whether in fact there is an act.

Mr. PITTS. Mr. Speaker, we presently have an Abortion Control Act. Are you aware of that?

Mr. BOWSER. Yes, I am, Mr. Speaker.

Mr. PITTS. Would the referendum apply to that act?

Mr. BOWSER. No, sir. I just related to you what it would apply to.

Mr. PITTS. Does this bill repeal that act?

Mr. BOWSER. Not to my knowledge it does not, no.

Mr. PITTS. You merely say the "Abortion Control Act." Is that correct?

Mr. BOWSER. Right. And I just a few moments ago told you what I referred to as the abortion control act.

Mr. PITTS. Mr. Speaker, one other question. If the court strikes certain provisions of the act, do you seriously think the people are going to understand what part of the abortion control act they are voting to support or oppose?

Mr. BOWSER. Mr. Speaker, I do not feel the court will challenge any part of this until after the referendum has been executed.

Mr. PITTS. You are assuming that?

Mr. BOWSER. Yes.

Mr. PITTS. Mr. Speaker, do you feel that a vote by the public on this issue would be reflective of a real understanding of this 19-page bill, or do you think it would merely be the interest group that is most effective in putting forth their propaganda before the referendum? Do you think it is a valid referendum on the issue when it is a very complex act, is the question.

Mr. BOWSER. Mr. Speaker, I really feel that is an unfair question. We could relate it to those of you who are sitting in the body today. How many members really understand everything that we have voted on here today? We understand whether we are prolife or not, but as far as the electorate is concerned, this amendment states that this will happen in the next general election. We do have time to educate all voters out there.

Mr. PITTS. Thank you, Mr. Speaker. That concludes my interrogation. May I make a statement, please?

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

Mr. PITTS. Thank you, Mr. Speaker.

I think the gentleman from Erie made one of the strongest points that can be made on this issue, and that is, after 2 days of intensive debate and all the reports of the committee members and sponsors, pro and con, a myriad of amendments, there was just this evening a question raised that we did not have adequate information to vote intelligently on this issue. If we cannot in this deliberative body, with all the information at hand, in some people's minds make an educated decision and vote, I doubt seriously, in light of the information and misinformation that will be spread by both sides as they get ready for a referendum, that the public will be very clear on what this abortion control act actually does.

I think, Mr. Speaker, we have listened to the comments of those and noted who make the comments in support of this amendment, and we have heard efforts today to recommit the bill. We have had many divisions of amendments. Now we hear them speaking in favor of this amendment. I feel, Mr. Speaker, that this is a very important amendment as far as the bill is concerned. If this amendment passes, I think you can forget the abortion control act. It will probably be challenged in court before the referendum. I think that there are some legitimate questions raised about the wording of this particular referendum question. I do not think this is a good way to legislate, Mr. Speaker.

I think, finally, that those who might wish to escape voting on the issue by referring it to a referendum will only find in the end that this very issue will be on the mind of every voter who goes to the polls, and it will be reflected in the vote on every single candidate. This may be good; it may be bad. I think it is something that is going to happen.

I think this is a poor way to legislate. I think it sets a poor precedent for facing difficult issues. I would oppose strongly the gentleman's amendment. Thank you, Mr. Speaker.

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

Mr. CUNNINGHAM. Mr. Speaker, I appreciated very much the remarks of the gentleman, Mr. Pott, because he made a point that I was about to make in debate that I will now make very briefly. I am the sponsor of a piece of legislation that would create initiative and referendum in this Commonwealth. I feel so strongly about the desirability of that legislation that I have constantly and repeatedly requested the House Judiciary Committee chairman to call that bill up and consider it in committee. He has given me his commitment to consider that legislation, and it will in fact be considered at some point shortly after the first of the year.

We have a very bad situation in Pennsylvania right now, because we do not have a system of initiative and referendum. The ideal situation for lawmaking would be if everybody in this Commonwealth could come together in one place and decide questions of law for themselves. That would be ideal. We obviously cannot do that, and so we elect a House and we elect a Senate. There are some legislative issues that should be addressed by the elected representatives of the House and the elected representatives of the Senate because of the nature of those issues. There are other issues that should be considered directly by the people of Pennsylvania. I would like nothing better than for the people of Pennsylvania to have an opportunity to vote directly on the question of whether we should slaughter unborn babies as a matter of convenience in this Commonwealth, a very straightforward, simple, one-sentence question, and I predict that the answer would be a resounding no; we should not have abortion on demand in this Commonwealth. That is not what this legislation does. This legislation does not—

The SPEAKER. Will the gentleman yield?

### POINT OF ORDER

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

Mr. DAVIES. The one that I have been here for three or four times today, Mr. Speaker, and that is to address the issue before us, not what the gentleman's legislation was nor what this legislation is, but the issue that is before us, Mr. Speaker.

The SPEAKER. The gentleman is correct. Will the gentleman please confine his remarks to A5283, the amendment that is before the House?

Mr. CUNNINGHAM. I thank you. The gentleman is correct, and I agree, Mr. Speaker.

In conclusion, let me simply say that an 18-page, highly technical, very complex regulatory amendment that does not get at the question of whether abortion should or should not be legal in this Commonwealth but goes into enormous detail trying to establish the circumstances under which abortions should be performed and then the regulatory provisions that should govern the performance of those abortions is not a question that lends itself well to consideration by referendum. It is a question that we should answer right here and now, and it is my hope that we do that by defeating the Bowser amendment. Thank you, Mr. Speaker.

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

Mr. VROON. Mr. Speaker, yes indeed, I am that man of action.

Mr. Speaker, I have watched very carefully through the years, not only in this State but in other States as well, the use of the referendum to decide various public questions. There are various types of questions that are put on the ballot for perusal and voting on by the public, but in almost every instance there is enough room on the question, on the ballot, to make it clear what the heck you are voting about. Okay? Now, that is the kind of question that typically goes on a ballot.

Can you possibly conceive of a question that could be put on the ballot that is going to describe the abortion control act? I cannot. I really cannot. So if you agree with me that it cannot be amply described on a ballot, then go the next step with me, please, and ask the question, who will advise and inform the public as to the contents of the abortion control act? Okay. Then go with me one step further and come up with the answer. The answer is quite simple. Our entire State will be polarized into two different camps and both camps will be struggling hard against each other to get the dominance with the public, and we are going to have a highly polarized public out there. Do you not think that every single State official running for election or for reelection is going to be lined up on one side or the other of that polarized scene? Do not think for a minute that you are not going to be inviting trouble. I do not care if you are on that side of the aisle or on this side of the aisle, you are going to be lined up, and you are going to have to take sides for or against that question that is on there, which people do not understand anyhow. You are going to have two rival groups trying to tell the public what it says, and nobody is going to be able to really find out for sure exactly what it does say.

That kind of question, I submit to you, is not the type of question we put on a referendum. We put on a referendum something about a \$300-million loan for waterworks and things like that. We put on a referendum whether or not a judge should be retained. Those are the simple types of questions which people understand quite readily, and they go to the polls and nobody has to inform them how to vote. But listen carefully, how in the wide world could we make a referendum question out of this act?

We went through this for several long days, and this question has been on our minds for several long months. We have received letters from our constituents. I receive telephone calls from people, and when I try to tell them what the bill says, they are not sure if I am right or they are right, and they argue with me about the contents of the bill. That is just a little bit of a sample of what is going to happen if we pass this and allow this to go to a referendum.

I think this would set a very dangerous precedent. I am not saying I do not approve of a referendum as such, but it has to be a clean-cut policy question that people can understand and which we honestly want the people's expression on.

This is typically not the kind of question that we should just load onto the backs of the public because it is too hot to handle. Let us face it; that is what it is. This question is too hot to handle, so here, let us throw it to the public and let them handle it.

I strongly urge the defeat of this amendment. I do not think it makes good sense at all.

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

Mr. McVERRY. I do not agree with the fact that it is too hot to handle. In fact, we are handling it. We are not deferring the decision; we are making it. We are about to vote on the bill, up or down. If we vote it up with this in, we are just asking the people of Pennsylvania, do you want what we think you want? They should have the right to say yes or no. They will be educated about the issue. They will find out.

I find it curiously interesting that the people who are the proponents of this legislation are afraid to let it go to the people to decide whether they want it or not. Please vote affirmatively on the Bowser amendment.

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

Mr. DEAL. First, Mr. Speaker, let me say that I support the amendment 5283.

I am having some great difficulty understanding some of my colleagues. First, we talk about having been elected. It would appear to me if I had the faith for people to elect me for office, then I ought to have the faith to take back to them a question and be judged by their decision.

There seems to be a lot of fear here today that you are not really representing the people who elected you. There seems to be fear that if it goes into a referendum, the people will not be supporting what you are attempting to abdicate here today. And I say to you, if you really mean it, if you really believe that you represent your 58,000 or 60,000 constituents, then give us an opportunity to allow you to go back and ask them how they feel.

The problem I have with some of the negativism here today is that females outnumber men, far over 2 to 1, and we are going to make a decision. I question whether some of you have even asked your wives or asked your daughters whether or not they should have a right to have a voice in this process. I bet you that many of you have not. You come here like some of us normally do, feeling that we were anointed with the power to make those kinds of decisions.

I say to you the females in our State are crying out. Men and women who are here, I do not think you have been listening clearly to the women in the Commonwealth of Pennsylvania and throughout this Nation. They are begging for an opportunity to be heard. All we are saying is, give the women in this Commonwealth an opportunity to have some say about their bodies and about their decisions. Let them have an opportunity.

We are not asking you to abdicate the powers that were vested in you. That is not our intent, because you will still have a right to vote on the bill. All we ask you, be fair with all of those helpless women who had enough respect for you to

send you here but hoped that sometimes you would ask them how they feel. I ask you, give them a chance to have some say.

Those of us who are voting today, many of you tell us that for over 18 years you have wrestled with this issue, and now you tell me that somehow overnight you have more brains, you have more ability than all those Representatives who came here long before some of us. I do not believe that God made us that different. I believe the problem is still here. I believe what should have been done 18 years ago is to put a motion on the floor like we are putting here today and allow the females, allow those women whom you pretend that you are protecting, to have some say about this issue.

I will tell you what has happened. Some of us have come here with closed minds, not after saving the children, after some organizations that were Federally funded, after some things that you disagreed with, and we are using this legislature to do what ought to be done in some other framework. I pray to you that you will not let this happen.

If you do nothing more, I hope tonight, since I do not believe that many of you have done it, call your wife now—you ought to recess temporarily—call your wife, call your daughter, call other females you know and ask them, do they want to be heard on this issue? If you do, I guarantee you will vote the Bowser amendment just as fast as you can. Thank you, Mr. Speaker.

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

Mr. GANNON. Mr. Speaker, William O. Douglas, Justice on the Supreme Court, once said, I believe, "Justice delayed is justice denied." We should not delude ourselves into believing that here today we can perpetrate—I will not say fraud, but I would say we can make the people of this Commonwealth believe that we are doing our job when we are not. If we believe that we can sit here today and vote for this amendment and then vote for this bill, and then go back to the people whom we represent and tell them that we supported this bill, we are subject to the challenge, well, then why did we not make it effective immediately and do the job that we were hired for and the job that we were paid to do?

We are passing the responsibility back to the people of the Commonwealth to make a decision, perhaps in the general election in which we may be candidates for election or reelection. I think it is unfair to the people of the Commonwealth to put a one-line question on a ballot involving a piece of legislation as complex as this. We have been here for 2 days going over this bill section by section, debating it and making individual decisions on portions of the legislation. I think it is wrong to try to avoid our responsibility, which this amendment would do if passed. Therefore, I urge a negative vote. Thank you, Mr. Speaker.

#### MOTION FOR PREVIOUS QUESTION

The SPEAKER. For what purpose does the gentleman from Allegheny, Mr. Fleck, rise?

Mr. FLECK. Point of order. I would move the question; move the previous—how do I say it right?

The SPEAKER. You have said it.

Mr. FLECK. You know what I want to do.

The SPEAKER. All members please take their seats immediately. The gentleman from Allegheny County, Mr. Fleck, has moved the previous question.

**POINT OF ORDER**

Mr. RICHARDSON. Point of order, Mr. Speaker.

The SPEAKER. The gentleman from Philadelphia, Mr. Richardson, will state his point of order.

Mr. RICHARDSON. Mr. Speaker, I would like to amend the gentleman's motion.

The SPEAKER. In response to the question raised by the gentleman, Mr. Richardson, the previous question, I read to the gentleman the opinion of the Chair: The previous question is undebatable, cannot be amended nor have any other subsidiary motion applied to it.

For what purpose does the lady from Susquehanna, Miss Sirianni, rise?

Miss SIRIANNI. Would you please tell me what the previous question is? Are you referring to the original SB 742 or to the amendments? The Bowser amendment is an amendment to SB 742. So now are you referring to SB 742 or to the Bowser amendment?

The SPEAKER. It is the understanding of the Chair—and the Chair asks the gentleman from Allegheny, Mr. Fleck, to correct the Chair if the Chair states this improperly—that the gentleman is moving the question as to the Bowser amendment. Is that correct or incorrect?

Mr. FLECK. That is correct. I wish to call the vote on the Bowser amendment.

Miss SIRIANNI. Thank you, Mr. Speaker.

The SPEAKER. At this time the motion requires 20 seconds. I would ask that the members be seated as I call their names. Seconds please rise, and be seated when I call your name.

Alden; Snyder; Fleck; Hagarty; Stairs; Sieminski; Burd; Rasco; Frazier; Marmion; Berson; Pistella; Showers; Harper; Brown; Stewart; Gamble; Deal; Williams; Wiggins; Rieger; Donatucci.

The Chair has 22 seconds at this time, a number sufficient to bring the question of the motion to the floor.

The question now pending before the floor is the motion of the gentleman from Allegheny, Mr. Fleck, which moves the previous question as to the Bowser amendment. The vote to be taken is on the previous question, not on the amendment. This is on the previous question.

So there is no misunderstanding, the effect of an affirmative vote at this time on this question would be to then move immediately into a vote without debate on the Bowser amendment, which would require the second vote if the first one passes.

On the question of the motion on the previous question, the Chair recognizes the minority whip.

Mr. MANDERINO. Mr. Speaker, then what we are doing now is voting either to cut off debate or not to cut off debate, and not on the merits of the Bowser amendment.

The SPEAKER. That is correct.

Mr. MANDERINO. Thank you.

On the question,

Will the House agree to the motion?

The following roll call was recorded:

**YEAS—120**

Alden	Fargo	Levi	Showers
Anderson	Fischer	Levin	Shupnik
Armstrong	Fleck	Lewis	Sieminski
Belfanti	Foster, W. W.	Livengood	Sirianni
Beloff	Frazier	Lucyk	Smith, B.
Berson	Fryer	McClatchy	Smith, E. H.
Bowser	Gamble	McMonagle	Smith, L. E.
Brown	Geist	Mackowski	Snyder
Burd	Gladeck	Madigan	Spencer
Burns	Grabowski	Manmiller	Stairs
Caltagirone	Greenfield	Marmion	Steighner
Cessar	Greenwood	Merry	Stewart
Cimini	Grieco	Micozzie	Stuban
Civera	Gruitza	Miller	Sweet
Clymer	Gruppo	Moehlmann	Swift
Cochran	Hagarty	Morris	Taddonio
Colafella	Hafuska	Mowery	Taylor, E. Z.
Cole	Harper	Olasz	Taylor, F. E.
Cornell	Hasay	Oliver	Telek
Coslett	Heiser	Pendleton	Trello
Cowell	Hoeffel	Peterson	Van Horne
DeVerter	Honaman	Petrone	Vroon
DeWeese	Horgos	Phillips	Wambach
Davies	Jackson	Pistella	Wiggins
Deal	Johnson	Pitts	Williams, J. D.
Dietz	Kennedy	Punt	Wozniak
Dininni	Kolter	Rasco	Wright, D. R.
Donatucci	Kowalshyn	Rieger	Wright, J. L.
Duffy	Lehr	Saurman	Wright, R. C.
Evans	Letterman	Seventy	Zwilk

**NAYS—72**

Arty	Foster, Jr., A.	McVerry	Ritter
Barber	Freind	Maiale	Rocks
Belardi	Gallagher	Manderino	Rybak
Bittle	Gallen	Michlovic	Salvatore
Blaum	Gannon	Miscevich	Seraffini
Borski	George	Mrkonc	Spitz
Boyes	Gray	Mullen	Stevens
Brandt	Hayes	Murphy	Swaim
Cappabianca	Hutchinson, A.	Noye	Tigue
Cawley	Itkin	O'Donnell	Wargo
Clark	Kanuck	Perzel	Wass
Cohen	Klingaman	Petrarca	Wenger
Cordisco	Kukovich	Piccola	Weston
Cunningham	Lashinger	Pott	Williams, H.
DeMedio	Laughlin	Pratt	Wogan
Dombrowski	Lescovitz	Rappaport	
Dorr	Lloyd	Reber	Ryan,
Durham	McCall	Richardson	Speaker
Fee	McIntyre		

**NOT VOTING—2**

Dawida	Emerson
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**EXCUSED—8**

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

On the question recurring,

Will the House agree to the amendments No. A5283 to amendments No. A4911?

The following roll call was recorded:

## YEAS—102

Anderson	Fryer	Lucyk	Ritter
Barber	Geist	McVerry	Saurman
Belfanti	Gladeck	Madigan	Showers
Berson	Greenfield	Manmiller	Sieminski
Bittle	Greenwood	Marmion	Smith, B.
Bowser	Gruitza	Merry	Smith, E. H.
Brown	Hagarty	Michlovic	Smith, L. E.
Burd	Haluska	Miller	Snyder
Clark	Harper	Moehlmann	Spencer
Cochran	Hasay	Mowery	Stairs
Cohen	Heiser	Murphy	Steighner
Cornell	Hoeffel	Noye	Stewart
Coslett	Honaman	O'Donnell	Stuban
Cowell	Hutchinson, A.	Oliver	Sweet
DeVerter	Irkin	Pendleton	Swift
DeWeese	Jackson	Petrarca	Taylor, F. E.
Davies	Johnson	Phillips	Van Horne
Deal	Kennedy	Piccola	Wambach
Dininni	Kukovich	Pistella	Wass
Emerson	Lashinger	Pott	Wiggins
Evans	Lehr	Punt	Williams, H.
Fargo	Letterman	Rappaport	Williams, J. D.
Fischer	Levin	Rasco	Wozniak
Fleck	Lewis	Reber	Wright, D. R.
Foster, W. W.	Livengood	Richardson	Zwilk
Frazier	Lloyd		

## NAYS—89

Alden	Dombrowski	Laughlin	Salvatore
Armstrong	Donatucci	Lescovitz	Serafini
Arty	Dorr	McCaill	Seventy
Belardi	Duffy	McClatchy	Shupnik
Blaum	Durham	McIntyre	Sirianni
Borski	Fee	McMonagle	Spitz
Boyes	Foster, Jr., A.	Mackowski	Stevens
Brandt	Freind	Maiiale	Swain
Burns	Gallagher	Manderino	Taddonio
Caltagirone	Gallen	Micozzie	Taylor, E. Z.
Cappabianca	Gamble	Miscevich	Telek
Cawley	Gannon	Morris	Tigue
Cessar	George	Mrkonie	Trello
Cimini	Grabowski	Mullen	Vroon
Civera	Gray	Olasz	Wargo
Clymer	Grieco	Perzel	Wenger
Colafella	Gruppo	Peterson	Weston
Cole	Hayes	Petrone	Wogan
Cordisco	Horgos	Pitts	Wright, R. C.
Cunningham	Kanuck	Pratt	
DeMedio	Klingaman	Rieger	Ryan,
Dawida	Kolter	Rocks	Speaker
Dietz	Kowalshyn	Rybak	

## NOT VOTING—3

Beloff	Levi	Wright, J. L.
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## EXCUSED—8

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

## STATE GOVERNMENT COMMITTEE MEETING

The SPEAKER. For what purpose does the gentleman from Berks, Mr. Gallen, rise?

Mr. GALLEN. Just for a very brief announcement, Mr. Speaker.

There will be a meeting of the State Government Committee tonight immediately upon the call of the recess or the adjournment.

The SPEAKER. There are still seven amendments to be considered.

CONSIDERATION OF SB 742 CONTINUED  
PARLIAMENTARY INQUIRY

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

Mr. RICHARDSON. Point of parliamentary inquiry.

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

Mr. RICHARDSON. I would like to know whether or not we can have some readout as to exactly how many amendments there are, and if there are seven amendments, whether or not they can be asked to be withdrawn so that we can move the bill that is in front of us.

The SPEAKER. There are seven amendments pending. It is not up to the Chair to ask any member to withdraw his amendments. If a member wishes to withdraw, they have the right to do so.

Mr. RICHARDSON. Well, if not, Mr. Speaker, I have a motion.

The SPEAKER. The gentleman will yield.

## FILMING PERMISSION GRANTED

The SPEAKER. The Chair advises the membership that permission has been granted to United Press International to take 10 minutes of photographs on the floor.

## CONSIDERATION OF SB 742 CONTINUED

The SPEAKER. The gentleman, Mr. Richardson, will yield until the Chair polls these members to see if they intend to withdraw amendments.

The gentleman, Mr. Murphy. Does he intend to offer amendments?

Mr. MURPHY. I have one quick amendment, Mr. Speaker.

The SPEAKER. Does the gentleman, Mr. Gladeck, have amendments to offer? The gentleman, Mr. Gladeck, withdraws his amendments.

Does the gentleman, Mr. Lashinger, have amendments to offer? The gentleman, Mr. Lashinger, withdraws his amendments.

Does the gentleman from Berks, Mr. Davies, have amendments to offer?

Mr. DAVIES. Mr. Speaker, I ask that we withdraw A5284 and A5307, but I reserve the right again to later take action on the three constitutional objections in final debate. Thank you.

The SPEAKER. The lady, Mrs. Hagarty. Does she have amendments to offer? You will withdraw your amendments?

The gentleman, Mr. Freind, has one set of amendments, A5322? Does the gentleman, Mr. Freind, have amendments? I

am simply polling the members to determine how many amendments are to be handled.

It would appear to the Chair that there are two sets of amendments to be considered.

For what purpose does the gentleman from Dauphin, Mr. Dininni, rise?

Mr. DININNI. If you only have two sets of amendments, I was going to call the previous question and cut off debate on all future amendments. But if there are only two, we will hear the two amendments.

The Speaker. The Chair thanks the gentleman.

### MOTION FOR PREVIOUS QUESTION

The SPEAKER. Does the gentleman, Mr. Richardson, have a motion at this time?

Mr. RICHARDSON. It is my understanding that there are how many amendments?

The SPEAKER. Two.

Mr. RICHARDSON. There are two amendments. Mr. Speaker, in light of the time, it seems to me that the debate has been quite extensive, and I would ask to move the previous question on the entire legislation that is in front of us.

The SPEAKER. The gentleman from Philadelphia County has moved the previous question to call amendment A4911 up for an immediate vote and following that an immediate vote on SB 742.

Members please take their seats immediately. Any member standing I will assume is seconding the motion of the gentleman, Mr. Richardson.

### PARLIAMENTARY INQUIRY

Mr. MURPHY. Mr. Speaker, point of parliamentary inquiry.

The SPEAKER. Will the gentleman from Allegheny state his point of parliamentary inquiry.

Mr. MURPHY. How are reconsideration motions handled under this previous motion?

The SPEAKER. If the motion for the previous question carries, the vote will be taken immediately on A4911 and, judging from the nature of the motion, on SB 742. There will be no reconsiderations.

The gentleman, Mr. Richardson, has moved the previous question. Twenty seconds are required: The gentleman, Mr. Barber; Mr. Deal; Mrs. Harper; Mr. Piccola; Mr. Wiggins; Mr. Oliver; Mr. Greenfield; Mr. Williams; Mr. Rieger; Mr. Evans; Mr. Fleck; Mr. Sieminski; Mr. Smith; Mr. Hoeffel; Mr. Pistella; Mr. Berson; Mr. DeWeese.

The Chair has counted 17 seconds. If there are no further seconds, the motion of the gentleman, Mr. Richardson, fails.

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. MURPHY offered the following amendment No. A5000 to amendments No. A4911:

Amend Amendment (Sec. 3213), page 13, by inserting between lines 52 and 53

(i) Confidential communications.—

(1) Information, written or spoken, transmitted between a woman and a counselor in the case of that relationship which discloses the existence of a pregnancy shall be deemed confidential and it shall be unlawful for any person to disclose a confidential communication, except when authorized by the woman affected.

(2) It shall be a misdemeanor of the third degree to violate a confidential communication and the party injured thereby shall be authorized to receive civil damages for injuries sustained thereby.

On the question,

Will the House agree to the amendment No. A5000 to amendments No. A4911?

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

Mr. MURPHY. Thank you, Mr. Speaker.

I will talk quickly. This amendment—and I hope it will be agreed to—simply deals with the confidentiality of a pregnancy test. When a young woman discovers that she is pregnant and the test is done in a clinic, hospital or wherever, it holds accountable those individuals who know that information and they are not permitted to divulge it to anybody without the woman's permission. That is simply all this does. There has been some incidence in the Commonwealth where a pregnancy test has been done and the individuals in the clinic or agency have called the parents of the woman to inform them that their daughter is pregnant.

I think that is a violation of confidentiality, causes great harm, and is unnecessary, and this protects those individuals. Thank you.

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

Mr. FREIND. Very quickly, Mr. Speaker, I oppose this amendment for several brief reasons. Number one, the anonymity of the woman in every section of this act is protected. Secondly, however, this amendment is drafted so broadly that the information needed for the reporting requirements, such as the size of the unborn child that was aborted, things of that nature, could be blocked and thwart the intent of the reporting requirements.

Amendment 4911 makes it clear that there is total anonymity for the woman. There are reporting requirements which this amendment would block. Also, a key section is a prohibition against performing an abortion before there has been a determination of pregnancy. Also, there is a prohibition against receiving any fee to perform an abortion before a determination of pregnancy.

This amendment, although definitely well-intentioned, would thwart enforcement of those two areas, the abortion kickbacks and the abortions which are performed on women who in fact are not pregnant. I would urge, despite the late hour and the mood of the legislature now, to reject this amendment.

**FILMING PERMISSION GRANTED**

The SPEAKER. The Chair gives notice it has granted permission to channel 6 television from Philadelphia to do 10 minutes of silent filming.

**CONSIDERATION OF SB 742 CONTINUED**

On the question recurring,

Will the House agree to the amendment No. A5000 to amendments No. A4911?

The following roll call was recorded:

**YEAS—82**

Anderson	Gamble	Madigan	Smith, L. E.
Barber	Geist	Merry	Snyder
Berson	Gladeck	Michlovic	Spencer
Boyes	Greenfield	Miller	Spitz
Brandt	Greenwood	Moehlmann	Stevens
Brown	Hagarty	Mowery	Stewart
Burns	Haluska	Murphy	Sweet
Cessar	Harper	Oliver	Swift
Cochran	Hasay	Pendleton	Taylor, F. E.
Cowell	Hayes	Pistella	Van Horne
DeWeese	Hoeffel	Pratt	Wambach
Davies	Itkin	Rappaport	Wiggins
Dawida	Jackson	Rasco	Williams, H.
Deal	Johnson	Reber	Williams, J. D.
Dininni	Kennedy	Richardson	Wozniak
Dorr	Klingaman	Ritter	Wright, D. R.
Emerson	Kukovich	Saurman	Wright, R. C.
Evans	Lashingier	Seventy	Zwilk
Fischer	Lehr	Showers	
Fleck	Lewis	Sieminski	Ryan,
Fryer	Livengood	Smith, B.	Speaker

**NAYS—109**

Alden	Dombrowski	Lescovitz	Pitts
Armstrong	Donatucci	Letterman	Pott
Arty	Duffy	Levi	Punt
Belardi	Durham	Lloyd	Rieger
Belfanti	Fargo	Lucyk	Rocks
Beloff	Fee	McCall	Rybak
Bittle	Foster, W. W.	McClatchy	Salvatore
Blaum	Foster, Jr., A.	McIntyre	Serafini
Borski	Frazier	McMonagle	Shupnik
Bowser	Freind	McVerry	Sirianni
Burd	Gallagher	Mackowski	Smith, E. H.
Caltragirone	Gallen	Maiale	Stairs
Cappabianca	Gannon	Manmiller	Steighner
Cawley	George	Marmion	Stuban
Cimini	Grabowski	Micozzie	Swaim
Civera	Gray	Miscevich	Taddonio
Clark	Grieco	Morris	Taylor, E. Z.
Clymer	Gruitza	Mrkonic	Telek
Cohen	Gruppo	Mullen	Tigue
Colafella	Heiser	Noye	Trello
Cole	Honaman	Olasz	Vroon
Cordisco	Horgos	Perzel	Wargo
Cornell	Hutchinson, A.	Peterson	Wass
Coslett	Kanuck	Petrarca	Wenger
Cunningham	Kolter	Petrone	Weston
DeMedio	Kowalshyn	Phillips	Wogan
DeVerter	Laughlin	Piccola	Wright, J. L.
Dietz			

**NOT VOTING—3**

Levin	Manderino	O'Donnell
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**EXCUSED—8**

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

**REMARKS ON VOTE**

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

Mr. LEVI. Thank you, Mr. Speaker.

Apparently my switch malfunctioned on the Bowser amendment A5283. I would like to be recorded in the negative, please.

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

**CONSIDERATION OF SB 742 CONTINUED**

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. FREIND offered the following amendments No. A5322 to amendments No. A4911:

Amend amendments, page 5, by inserting between lines 54 and 55

(c) Penalty.—Any physician who violates the provisions of this section commits a misdemeanor of the third degree.

Amend amendments, page 8, line 58, by inserting after "basis."

Any physician who violates the provisions of this section commits a misdemeanor of the third degree.

On the question,

Will the House agree to the amendments No. A5322 to amendments No. A4911?

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

Mr. FREIND. Thank you, Mr. Speaker.

We previously offered an amendment to fill in the three areas where we had prohibitions and no penalties. Only one section of that amendment was passed; the other two were defeated under the rationale that the penalties were too stiff.

What this amendment does, number one, is for a prohibition against the informed-consent section, which we have continually passed here and approved, a violation by the physician would be a third-degree misdemeanor. Also, the prohibition against an abortion being performed after the first trimester anyplace but in a hospital on an inpatient basis, a physician who violates this would be guilty of a third-degree misdemeanor.

I think we have resolved the problem that some people had that a first-degree misdemeanor was too stiff. I would ask for support of this amendment.

The SPEAKER. That Chair recognizes the gentleman from Allegheny, Mr. Fleck.

Mr. FLECK. Thank you, Mr. Speaker.

An inquiry: Could we be told what the penalties are prescribed, maximums, to a third-degree misdemeanor?

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

Mr. FREIND. Yes, you can in one second, Mr. Speaker.

For a misdemeanor of the third degree, the maximum imprisonment, the maximum, is 1 year in prison. That is the max.

Mr. FLECK. And a fine prescribed?

Mr. FREIND. A maximum fine of \$2,500.

### POINT OF ORDER

Mr. LLOYD. Point of order, Mr. Speaker.

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

Mr. LLOYD. Mr. Speaker, would I be correct that it is not appropriate to be considering amendments which have not been distributed on the floor of the House?

The SPEAKER. The gentleman would be correct. It is the understanding of the Chair that this amendment has been distributed.

Mr. LLOYD. At least in part of the House it does not seem to have been, sir. Thank you.

The SPEAKER. Would one of the pages take a copy of the amendment back to the gentleman, Mr. Lloyd.

The Chair recognizes the gentleman, Mr. Fleck.

Mr. FLECK. Thank you.

It is taking a little bit longer than we thought, but here is what we are doing. You have a physician who is faced with a medical emergency; the life of the woman is at risk. He is faced with that medical emergency, and he is first charged with making a clinical judgment that it does in fact involve the risk of the woman's life; judgment number one. Secondly, the physician is then charged in the middle of this emergency with judging whether or not it is possible for him to take the time to inform the woman as to the prescriptions in this bill. And thirdly, in the case where we litigate whether or not he has done his job, we are trying to decide whether he has done it completely. The bill is very specific, you must do A and B and C and D.

Now, you have got a doctor and he is faced with a medical emergency; the life of a human being is at stake. You are asking him to judge in that instant whether or not he has got the time to give that information to the woman, and then you are going to judge judicially whether or not he has done it adequately to live up to the bill. I do not see how you can prescribe a penalty in this instance. You are in a very sensitive area. It is very gray. You should leave a doctor faced with a medical emergency free of this kind of a pain of penalty. It is totally inappropriate, if we are talking about life, to take a case where you have got a medical emergency where the life of the mother is at stake and to question all of his judgments up and down the line and put him under the penalty of possibly a \$2,500 fine and 1 year imprisonment. It does not make sense. You have got to trust at some point. You cannot legislate

black and white everything that is going to happen in a hospital all over this Commonwealth now and forever. Sooner or later, you have got to trust.

Now, what I am saying is—and I hope somebody is listening, because it is important—we ought to vote this down.

More than me to be heard here, you have got a serious issue. We are operating as a committee of the whole. This bill leaves the House and no one has amendatory power over it henceforth, unless the Senate does not knuckle under to the tremendous pressure we have all been under by both sides to vote this bill and puts it back in a conference committee. Now, unless you want to take that risk, we all better be very responsible. You have got a doctor; he is in the hospital, probably in the emergency room; he is faced with a medical emergency, and you are going to put him under the pain of a misdemeanor, even of the third degree, 1 year in prison. Do you or I want to spend it? Why would you do that? You have got to trust at some point. You cannot legislate black and white every single issue.

Now, do not put a penalty over this situation. We have got tough penalties; we have got felonies involved in this bill, and I have supported them. But this is an issue where we should not have a penalty. The doctor has the consideration of the life that is in front of him. Let him make his judgment without having this heavy legal burden hanging over his head. Please vote "no." Thank you.

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

Mr. FREIND. Mr. Speaker, I do not want to prolong this, but I think we all agree or many of us agree that an important section in this bill is informed consent - to permit a woman beforehand to know the nature of the abortion procedure, to know the risk, to know the services that are available to her, and to have a 24-hour cooling-off period. That is one of the key sections of the bill.

Now, pursuant to the Dawida amendment, the members of the House determined that there would be no civil procedure to have injunctive relief or to sue for a violation of a section of this act. So any section that you have that does not carry a criminal penalty has no penalty whatsoever. There is nothing whatsoever to stop what is happening right now, and that is individuals having abortions performed on them where there is no informed consent whatsoever; none. Because even though we spell out our intent in this legislation, and we say there has to be the waiting period, and we say there has to be informed consent, if you have no penalty whatsoever, nothing happens if a doctor violates it, Mr. Speaker.

Mr. Frazier made it very clear that there had to be mens rea, a guilty mind. We have the exception there for a medical emergency, and in this case as in every other case a doctor has to make a determination before performing an operation whether or not there is such an emergency that he cannot receive the consent from that patient before he operates. He has that now on an accident case, on a heart case, on anything else. He still has that responsibility, and in fact he can be criminally liable for assault and civilly liable for damages if he does not do that. That is nothing new, Mr. Speaker.

We have a minimum penalty in here—it is a third-degree misdemeanor—but if we do not put some penalty in on an important section, informed consent, the right of a woman to know, and a small 24-hour waiting period, then we will have what we have right now and that is no consent whatsoever and no information whatsoever.

I sincerely hope, despite the late hour and the feelings of the members who would like to get out of here, that we will support this amendment. Thank you, Mr. Speaker.

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

Mr. PRATT. I would like to ask a question or two of Representative Freind.

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

Mr. PRATT. Mr. Speaker, on page 10 of amendment A4911, which this present amendment amends, it speaks on lines 41 through 51. Is that currently in the present status of this amendment, or have we amended that out, because there have been so many amendments, I have lost track.

Mr. FREIND. Mr. Speaker, page 10, subsection (e), you are referring to?

Mr. PRATT. Yes.

Mr. FREIND. Unprofessional conduct?

Mr. PRATT. Yes.

Mr. FREIND. We have not amended that out, Mr. Speaker, but that only relates to section 3211.

Mr. PRATT. Okay. Now my next question is, section 3211 deals with the professional standards of viability reporting. Correct?

Mr. FREIND. That is correct.

Mr. PRATT. Now, if any physician violates that section on reporting relating to viability, the penalty is a misdemeanor of the first degree, which is punishable by up to 5 years imprisonment. Now, what you are saying by this recent amendment here, A5322, is that if the physician violates what you consider to be very, very important provisions of the amendment, that physician is only punishable by a misdemeanor of the third degree, which carries a punishment of up to 1 year. Can you reconcile the difference?

Mr. FREIND. Sure, Mr. Speaker. If you remember, when I introduced the original amendment that was defeated, we wanted to make it a misdemeanor of the first degree. The legislature rejected that on the basis that it was too strict. I think it still should be a misdemeanor of the first degree, but the legislature spoke, so we made it a misdemeanor of the third degree. The important thing is for informed consent that there be a penalty if it is violated.

Mr. PRATT. May I make a statement, Mr. Speaker? I am through with my interrogation.

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

Mr. PRATT. I think before we vote on this amendment, whether you are for or against it, you should bear in mind that if this were to become inserted by an affirmative vote into this bill or amendment, if you will, we will have an inconsistency, and I may be speaking against the amendment, and I do not

mean to, but it will conflict with this particular section 3211, because you have a graver offense for not reporting in the present provision and you will have a lesser offense for what Representative Freind considers to be more important provisions, the violations of which would carry a lesser penalty. There is some inconsistency there, and I do not know how to resolve the problem, but I did not mean to speak against Representative Freind's amendment but it does pose a problem. Thank you.

### PARLIAMENTARY INQUIRY

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

Mr. MORRIS. Thank you, Mr. Speaker.

First a question of the Chair. I am looking at A5322. Has this amendment been divided?

The SPEAKER. The answer to the gentleman's question is "yes," the amendment submitted by the gentleman, Mr. Freind, can be divided.

Mr. MORRIS. That was not my question, Mr. Speaker. Has it been divided?

The SPEAKER. I am sorry; I am unable to hear you. Will the gentleman state his question.

Mr. MORRIS. Has the amendment been divided?

The SPEAKER. No, it has not, but it could be.

Mr. MORRIS. Thank you, Mr. Speaker.

I would like to ask Mr. Freind a question.

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

Mr. MORRIS. Mr. Speaker, looking through the second part of this amendment, page 8, line 58, inserting after "basis," and then you have the penalty. We are dealing here, when you go to the main amendment, with section 3209, that abortion after the first trimester must take place in a hospital. That is correct, is it not?

Mr. FREIND. That is right, Mr. Speaker.

Mr. MORRIS. What happens if you have a medical emergency outside the hospital?

Mr. FREIND. Mr. Speaker, a medical emergency, there would be an exception.

Mr. MORRIS. Well, could you point that out to me where the exception is? I sort of lost track of the things in this amendment, I am afraid, in A4911. Where does it make an exception for a medical emergency in regard to section 3209?

Mr. FREIND. Mr. Speaker, the informed-consent section has the medical emergency. In fact, section 3209 does not for several reasons. I thought it did, but it does not, but there are several reasons it does not. Number one, in a medical emergency there is no opportunity to determine to take the test as to whether or not it is the first or second trimester anyway.

Secondly, we track the exact language that the Supreme Court has ruled constitutional, has already ruled constitutional about 6 months ago in another State, and that is the reason that this language was put in.

Mr. MORRIS. Mr. Speaker, can you assure me about a physician in the following situation: An automobile accident,

and he has got to do something right away about the woman who has been injured in the accident. Can you assure me that under section 3209 he will not be subject to the penalties?

Mr. FREIND. Absolutely, Mr. Speaker. You see, what you have to remember here, which I thought was clear in the amendment but Mr. Frazier even strengthened, although I do not think it was necessary, what we are talking about is a crime, and a crime requires intent, a mens rea, a guilty mind. You asked me for that assurance. In my opinion, absolutely, Mr. Speaker, I can give you that assurance.

Mr. MORRIS. Thank you. That is a question of the intent of the legislation, and I am satisfied. That is the end of my questioning.

On the question recurring,

Will the House agree to the amendments No. A5322 to amendments No. A4911?

The following roll call was recorded:

YEAS—89

Alden	Dombrowski	Laughlin	Pitts
Armstrong	Donatucci	Lescovitz	Pratt
Arty	Duffy	Letterman	Rocks
Belardi	Durham	Lloyd	Rybak
Bittle	Fee	Lucyk	Salvatore
Blaum	Foster, Jr., A.	McClatchy	Serafini
Borski	Freind	Mackowski	Seventy
Burns	Gallagher	Maiale	Shupnik
Caltagirone	Gallen	Manderino	Sieminski
Cappabianca	Gamble	Marmion	Steighner
Cawley	Gannon	Micozzie	Taddonio
Cimini	George	Miscevich	Taylor, E. Z.
Civera	Grabowski	Morris	Telek
Clark	Grieco	Mrkoncic	Tigue
Clymer	Gruppo	Mullen	Trello
Colafella	Haluska	Murphy	Vroon
Cordisco	Hasay	Noye	Wargo
Coslett	Horgos	Olasz	Wass
Cunningham	Hutchinson, A.	Perzel	Wenger
DeMedio	Kanuck	Petrarca	Weston
Dawida	Kennedy	Petrone	Wogan
Deal	Kowalshyn	Phillips	Wright, J. L.
Dietz			

NAYS—99

Anderson	Geist	Madigan	Smith, E. H.
Barber	Gladeck	Manmiller	Smith, L. E.
Belfanti	Gray	Merry	Snyder
Berson	Greenfield	Michlovic	Spencer
Bowser	Greenwood	Miller	Spitz
Boyes	Gruitza	Moehlmann	Stairs
Brown	Hagarty	Mowery	Stevens
Burd	Harper	O'Donnell	Stewart
Cessar	Hayes	Oliver	Suban
Cochran	Heiser	Pendleton	Swaim
Cole	Hoeffel	Peterson	Sweet
Cornell	Itkin	Piccola	Swift
Cowell	Jackson	Pistella	Taylor, F. E.
DeVertter	Johnson	Pott	Van Horne
DeWeese	Klingaman	Punt	Wambach
Davies	Kolter	Rappaport	Williams, H.
Dininni	Kukovich	Rasco	Williams, J. D.
Dorr	Lashinger	Reber	Wozniak
Emerson	Lehr	Richardson	Wright, D. R.
Evans	Levi	Rieger	Wright, R. C.
Fargo	Lewis	Ritter	Zwikl
Fischer	Livengood	Saurman	
Fleck	McCall	Showers	
Foster, W. W.	McMonagle	Sirianni	Ryan,
Frazier	McVerry	Smith, B.	Speaker
Fryer			

NOT VOTING—6

Beloff	Cohen	Levin	McIntyre
Brandt	Honaman		

EXCUSED—8

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

AMENDMENT A4943 RECONSIDERED

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Murphy, who moves that the vote by which amendment A4943 to amendment A4911 to SB 742 was defeated on December 9, 1981, be reconsidered. This is seconded by the gentleman from Bucks, Mr. Greenwood.

On the question,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—177

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

Durham	Letterman	Rocks	
		NAYS—14	
Caltagirone	Jackson	Moehlmann	Snyder
DeVerter	Kanuck	Mowery	Spencer
Dietz	Kukovich	Smith, L. E.	Swift
Gruitza	Levin		
		NOT VOTING—3	
McIntyre	Mackowski	Madigan	
		EXCUSED—8	
Daikeler	Irvis	Pievsy	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

On the question recurring,

Will the House agree to the amendments No. A4943 to amendments No. A4911?

The clerk read the following amendments No. A4943 to amendments No. A4911:

Amend amendments, page 6, line 4, by inserting after "of" where it appears the second time  
one of

Amend amendments, page 6, lines 17 through 20, by striking out "If one of the" in line 17, all of lines 18 and 19 and "consent of the remaining parent shall be sufficient." in line 20

On the question recurring,

Will the House agree to the amendments No. A4943 to amendments No. A4911?

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

Mr. MURPHY. Thank you, Mr. Speaker.

This amendment was previously divided after the word "guardian," so that the amendment deals solely with the question on parental consent, of requiring the permission of only one parent. Let me very briefly reiterate what I feel are the problems of a young woman having to go and request the permission of two parents. Ideally, both parents would give permission, but I think we all realize in this day and age with the high divorce rate that many young children and young women do not know one parent very well. I know of an example in my neighborhood where there is a 16-year-old young woman who decided to have an abortion. She has lived with her mother for most of her life. Her father only lives a couple streets away, but she has not really seen him for the past 10 years. To suggest that she should go get permission from the father, I think, is unreasonable.

I believe strongly and firmly in the necessity of parental consent. I think we do a great service to the young woman by requiring her only to get permission from one parent. I think emotionally it makes it a lot easier for her. It provides, I believe, for a greater sense of family stability and decisionmaking rather than forcing the issue upon two parents, one of whom might be very abusive, might not be around, though available might not be well known to the family. I urge your support of this amendment. Thank you.

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

Mr. FREIND. I know it is late, Mr. Speaker.

I would urge rejecting this amendment, because what we are talking about now is whether or not we are going to take rights away from parents. I firmly believe that parents have a right to make a determination as to whether or not their minor child is to have an abortion.

Keep in mind there is a provision in here where if the one parent is not available within a reasonable period of time, then the one parent can give the consent. Also keep in mind that for a recalcitrant parent or an unreasonable parent, we also have the protection in there of a situation where the court can approve and permit the minor to have an abortion even if both parents do not provide that consent.

The issue here is whether or not we are going to take away one of the primary rights of a parent, the right to determine when a child is a minor, what is going to happen to her body. I think it is important, Mr. Speaker, that we keep the rights there with the parents. I urge rejection of this amendment.

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

Mr. GREENWOOD. Thank you, Mr. Speaker.

Mr. Speaker, I rise to support the Murphy amendment. Over the last 2 days we have talked about a lot of facts of life here, and one of the facts of life that we have not spoken much about is child abuse. My concern and my reason for supporting the Murphy amendment is my concern for the safety of young girls in families where there is an abusive parent. A young girl who has a parent with whom she can share this obviously painful decision and from whom she can receive the love and the wisdom of that parent is indeed fortunate, but sometimes there is another parent in that home who would react to this information with an explosion of rage and violence and who would in that anger injure his or her daughter.

It is my view, Mr. Speaker, that consent of one parent is enough. That parent can consult with the daughter, with the family physician, with the family clergyman. That parent can provide all the necessary medical information about that daughter to the attending physician. If that parent in his judgment thinks that mother should tell father or father should tell mother, I think that is a decision that rightly belongs in the family.

I submit, Mr. Speaker, that a vote for the Murphy amendment is a profamily vote, and it is a vote to protect human life. As the prime sponsors of this legislation are fond of saying, if this amendment saves one human life, it is all worthwhile, and I submit that this amendment may just do that. I urge support for the Murphy amendment. Thank you.

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

Mr. KUKOVICH. Thank you, Mr. Speaker.

I felt constrained not to speak on this, but I feel I have to.

The whole idea of parental consent on the surface sounds very nice, as if it is something we should do, but I have looked at the statistics on this matter. Well over one-half of all teenage woman who receive abortions do inform their parents, mostly voluntarily. The younger the child, the more

likely they are to inform their parents. Studies have shown that for those 15 years and under, they inform their parents at the rate of at least 66 percent.

Now, Mr. Speaker, if we could offer an amendment that would say that we have to inform the good parent, that would be great, but we cannot do that. The problem is that we have had too many young women who are pregnant, who have abusive parents, who have alcoholic parents, and if they are told that they have to notify them, the options are basically for self-inducement, illegal abortions, runaways, or a suicide rate. The suicide rate in the United States of America for pregnant teenage women is 10 times as high as that of other teenagers in this country.

Now, I am making the argument that if we do not put an amendment like this in, we are not only going to not save lives; the bill as it stands without this amendment will probably take more lives. I would ask you to vote for common sense in favor of the Murphy amendment.

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

Mrs. HAGARTY. Thank you, Mr. Speaker.

Mr. Speaker, the reason put forth by the proponent of this legislation, Mr. Freind, for needing two parents to make this decision was because of the rights of the parents. He said this is a parental right to consent to veto the young woman's decision. I do not believe that the purpose of involving parents in this decision is because of their parental rights. I believe that the purpose for involving parents in decisions of minor children of this nature is to do what is best for that minor child. We want consent so that the parent and child can be involved, so that the family can be together, and so if that minor girl is going through something that the parents ought to know about and maybe ought to be involved so that they can prevent a reoccurrence, a parent ought to know. I do not think any of that has anything to do with the rights of the parents per se. That is not the reason for the legislation.

The reason it seems to me it is important to allow one parent to consent is because in many instances a young girl may not feel comfortable talking to one of two parents, perhaps the father. Perhaps she does not have that kind of relationship with her father, or perhaps she is fearful of the repercussions.

Mr. Speaker, I believe that if one parent knows and feels the other parent should be involved to make the best decision for the child, that parent will do it. On the other hand, if both parents cannot agree, the result of this is going to be a court fight over whether or not that young girl can have an abortion. I cannot think of anything more destructive to a family situation and to a young girl than being involved in court with her parents disagreeing. It seems to me to allow one parent promotes everything that we want. It promotes parental involvement, it promotes families, and it makes sure that the parent who has the responsibility, and if that parent chooses to tell the other parent, those parents, can make the decision for that girl as this legislature wants. Thank you.

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

Mrs. WESTON. Thank you, Mr. Speaker.

I am concerned that if this amendment passes, we are defeating the very purpose of the original intent of the bill. Who will determine, if this legislation passes, which one of the parents is going to act in the best interest of the woman, of the young girl? How will we determine which one of the parents will do just that? I suggest we leave it like it is in the hope that in this kind of situation both parents will be able to make a determination in the best interest of the children. If we pass this amendment, I think what we are allowing to happen is the possibility will exist that one parent can make a decision that is not necessarily in the best interest of the young woman. Therefore, I suggest we defeat this amendment and keep it in its present form and ask that both parents be part of that decisionmaking process.

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

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

I urge a negative vote on the amendment. I cannot think of anything more basic than the right of parents to make decisions in this. We certainly cannot give the opportunity for the decision to be made by the parent that has either the least interest or is the least responsible. By all means, we should leave it with both parents.

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

Mrs. HARPER. Thank you, Mr. Speaker.

I rise to support this amendment. It is a very good amendment. We have so many broken homes today with the young women being with one parent. I think it is sufficient to have the approval of one parent, and I am quite certain that that girl can make the decision of which parent she would like to go to for help. Thank you.

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

Miss SIRIANNI. Mr. Speaker, I am hearing a lot of rhetoric about keeping the family together. You do not keep the family together by keeping secrets from the family. You keep the family together by being up front, and the only way you can be up front is if everybody involved knows about it, not just one parent.

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

Mr. FLECK. Thank you, Mr. Speaker.

Stick with it for another minute. It has been a long night, but it is an important bill. We have an amendment that is worth passing.

You are looking at a situation already—if you are a mother or father, you know this—if you have a problem in your family and the child brings it to one of you, you consult with the other parent. That is the Timmy-and-Lassie approach, where the family is really working well. But we are not passing a bill only for Timmy and Lassie; we are passing a bill that has to work and function without further amendment for everybody in the Commonwealth now and forever until we get back here and we reamend it. Please, if you will stick with me. It is important.

The purpose of having a child required to consult with the parent is to hope that the child gets some necessary advice in a moment she most needs it. I agree with that. But to make the double hurdle brings another purpose into event: It is not to protect the right of the additional parent. If the family functions, he has that right anyway. The point of this double hurdle is to make it that much more difficult. You have already got a tough situation. You have two out of three who say this is what we want to do. I do not agree with their decision if they decide to have an abortion, but the Constitution says they have a right to make it. What I am saying is, recognize the purpose of the parents' involvement and vote to give the child the right. Recognize that there are alcoholic parents; there are drug-addicted parents; there are abusive parents; there are all kinds of parents. This bill has to work for everybody. Give it this right. Thank you.

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

Mr. FRAZIER. Mr. Speaker, very briefly on this amendment, the logic and the law that have been offered against the position of the amendment are specious. The logic is specious, because the amendment does not seek to keep secrets. Unfortunately, an amendment has not been offered which provides notice to both and the consent of one. But the consent of both is not necessary. The Commonwealth of Pennsylvania has evolved a legal standard whereby we have removed the inequality of language of the spouses from the law. We no longer use "husband" and "wife" in the law; we say "spouse." Throughout the law of the Commonwealth, we should attempt to be consistent at any point and avoid inconsistencies which result in a needless burden of litigation to the Supreme Court.

The consent of one parent is more than sufficient. It will not take it outside the family. There are good and compelling reasons for the adoption of this amendment. I would urge the membership to consider that notice to both parents certainly will not be abrogated by an amendment providing for the consent of one. I urge adoption of the amendment. Thank you, Mr. Speaker.

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

Mr. FREIND. Mr. Speaker, very, very briefly, the issue of child abuse was brought up. There is no requirement that the female go to both parents or even to one parent. She in fact can go straight to the court, or she can go to one parent, and if the parent feels that the other parent will not be reasonable, she can in fact go to court. But stop and think what this can do to a family. How would any of you feel if you found out that one of yours had an abortion and in fact your spouse knew about it and never told you? What can that in fact do to a family, Mr. Speaker? As Miss Sirianni pointed out, we are supposed to try to keep families together. I can think of nothing more divisive than to permit only one parent to provide permission and to hold a secret from the other parent, keeping in mind that we already have a provision in that where one parent is not available, then only one parent can provide consent. This will split the family, Mr. Speaker. It

will split husband and wife. I sincerely hope that we reject this amendment.

On the question recurring,

Will the House agree to the amendments No. A4943 to amendments No. A4911?

The following roll call was recorded:

#### YEAS—109

Anderson	Frazier	Lucyk	Serafini
Barber	Fryer	McCall	Seventy
Berson	Gamble	McVerry	Showers
Bittle	Geist	Mackowski	Smith, B.
Bowser	Gladeck	Madigan	Snyder
Brown	Greenfield	Merry	Spencer
Burd	Greenwood	Michlovic	Spitz
Burns	Gruitza	Miller	Stairs
Cessar	Hagarty	Miscevich	Steighner
Clark	Harper	Moehlmann	Stewart
Cohen	Hayes	Morris	Stuban
Cordisco	Heiser	Mowery	Swaim
Cornell	Hoefel	Murphy	Sweet
Coslett	Horgos	Noye	Swift
Cowell	Hutchinson, A.	O'Donnell	Taddonio
DeVerter	Itkin	Oliver	Van Horne
DeWeese	Jackson	Pendleton	Wambach
Davies	Kennedy	Petrone	Wenger
Dawida	Kolter	Piccola	Wiggins
Deal	Kukovich	Pistella	Williams, H.
Dietz	Lashingier	Pott	Williams, J. D.
Dorr	Laughlin	Punt	Wright, D. R.
Duffy	Lehr	Rappaport	Wright, R. C.
Emerson	Levi	Rasco	Zwinkl
Evans	Levin	Reber	
Fargo	Lewis	Richardson	Ryan,
Fleck	Livengood	Ritter	Speaker
Foster, W. W.	Lloyd	Saurman	

#### NAYS—83

Alden	Dininni	Kowalshyn	Rybak
Armstrong	Dombrowski	Lescovitz	Salvatore
Arty	Donatucci	McClatchy	Shupnik
Belardi	Durham	McIntyre	Sieminski
Belfanti	Fee	McMonagle	Sirianni
Beloff	Fischer	Maiale	Smith, E. H.
Biaum	Foster, Jr., A.	Manderino	Smith, L. E.
Borski	Freind	Manmiller	Stevens
Boyes	Gallagher	Marmion	Taylor, E. Z.
Brandt	Gallen	Micozzie	Taylor, F. E.
Caltagirone	Gannon	Mrkonic	Telek
Cappabianca	George	Mullen	Tigue
Cawley	Grabowski	Olasz	Trello
Cimini	Gray	Perzel	Vroon
Civera	Grieco	Peterson	Wargo
Clymer	Gruppo	Petrarca	Wass
Cochran	Haluska	Phillips	Weston
Colafella	Hasay	Pitts	Wogan
Cole	Johnson	Pratt	Wozniak
Cunningham	Kanuck	Rieger	Wright, J. L.
DeMedio	Klingaman	Rocks	

#### NOT VOTING—2

Honaman Letterman

#### EXCUSED—8

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

**MOTION FOR PREVIOUS QUESTION**

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

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

Mr. GLADECK. I would like to move the previous question, please.

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

Mr. GLADECK. I would like to move the previous question.

The SPEAKER. That is not a point of order.

Mr. GLADECK. I would like to make a motion, Mr. Speaker.

The SPEAKER. There is one reconsideration motion left to be taken up by the House at this time.

The Chair recognizes the gentleman, Mr. Gladeck. For what purpose does the gentleman rise?

Mr. GLADECK. I would like to make a motion to move the previous question, Mr. Speaker.

The SPEAKER. The gentleman is in order.

Will the gentleman, Mr. Gladeck, advise the Chair as to the extent of the motion?

Mr. GLADECK. I would like to cut off debate for everything except SB 742 and the amendment 4911.

The SPEAKER. Twenty seconds are required in connection with the motion.

The gentleman, Mr. Gladeck, in advising the Chair, said he wanted to cut off debate on everything except amendment 4911 and SB 742 in its entirety. Is the gentleman saying then that debate would take place on them?

Mr. GLADECK. No. I am looking for a final vote on it without any debate, the amendment and the bill.

The SPEAKER. The Chair understands the gentleman's motion at this time.

Twenty seconds are required in connection with the motion of the gentleman, Mr. Gladeck.

The gentleman, Mr. Spencer; the gentleman, Mr. Smith; the gentleman, Mr. Piccola; the lady, Mrs. Lewis; the gentleman, Mr. Saurman; the lady, Mrs. Hagarty; the gentleman, Mr. Cornell; the gentleman, Mr. Bowser; the gentleman, Mr. Moehlmann; the gentleman, Mr. Jackson; the gentleman, Mr. Swift; the gentleman, Mr. Frazier; the lady, Mrs. Heiser; the gentleman, Mr. Fleck; the gentleman, Mr. Rasco; the gentleman, Mr. Stuban; the gentleman, Mr. Showers; the gentleman, Mr. Ritter; the gentleman, Mr. Deal; the gentleman, Mr. Barber; the gentleman, Mr. Wiggins; the gentleman, Mr. Williams; the gentleman, Mr. Oliver; the gentleman, Mr. Pistella. The Chair notes that there are seconds in excess of twenty.

The question before the House at this time is the motion of the gentleman, Mr. Gladeck, moving the previous question.

**PARLIAMENTARY INQUIRY**

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

Mr. DAVIES. A point of parliamentary inquiry from the Chair, Mr. Speaker.

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

Mr. DAVIES. Mr. Speaker, if this passes, then I would not be privileged to institute my other constitutional objections against the bill in its final form.

The SPEAKER. It is the opinion of the Chair that if this question carries, all further actions on the floor will be cut off other than the vote on amendment A4911 and SB 742.

Mr. DAVIES. Thank you, Mr. Speaker.

**PARLIAMENTARY INQUIRY**

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

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

The SPEAKER. The gentleman, Mr. Frazier, will state his point of parliamentary inquiry.

Mr. FRAZIER. Mr. Speaker, is it my understanding that an affirmative vote on this motion of the previous question will result in the inability to call up a motion for reconsideration of any prior amendment which has been attached to the bill?

The SPEAKER. That is correct.

Mr. FRAZIER. Thank you, Mr. Speaker.

On the question,

Will the House agree to the motion?

The following roll call was recorded:

**YEAS—64**

Anderson	Fleck	Livengood	Sieminski
Barber	Fryer	McVerry	Smith, L. E.
Berson	Gladeck	Madigan	Spencer
Bowser	Greenfield	Marmion	Stairs
Brown	Greenwood	Merry	Stewart
Burns	Gruitza	Miller	Stuban
Cochran	Hagarty	Moehlmann	Sweet
Cornell	Harper	Morris	Swift
Cowell	Heiser	Murphy	Taylor, F. E.
DeWeese	Hoeffel	Oliver	Wambach
Deal	Honaman	Pistella	Wiggins
Dininni	Jackson	Rasco	Williams, H.
Emerson	Kennedy	Reber	Williams, J. D.
Evans	Kukovich	Ritter	Wozniak
Fargo	Levin	Saurman	Wright, D. R.
Fischer	Lewis	Showers	Zwikl

**NAYS—126**

Alden	Dorr	Lescovitz	Rieger
Armstrong	Duffy	Letterman	Rocks
Arty	Durham	Levi	Rybak
Belardi	Fee	Lloyd	Salvatore
Belfanti	Foster, W. W.	Lucyk	Serafini
Bittle	Foster, Jr., A.	McCall	Seventy
Blaum	Frazier	McClatchy	Shupnik
Borski	Freind	McIntyre	Sirianni
Boyes	Gallagher	McMonagle	Smith, B.
Brandt	Gallen	Mackowski	Smith, E. H.

Burd	Gamble	Maiale	Snyder
Caltagirone	Gannon	Manderino	Spitz
Cappabianca	Geist	Manmiller	Steighner
Cawley	George	Michlovic	Stevens
Cessar	Grabowski	Micozzie	Swaim
Cimini	Gray	Miscevich	Taddonio
Civera	Grieco	Mowery	Taylor, E. Z.
Clark	Gruppo	Mrkonic	Telek
Clymer	Haluska	Mullen	Tigue
Cohen	Hasay	Noye	Trello
Colafella	Hayes	Olasz	Van Horne
Cole	Horgos	Perzel	Vroon
Cordisco	Hutchinson, A.	Peterson	Wargo
Coslett	Itkin	Petrarca	Wass
Cunningham	Johnson	Petrone	Wenger
DeMedio	Kanuck	Phillips	Weston
DeVerter	Klingaman	Piccola	Wogan
Davies	Kolter	Pitts	Wright, J. L.
Dawida	Kowalyszyn	Pott	Wright, R. C.
Dietz	Lashingier	Pratt	
Dombrowski	Laughlin	Punt	Ryan,
Donatucci	Lehr	Rappaport	Speaker

NOT VOTING—4

Beloff	O'Donnell	Pendleton	Richardson
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EXCUSED—8

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

On the question recurring,

Will the House agree to the amendments No. 4911 as amended?

**AMENDMENT A5283 RECONSIDERED**

The SPEAKER. The Cair recognizes the gentleman from Centre, Mr. Cunningham, who moves that the vote by which amendment A5283 to amendment A4911 passed on the 9th day of December be reconsidered, the motion being seconded by the gentleman from Delaware, Mr. Freind.

On the question,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—163

Alden	Evans	Lewis	Salvatore
Armstrong	Fargo	Livengood	Saurman
Arty	Fee	Lloyd	Serafini
Belardi	Fleck	Lucy	Seventy
Belfanti	Foster, W. W.	McCall	Showers
Berson	Frazier	McClatchy	Shupnik
Bittle	Freind	McIntyre	Sieminski
Blaum	Fryer	McMonagle	Sirianni
Borski	Gallagher	McVerry	Smith, B.
Bowser	Gallen	Mackowski	Smith, E. H.
Boyes	Gamble	Maiale	Spitz
Brandt	Gannon	Manderino	Stairs
Burd	Geist	Manmiller	Steighner
Burns	George	Michlovic	Stevens
Caltagirone	Gladeck	Micozzie	Stewart
Cappabianca	Grabowski	Miller	Stuban
Cawley	Gray	Miscevich	Swaim
Cessar	Grieco	Morris	Sweet
Cimini	Gruppo	Mowery	Taddonio
Civera	Hagarty	Mrkonic	Taylor, E. Z.
Clark	Haluska	Mullen	Taylor, F. E.
Clymer	Hasay	Murphy	Telek
Cochran	Hayes	Noye	Tigue

Cohen	Heiser	O'Donnell	Trello
Colafella	Hoeffel	Olasz	Vroon
Cole	Honaman	Pendleton	Wambach
Cordisco	Horgos	Perzel	Wargo
Cornell	Hutchinson, A.	Peterson	Wass
Coslett	Johnson	Petrarca	Wenger
Cowell	Kanuck	Petrone	Weston
Cunningham	Kennedy	Phillips	Wiggins
DeMedio	Klingaman	Pitts	Williams, J. D.
Davies	Kolter	Pott	Wogan
Dawida	Kowalyszyn	Pratt	Wozniak
Dietz	Lashingier	Punt	Wright, D. R.
Dininni	Laughlin	Rappaport	Wright, J. L.
Dombrowski	Lehr	Rasco	Wright, R. C.
Donatucci	Lescovitz	Reber	Zwikel
Dorr	Letterman	Rieger	
Duffy	Levi	Rocks	Ryan,
Durham	Levin	Rybak	Speaker
Emerson			

NAYS—29

Anderson	Greenwood	Marmion	Ritter
Barber	Gruitza	Merry	Smith, L. E.
Brown	Harper	Moehlmann	Snyder
DeVerter	Itkin	Oliver	Spencer
DeWeese	Jackson	Piccola	Swift
Deal	Kukovich	Pistella	Van Horne
Fischer	Madigan	Richardson	Williams, H.
Foster, Jr., A.			

NOT VOTING—2

Beloff	Greenfield
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EXCUSED—8

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

On the question recurring,

Will the House agree to the amendment No. A5283 to amendments No. A4911?

The clerk read the following amendments No. A5283 to amendments No. A4911:

Amend amendments, page 19, by inserting between lines 7 and 8

Section 4. The provisions of Title 18 Pa.C.S. Ch. 32(relating to abortions) shall not apply to any person until a question thereon is submitted to the electors of the Commonwealth at the next municipal or general election occurring at least 60 days after the effective date of this act and a majority voting thereon vote in the affirmative.

The question shall be in substantially the following form:

Do you favor the regulation of abortions as provided in the "Abortion Control Act?"

Amend amendments, page 19, line 10, by striking out all of said line and inserting

5

On the question recurring,

Will the House agree to the amendments No. A5283 to amendments No. A4911?

**REMARKS ON VOTE**

The SPEAKER. Does the gentleman from Philadelphia, Mr. Evans, seek recognition?

Mr. EVANS. I would like to be considered in the negative on the motion to reconsider A5283, please.

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

### CONSIDERATION OF SB 742 CONTINUED

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

Mr. BOWSER. Thank you, Mr. Speaker.

I just ask those who supported this amendment moments ago to stick with us. If it was right a half an hour ago, it is still right now. I know there has been some arm twisting going on in here, but I still think that it is right that the voters out there should have the right to decide on such a serious piece of legislation as this has turned out to be. Thank you very much.

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

Mr. FREIND. Thank you, Mr. Speaker. It is very late, and I will try to be brief. This is the longest 2 days I have ever spent in my life.

I would just like to make a couple of points on this amendment. When we debated the amendment before, a number of members got up and stated that this would seem to be a copout. It would permit us to duck the issue of voting on this. Just practically speaking, that is not going to happen, because there is no way we can cop out on this because the following things will happen if this amendment passes: The first thing is we still have to vote on the bill tonight.

The second thing is there is a strong chance, for reasons I will discuss in a second, and I can guarantee you one thing, that when the bill passes, both sides will challenge it in court, those who are prolife and those who are prochoice. Prochoice will challenge it on a number of the sections to which they object. Prolife will challenge it on the Bowser amendment, on its constitutionality. So in fact clearly it will go to court. Clearly there will be an injunction as to the implementation of any aspect of the act until the court rules upon it. That is absolutely certain. You can bet the ranch on that. There is a strong possibility, because of the way the amendment is drafted, that this amendment will be struck because of the severability clause, and we will then have the spectacle of having this bill in law when the members thought what in fact they were doing was sending it to the people and they had voted on that basis. And that is a very, very real possibility.

Finally, if in fact it passes the court hurdles, it will be on the ballot, probably either next year in the primary or in the general election. So anyone who says it is a copout, that is not the case, because we will have to take a stand then when we seek reelection. You cannot run from this issue, Mr. Speaker.

And with respect to the drafting, take a look at it for a minute. The point that Mr. Pitts made is a very, very valid one. It says, "The question shall be in substantially the following form:...." What does that mean? Who is going to draft the form, the Secretary of the Commonwealth? A non-elected public official drafting the form to have the people vote on something this important? It cannot be done. For that reason alone it will be struck. It cannot be done.

And then look at what the next language says: "Do you favor the regulation of abortions as provided in the 'Abortion Control Act?'" What does that mean? What abortion control act? You could make a strong argument that since the provisions of this whole act will not go into effect until the referendum, we do not have an act. We might be voting on the 1974 Abortion Control Act. Nobody knows what act we are voting on. For pure vagueness, there is no question, at least in my mind, this one will go down. There is no question about that.

We are also setting a tremendously bad precedent, because you can be guaranteed, if this in fact passes, there will be a rush by legislators to introduce similar legislation. Should we have welfare payments? Should we raise taxes? Should we have right-to-work legislation? There will be a rash of all of these types, and we will cite this precedent in saying the people should decide this also. And I think you can see what that leads to.

Much has been made about the fact that I sponsored an initiative and referendum amendment, but the difference is, of course, if you passed an amendment there, initiative, the people would get the signatures and place it on the ballot. Referendum, we would vote and pass a law, and then the people could make a determination after we voted whether or not they approve. We would not be doing that. And to be very honest with you, I have had some strong second feelings just because of that, because really what it comes down to is what you think of yourself.

Now, what I am going to say now you are probably going to laugh at, and it sounds trite, and maybe it is, but you know, Mark Twain was right. Mark Twain once said: "When I was 18, my parents didn't know anything. When I was 21, I was amazed how much they learned in the last 3 years." And he was right. You know, you think back now to the things you did, when you think back, things that your parents told you a long time ago when they did not know anything. It is really true. And I can remember one thing the man I most admire more than anybody else in the world, my father, told me. He said, you know, in this life no matter what you do, there is only one person that you have to please, and that is the one you see in the mirror every morning. Now, you are not always going to be happy about that face, but at least if you can look at that face and you are not ashamed, that is what it is all about. And you know, if you can look into that mirror, you have to, by its very nature, be doing a good job for everyone else. You know, Shakespeare said it best, "To thine ownself be true; And it must follow, as the night the day, Thou canst not then be false to any man." That is what it is about.

So the issue it comes down to here, that people have asked me time and again, do you vote your conscience or do you vote the will of your constituents? Now, carry it to its logical conclusion. Those who have argued to say we should vote the will of our constituents, if you carry that to its logical conclusion, there is no need to elect human beings with intellects and free wills. In this age of technology, all we have to do on any issue is take an electronic poll, pick it up here and plug it into the electronic vote board, and that is all we have to do. But

that is not what we are elected for. We are elected to do what we think is right and to have the courage to tell our constituents, after a two-way dialogue picking their brains but, on the matters of conscience, in the end making that decision.

Obviously, on the issue you know where I am; obviously. You know that very badly I want to see this bill pass, more than almost anything in my life. There is no question about that. *But even if I did not feel that way, if I were on the other side of the issue, I would reject the Bowser amendment because it is the wrong thing to do, Mr. Speaker. The time for us to act is now; now. We have tried all along to make this process work as best as possible. We have faced other difficult votes at late hours in the night, but we made those votes. I hope we do it again, regardless of how you are on the issue itself. For these reasons I sincerely hope that you will reject the Bowser amendment. Thank you.*

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

Mr. BURD. Thank you, Mr. Speaker.

The previous speaker made reference to the point and he said—and I tried to copy it down as quickly as I could—nobody knows what. I am getting to the point where I am not too sure I know what myself is in this particular piece of legislation that we are trying to pass before this General Assembly.

I sat on the Health and Welfare Committee for 1 year, and we went out across this Commonwealth, and we sat and we took testimony and we listened to testimony, and we listened to both sides of this argument, and at that particular time we decided as a committee—as a committee; I want to point that out very explicitly to the members of this General Assembly—that there were problems with the language of that particular bill or that particular group of bills or the omnibus package that was before us, and we decided to go “no.” I was one of the people who voted “no,” because I felt that we had taken this particular issue much, much too far.

I sat yesterday and I heard this General Assembly vote that what we were doing was germane. I did not agree that it was germane. I heard this General Assembly vote that what we were doing was constitutional, and I do not agree that it is constitutional. I sat and watched this General Assembly yesterday, in this debate, say that we could amend an amendment, and I heard—

The SPEAKER. The gentleman will yield.

The question before the House is the Bowser amendment, not the constitutionality.

Mr. BURD. There is no doubt in my mind, Mr. Speaker, that you are right.

The SPEAKER. The gentleman will yield.

The Chair, and I am sure other members, would appreciate it if all of us held our remarks to the question that is before us; both sides. The gentleman may proceed.

Mr. BURD. I commend the Chair because of your diligence, and I appreciate that, Mr. Speaker, but this has become a very highly emotional subject as far as this membership is concerned in this House of Representatives, and that is why I stand here as a Representative from Butler County, not thinking that I would ever get the chance or even wanted the

chance to get up and speak before this General Assembly on the subject that we are talking about tonight at what time is it now, 9:22 I think it is? Would you agree with that?

The SPEAKER. No; 9:26.

Mr. BURD. I am always a dollar late and a day short, you know. What can I say, Mr. Speaker?

Mr. Speaker, I really feel that after a committee has spent a full year of listening to debate and has decided as a committee, and after all the memos that have gone back and forth between members of the committee to members who are the makers of the bills, asking them, pleading with them, saying, look, we are dealing with a two-sided issue; it is an emotional issue; please reintroduce it back to us in a form of language that we can decide as a committee—I know. I am getting off the subject now. I am sorry.

I am very emotional about this, Mr. Speaker. I just want to say that I think we have come up with a solution. I think the solution is to allow the people of the Commonwealth to vote on this, and I think we should stick with the amendment that is before us. Thank you, Mr. Speaker.

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

Mr. RITTER. Mr. Speaker, I rise to support the Bowser amendment. I think earlier tonight Mr. McVerry pointed out that this is not a copout. We are going to be on record one way or the other on this bill. And if anybody thinks that to accept the Bowser amendment is going to put you on the hook, you have got to be kidding. Come next election year, you are going to be asked how you voted on this bill in any event, whether you voted “yes” or “no.” This is going to be an issue next election. It is going to be an issue whether it is on the ballot in the form of a referendum or whether we take some final action in this House without the Bowser amendment.

I get very upset when I hear people say in effect that we cannot trust the people, that in effect we cannot give them a bill which has the details in it already and ask them to make a decision on that. But we say to the people, trust us. We put a question on the ballot last election, a \$300-million bond issue, the details of which the people were not even aware of. We still do not have any details of how we are going to spend that money, but they said to us, go ahead and do it; we will trust you. We asked them in effect to give us a blank check. We give them referendum questions without details, and we say to them, approve them for us. Now we give them a bill with details in it, and as Mr. McVerry said, we are telling them that we passed this, but we are asking you, do you approve it? How in the world can you be against that? I do not understand that logic, Mr. Speaker. And believe me, if you think you are going to get out of this issue next election by turning down the Bowser amendment, you have got to be kidding.

Each and every member in this chamber is going to be asked next year, how did you vote? And you know it, and I know it. We might be much better off if we could say, well, I voted this way, but in the final analysis it will be your decision to make, and I think that is proper. I ask for a strong affirmative vote for the Bowser amendment.

The SPEAKER. The Chair recognizes the gentleman from Mifflin, Mr. DeVerter.

Mr. DeVERTER. Mr. Speaker, I will be brief.

I am pleased that the maker of the reconsideration motion has such an inside track with the courts of this Commonwealth. I think, Mr. Speaker, there were a number of assumptions made in the brief remarks that Representative Freind made, and he is entitled to those views. But I am here to tell you that if I have to go by what my constituency feels is the right thing to do tonight, by the mail and the phone calls I have had, I have got to vote in the neutral. Now, how do I do that? I do not.

I think it is far better, far, far better if we permit that 60,000 constituency that each of us represents the opportunity to give us a little guidance. There are two sides to the issue; no question about it. And there are probably an awful lot out there who do not even give a darn. But I would much rather go on the basis of knowing how the majority of that constituency feels than I would of making a decision on a moral issue that affects the conscience—and we are not always talking about those things in this General Assembly—than I would to do it blindly and not have their guidance. I think it is an insult to their intelligence that we say they cannot make an honest determination, regardless of what language is in the referendum. I would ask you, please, those of you who supported the Bowser amendment initially to please do so again. Thank you, Mr. Speaker.

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

Mr. PENDLETON. Thank you, Mr. Speaker.

I yield to the lady from Philadelphia, Mrs. Harper.

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

Mrs. HARPER. Thank you, Mr. Speaker. I will be very brief.

I would just like to remind the men of Abigail Adams, when President Adams was going to attend a meeting with the men. She said to him, "I cannot be there, but I ask you not to forget the women." And I ask you men not to forget the women tonight. Give them a chance to speak for themselves, and vote for the Bowser amendment. Thank you.

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

Mr. SWEET. Thank you, Mr. Speaker.

I just want to really react to a couple of things that Mr. Freind said, because I believe he raised some hobgoblins, some things that just are not really going to happen.

First of all, I think the language that talks about substantial, and talks in terms of the Secretary of the State drafting the precise question, will be specific enough. It will give the voters a precise question to vote on. I think it has been done in the past, and I do not think that is a serious problem. It is certainly not enough of a problem for a court to strike the entire amendment or the entire bill.

Secondly, I think it is highly unlikely that a court would enjoin a referendum. Just last year in Pittsburgh the city council put three different questions on the ballot that voters

could vote in highly contradictory and really bizarre ways. The court in that instance ruled that city council, if it wanted to be crazy enough to put those questions on the ballot, could do so. It did not enjoin the election. It did not enjoin the referendum. It said, we will deal with that matter later, when and if it happens. I do not imagine there would be many judges who would enjoin the referendum on this controversial an issue.

Finally, this is not a copout. Nobody is ducking the issue. Everybody in this House has put up votes for 2 days on all sorts of controversial amendments. So I do not think anybody is ducking the question by saying, put it on a referendum and let the public vote.

We have presented the legislature, if it votes for this bill, a very complex and detailed regulatory scheme for the voters to vote on, and they would do it in a general election, according to the Bowser amendment. I think it is a good amendment, and I think we ought to support it.

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

Mr. POTT. Thank you, Mr. Speaker.

For about 3,000 years theologians, health-oriented professionals, and philosophers have debated on where a human being really begins. We here in the General Assembly are going to, if we do not pass the Bowser amendment, 203 of us are going to decide something that people have not been able to decide for 3,000 years.

I have received probably 1,000 to 1,500 telephone calls, telegrams, and letters on this issue, most of which makes a great deal of sense. However, I do admonish those people who just sign postcards and send them, but most of the people write letters.

To vote against the Bowser amendment is to say that the people of Pennsylvania are stupid. They cannot understand a complex, philosophical, theological, moral, or medical issue. I do not know whether you want to vote against this amendment and say the people in your constituency are stupid or not, but if you do, in my judgment, that is what you are doing. You say to them they cannot decide for themselves how they feel about a very theological, philosophical, moral, and medical issue which philosophers for 3,000 years have not been able to decide.

It is also to me totally inconceivable that people can support initiative and referendum and sponsor bills into this General Assembly in previous and current legislative sessions saying that the public has a right to reject or support or ratify what we do here, and then get up on this floor here tonight and tell us, well, we really did not mean that; we meant it on everything except the abortion issue. Who is being stupid? Are we or are they?

Let us not let the people be stupid. Let us turn this back to the people and let them give us a referendum where they really think, in the privacy of a voting booth, on an issue that will be well understood, because I guarantee you that the prochoice people, the National Organization for Women, People Concerned for the Unborn Child, various religious organizations, will have their constituencies so well informed they will know

more about this bill than you do. Let us give them a chance. Let us *not* tell the people they are stupid. Let us give them a chance to vote whether they feel this should be passed into law in Pennsylvania or not. Thank you.

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

Mr. LASHINGER. Thank you, Mr. Speaker.

Mr. Speaker, I, much like the previous speakers, rise to urge the members to stay with Mr. Bowser in support of this referendum concept.

I am confused why the sponsors would be in opposition to this referendum concept when they, during their debate on the original proposal, convinced me as an individual member that there is already a positive track record for this kind of legislation in other States. Why should they be concerned, if they are convinced, if we turn this out to the general public for a "yes" or "no" vote? Are they concerned that possibly the public would reject it? I suspect that maybe that is the underlying concern and why the sponsors of the original amendment are opposed to this referendum concept.

Representative Sweet indicated how Representative Freind was presupposing that this referendum concept would be struck down as being unconstitutional. I have heard nothing this evening from any of the sponsors that would indicate that this would be held to be unconstitutional. I think if you look at some of the case law in this area—and there is no recent case law, but there is that which exists in the late 1800's—there is nothing that would indicate to me that it would be held to be unconstitutional. In fact, most of the case law in this area—

The SPEAKER. Would the gentleman yield.

Would the gentleman restrict his remarks to the question that is before the House, and that is essentially one of referendum, not of constitutionality.

Mr. LASHINGER. Thank you, Mr. Speaker.

Mr. Speaker, the sponsors again have opposed the referendum concept. I think it is important that we stay with this effort, one, because we should *not* as individual members be treading into this area where it involves the moral judgment of each individual member. I do not think because it involves the moral judgment of individual members that we are setting any evil precedent. I think that in areas like this we should be passing this type of referendum. I do not think it is a bad precedent because we are sending something that is complicated out to the general public. We have done the legwork over the last 2 days. We have done the mechanics, as previous speakers have indicated. We voted "yes" or "no." Everyone is on record as being for or against the legislation, so none of us are evading our duty or responsibility that we have. We are merely saying that this issue now should lie with the general public in the Commonwealth.

Just let me assure the members that this is not the end of this issue either. For those who have been on the Health and Welfare Committee, there is something else that is important to note. This is just the first of a large number of issues under the heading of abortion control that we are going to confront. We have tracked a series of bills which the prime sponsors, I

am convinced, will have similar efforts afoot in the next few weeks to be doing the same thing, a different concept, like labeling of abortifacients and other things that they have attempted to do in one omnibus package. We will be confronted with that in the next few weeks, so this is going to be here; it is going to be recurring, and I think what we probably need is a message, a full-scale message from the general public in the Commonwealth, to let us know whether what we are doing here meets with their demands.

People are withdrawing from the system. There is serious distrust. If we pass this referendum concept, I am convinced that we will be drawing people back into the system. It is an open concept, the media participates, community leaders participate, various factions on the issue, the minorities participate, who are not participating in debate here today. So I cannot think of any better justification for opening it up. It is a sound process. Twenty-three States have it in place. There are 11 democratic nations throughout the world that have a similar process. It is not something new. We are not uncovering new ground here today.

Just let me leave the members with this, much like Representative Pott indicated. What we are saying is, the citizens of the Commonwealth are not equipped to make a decision on this issue. Well, I hold that if the people of the Commonwealth, while they might not be equipped to make the day-to-day decisions of government that some of us are called upon to make, I can assure you that I feel that they are just as qualified to pass upon the individual laws that we pass up here in Harrisburg as they are qualified to pass upon the individual men and women who sit in this General Assembly. Therefore, I would urge the support of the Bowser amendment. Thank you, Mr. Speaker.

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

Mr. FRAZIER. Mr. Speaker, on a very emotional issue, I shall try to remain unemotional, but I have heard two new labels today, pro-Bowser and anti-Bowser. Now we are to be told that we are pro-Bowser or anti-Bowser. Now, just so that we understand, if you are pro-Bowser, you are prochoice; if you are anti-Bowser, you are prolife. Or to put it another way, if you are anti-Bowser, you are prolife, and if you are pro-Bowser, you are antilife.

Mr. Speaker, again, I resent this tactic that has been used repeatedly upon this General Assembly. I have personal experience with it of sponsors of this legislation coming into my district, into areas nearly—

The SPEAKER. Will the gentleman yield.

The question before the House is the amendment offered by the gentleman, Mr. Bowser, A5283.

Mr. FRAZIER. I will restrict my remarks, Mr. Speaker.

Mr. Speaker, in the terminology that is being circulated about us on pro-Bowser or anti-Bowser, I want to go on record once again that it is possible in this assembly for a passionately prolife individual who has a legal background to be in favor of allowing the people of the Commonwealth to have a say in this issue. You do not have to be antilife; you do not have to be threatened.

You were elected here to represent, I thought, two different constituencies. Whether you are pro-Bowser or anti-Bowser, you represent 60,000 and you represent 12,000,000 simultaneously. It is up to you on each issue to apportion, whether you are thinking of the 12,000,000 or the 60,000. So far, all I have heard has been an effort to scare you, that if you are pro-Bowser, your 60,000 will not reelect you. That is not the Bowser position. The Bowser position never was that if you were pro-Bowser, 60,000 would not reelect you. The Bowser position is pro-life. It merely says, let the 12,000,000 help. We have two constituencies simultaneously, each of us in this General Assembly, the one that elects us and the collective mind that we are for the 12,000,000.

I submit to you, Mr. Speaker, that attaching this resolution and attempting to run it in 24 hours to a Senate bill was bad precedent. It impeaches the credibility of the sponsor who tells us—

The SPEAKER. Will the gentleman yield.

Will the gentleman restrict his remarks to the question that is before the House, and that is the adoption or the rejection of the Bowser amendment.

### PARLIAMENTARY INQUIRY

Mr. FRAZIER. Point of parliamentary inquiry.

The SPEAKER. Will the gentleman state his point of parliamentary inquiry.

Mr. FRAZIER. I distinctly heard in Mr. Freind's discussion a discussion of precedence, that the passing of the Bowser amendment would be a poor precedent. I was dealing with a discussion of precedence. Would that then not be germane to the issue?

The SPEAKER. The gentleman may proceed.

Mr. FRAZIER. Thank you, Mr. Speaker.

It was a bad precedent to come before this General Assembly and say—

Mr. J. D. WILLIAMS. Mr. Speaker?

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

Mr. J. D. WILLIAMS. Point of personal privilege, Mr. Speaker.

The SPEAKER. Will the gentleman state his point of personal privilege.

Mr. J. D. WILLIAMS. For the purpose of making a motion, Mr. Speaker?

The SPEAKER. What is the nature of the gentleman's motion?

Mr. J. D. WILLIAMS. Mr. Speaker, I would like to make a motion that we suspend the rules and that debate be limited to 2 minutes, please; for each speaker, 2 minutes.

The SPEAKER. The Chair understands the nature of the motion.

It is the opinion of the Chair that the gentleman at this time does not have the right to make that motion, but the Chair will recognize the gentleman on the conclusion of the remarks of Mr. Frazier for that purpose.

Mr. J. D. WILLIAMS. Thank you, Mr. Speaker.

### QUESTION OF PERSONAL PRIVILEGE

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

Mr. A. K. HUTCHINSON. Mr. Speaker, point of personal privilege. I have been here for 12 hours, and I think it is about time we have a rest. We cannot go home; the snow is out there. We are going to stay until tomorrow. Let us run it all night, but let us get a little time to get something to eat and at least have a little rest.

The SPEAKER. The Chair thanks the gentleman.

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

Mr. FRAZIER. Mr. Speaker, as Mr. Freind can sense the mood of the House, I certainly do, too, and I do have something that I would prefer that the House hear on a full stomach.

I would ask a point of parliamentary inquiry. If the Chair is going to entertain a recess, I would be glad to suspend my remarks until after the recess, so I make my request.

The SPEAKER. Has the gentleman, Mr. Frazier, concluded his remarks?

Mr. FRAZIER. Mr. Speaker, I have a point of inquiry. If the House desires to recess—

The SPEAKER. There is nothing before the House at the moment other than the gentleman making his remarks. If the gentleman has concluded his remarks, the Chair will recognize the gentleman, Mr. Williams.

Mr. FRAZIER. I will conclude very briefly then, and I will just finally say, and I will urge the other members of this House, you were not elected here to be frightened by labels; you were elected here to thine own self to be true. If you are true to yourself, you will take a look at the Bowser amendment vote before, and you will find that Mr. Williams and I both voted "yea."

### RULES SUSPENDED

#### DEBATE LIMITED

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

Mr. J. D. WILLIAMS. Mr. Speaker, I would like to make a motion that the rules be suspended and that each speaker be limited to 2 minutes.

The SPEAKER. The question before the House is, should the rules of the House be suspended to limit debate on SB 742 to a period of 2 minutes per speaker? Is that correct, Mr. Williams?

Mr. J. D. WILLIAMS. Yes, it is, Mr. Speaker.

The SPEAKER. There will be one vote taken, which requires votes in excess of 102. Those in favor of suspension of the rules and limitation of debate will vote "aye"; opposed, "no."

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

The following roll call was recorded:

YEAS—145

Alden	Evans	Letterman	Salvatore
Anderson	Fargo	Levi	Saurman
Armstrong	Fee	Levin	Shupnik
Barber	Fischer	Lewis	Sieminski
Belfanti	Foster, W. W.	Livengood	Sirianni
Beloff	Frazier	Lucy	Smith, E. H.
Berson	Freind	McCall	Smith, L. E.
Bittle	Fryer	McIntyre	Snyder
Blaum	Gallagher	McMonagle	Spencer
Borski	Gallen	Mackowski	Stairs
Bowser	Gamble	Madigan	Steighner
Boyes	Geist	Maiale	Stevens
Brandt	George	Manmiller	Stewart
Brown	Gladeck	Marmion	Stuban
Burns	Grabowski	Merry	Sweet
Caltagirone	Gray	Michlovic	Swift
Cawley	Greenfield	Micozzie	Taddonio
Cessar	Greenwood	Miller	Taylor, E. Z.
Cimini	Grieco	Moehlmann	Taylor, F. E.
Civera	Gruitza	Morris	Telek
Clymer	Gruppo	Mowery	Tigue
Cochran	Hagarty	Mrkonjic	Van Horne
Cohen	Haluska	Murphy	Wambach
Cole	Harper	Noye	Wenger
Coslett	Hasay	Oliver	Weston
Cowell	Hayes	Pendleton	Wiggins
DeMedio	Hoeffel	Perzel	Williams, H.
DeVerter	Honaman	Peterson	Williams, J. D.
DeWeese	Horgos	Petrone	Wogan
Davies	Hutchinson, A.	Phillips	Wozniak
Dawida	Itkin	Pistella	Wright, D. R.
Deal	Jackson	Pitts	Wright, J. L.
Dininni	Johnson	Pott	Zwikel
Donatucci	Kennedy	Rappaport	
Duffy	Klingaman	Richardson	Ryan,
Durham	Kukovich	Rieger	Speaker
Emerson	Lehr	Ritter	

NAYS—48

Arty	Foster, Jr., A.	Manderino	Rybak
Belardi	Gannon	Miscevich	Serafini
Burd	Heiser	Mullen	Seventy
Cappabianca	Kanuck	O'Donnell	Showers
Clark	Kolter	Olasz	Smith, B.
Colafella	Kowalshyn	Petrarca	Spitz
Cordisco	Lashinger	Piccola	Swaim
Cornell	Laughlin	Pratt	Trello
Dietz	Lescovitz	Punt	Vroon
Dombrowski	Lloyd	Rasco	Wargo
Dorr	McClatchy	Reber	Wass
Fleck	McVerry	Rocks	Wright, R. C.

NOT VOTING—1

Cunningham

EXCUSED—8

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

The SPEAKER. The rules are suspended and there is a limitation of 2 minutes per person on debate.

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

Mr. GAMBLE. Mr. Speaker, I rise again to ask that this House vote "no" on the Bowser amendment. It clearly is a play on our political instincts. Let the people decide. But why do we single out this issue to let the people decide? All the polls that go out, all of the questionnaires that you sent out, how many came back that the number one issue in Pennsylvania was abortion? My questionnaire shows that the people are concerned about welfare reform, yet we did not decide to put that on the ballot. People are concerned about law and order. We did not put mandatory sentencing on the ballot. People are concerned about the upcoming budget cuts. That is not going on the ballot. And people are concerned about tax reform, and I think next week we are going to vote on that and that is not going on the ballot. So why are we singling out this issue of abortion which is not the number one issue, two, three, or four with the people of Pennsylvania? It is merely the last attempt by those who are against the Freind-Cunningham amendment to salvage something.

I say that tonight when we vote finally on the Freind-Cunningham amendment, the people will have spoken and they will have decided. Vote "no" on the Bowser amendment, please. Thank you.

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

Mr. PENDLETON. Thank you, Mr. Speaker.

Could you pass over, please, Mr. Speaker?

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

Mrs. WESTON. Thank you, Mr. Speaker.

I stated yesterday and I emphatically repeat today that I am one woman who does not feel this issue is a women's issue; it is a human issue.

Even if this House decides today to let this vote go to the ballot, it will be up to each man and woman to decide whether or not we should change our present laws. So I just wanted to emphasize that fact and then state my opinion on the Bowser amendment.

No one here tonight has convinced me that this is necessarily the correct or right route to take in regards to deciding this important issue. Are we setting a precedent that we are going to regret later on? I for one am not voting "no" on the Bowser amendment out of fear of how my constituents back home are going to vote. I have studied and we have all studied and debated this legislation long hours. I think the right thing to do is to decide tonight how we feel abortion should be regulated in Pennsylvania and next year let the important ballot question be whether or not your constituents think you did a good job and let you come back here again.

The SPEAKER. The Chair recognizes the gentleman from Luzerne, Mr. Tigue.

Mr. TIGUE. Thank you, Mr. Speaker.

Will the maker of the amendment please stand for a short interrogation?

The SPEAKER. The gentleman, Mr. Bowser, indicates he will stand for interrogation. The gentleman may proceed. The interrogation will fall within the 2-minute limitation.

Mr. TIGUE. Thank you, Mr. Speaker.

Mr. Speaker, according to your amendment, this question would be put on the ballot in November of 1982 at the earliest. Is that correct?

Mr. BOWSER. That is correct.

Mr. TIGUE. Thank you, Mr. Speaker.

One other question, if you would, please.

Why was the primary election not included in the amendment? If you can answer that, please.

Mr. BOWSER. I talked to the director of the Reference Bureau this morning and we decided it would be the general election this fall. That is all I can tell you. We decided it would be a better place to put it.

Mr. TIGUE. Mr. Speaker, is there any reason why it cannot be on the primary ballot or during the primary election?

Mr. BOWSER. No. I do not know of any reason why not. We just decided to do it in the general.

Mr. TIGUE. Thank you, Mr. Speaker.

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

Mr. TIGUE. Thank you, Mr. Speaker.

We have sat here now for 2 days listening to questions on constitutionality and germaneness. We suspended the rules. We have gone over and over and over many of the same questions and well we should. What we have done now is we have come down to the final end of our journey, let us say. We must decide for ourselves as legislators whether or not we want the abortion control act. If you want the abortion control act, you must vote against the Bowser amendment, because you will put the abortion control act away for a minimum of 11 months. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from McKean, Mr. Mackowski, for 2 minutes.

Mr. MACKOWSKI. Thank you, Mr. Speaker.

The previous speaker said pretty much what I intended to say. However, I want to make perfectly clear that in voting against the Bowser amendment, I am not stating that the people back home are ignorant. I think they are very intelligent or we would not all be here representing them. They have given us the responsibility to do something, and I think we should do it. We already rejected a recommittal motion, and now we are back up to this particular— However, I do feel as Mr. Pendleton pointed out, you are prolife or you are prochoice no matter how you cut it in this particular issue, and the delays that have been offered here today are doing nothing more than to postpone this thing as long as possible. That bothers me from the standpoint that if I sincerely believe that we are doing something to save the lives of unborn children, we do not want that butchering to continue for another year. Thank you.

#### FILMING PERMISSION GRANTED

The SPEAKER. The Chair gives permission at this time to KYW, channel 3, Philadelphia, to do 10 minutes of silent filming.

#### CONSIDERATION OF SB 742 CONTINUED

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. McVerry, for 2 minutes.

Mr. McVERRY. Mr. Speaker, for the members of this General Assembly to think that if they pass the Bowser amendment what we are doing is inviting a court challenge on constitutionality, that very well may be so. However, irrespective of that, this bill will never be in effect without having been determined by the Supreme Court of Pennsylvania and possibly the United States Supreme Court, because as soon as it is passed by both chambers and signed by the Governor, it is going to be challenged nevertheless. I seek, I implore you to just let the people of Pennsylvania have an opportunity to tell us for once not from the extreme right or the extreme left but right down the middle whether they want this or not.

I urge your favorable consideration of the Bowser amendment. And as well spoken by Mr. Freind, to thine own self be true. Take a look at your vote of an hour ago, and to thine own self be true.

The SPEAKER. The Chair recognizes the lady from Chester, Mrs. Taylor, for a period of 2 minutes.

Mrs. TAYLOR. Mr. Speaker, I believe that we have exhausted every parliamentary maneuver, every thought of the 203 members to do whatever it is he or she has to do in order to get the bill passed in the fashion that they would like to have it, either for themselves or for their constituents. About the only thing we have not done, of course, is to have the 203 minus 10 give their proxy to women and maybe we would have had this whole thing settled long ago.

But I would remind you that occasionally tonight I have heard the issue of women come up. I agree that this debate tonight is not a women's issue. We have heard that there is a certain percentage of women out there who can vote. We have been reminded that there is a need to think about women when you make this vote. We have heard that we need more women in this House to vote this issue fairly. I suggest to you, Mr. Speaker, that if we did have more women in the House and if we did have a woman sitting in each seat in this House, we would still be debating tonight the merits of the bill, and we would be debating it prolife or prochoice. And I suggest to you, just as the 10 women in the House today are equally divided, they would be, Mr. Speaker, equally divided when they would vote on the Bowser amendment.

I applaud the fact that my roommate does not have her clock out. Thank you, Mr. Speaker.

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

Mr. SEVENTY. Mr. Speaker, thank you.

Is it all right if I yield my remaining minute and a half to Mr. Trello?

The SPEAKER. This is nontransferable.

Mr. SEVENTY. Then I pass, Mr. Speaker.

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

Mr. MULLEN. Mr. Speaker, I want to say just a few words against the Bowser amendment, because I feel that those of us in the prolife movement—and there are many thousands of us

throughout the State—have worked diligently and hard to support this bill.

Now, what happens if this Bowser amendment is adopted? We have effectively delayed protecting human lives, and that is the whole purpose of the bill. This is wrong. And I think all of you who have committed yourself to support prolife should vote against the Bowser amendment because it is bad and will delay what we tried to do for the last 2 days. Thank you.

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

Mr. DININNI. Mr. Speaker, I was not going to take the floor on this issue, but I am compelled to for altogether a different reason than what was brought up here tonight.

I am a prolife. I believe in it. When I came in here today, I was prepared to reject all amendments, but when I heard some of the amendments—they were good amendments—and they were denied the opportunity of being put in, I got to thinking, what is going on not only here but in our Nation? It took us over a hundred years to bring all religions together. That made me happy that the Catholics, the Protestants, you name it, they finally got together 5, 10 years ago, and it was very successful.

Now all of a sudden— Well, before I get into that, last year they were all in the same boat. They were against abortions. All of a sudden, this bill is trotted out before us. Now I see different religions. Catholics are for this bill and various other groups are against the bill—I am speaking of religious groups. I know one in my area, the Methodists and a few others came out against it. Then I said to myself, what is wrong with the bill, because we are all against abortions. Yet I am saying to you here and now, if we do not give the public the opportunity — After 16 years we were unable to do it—Marty, you know that; and I believe Jim Ritter brought that up—we were unsuccessful. There is only one alternative, and that is to take it back to the people and hope and pray to God that we bring our religious groups back together again in the final analysis. I am sure they will. Thank you.

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

Mr. OLIVER. Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of the Bowser amendment. Earlier I was amazed to hear Representative Ritter mention the fact that this same issue was before this House 18 years ago, and as of this day, it has not been resolved yet. The big question in my mind is, how do we resolve it and when? I do not know of any other way to do this other than to take it right before our constituents. I believe our constituents know the stand and how each one of us feels whom they have sent here. I would say to all of you who supported the Bowser amendment before to do it again, and then give our constituents the opportunity to decide an issue that we cannot seem to resolve ourselves. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Bedford, Mr. Dietz. Does the gentleman, Mr. Dietz, desire recognition?

Mr. DIETZ. Mr. Speaker, I was going to yield to the lady, Mrs. Taylor, so that she might finish.

The SPEAKER. Not transferable, Mr. Dietz.

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

The House is reminded that KYW, channel 3, is doing silent filming on the floor.

The gentleman, Mr. Trello, may begin.

Mr. TRELLO. Mr. Speaker, I was very reluctant to get up and speak on this issue, but you know, back in my community they have an old saying that there are different strokes for different folks, and tonight that was very prevalent. For an example, they got up and they spoke in regard to the prime sponsors of this amendment initiating legislation for referendum in the past. But if you all remember, we had a bill here in regard to the turnpike extension, and a number of us wanted in that amendment to give the local elected officials, in that particular area that the turnpike extension was to go through, a voice on whether their community should be disturbed or not. But the same people who are criticizing the prime sponsors of this amendment voiced their opinion against that. They did not even want local elected officials to have input on the turnpike extension, and now everything is turned around.

I urge everybody to cast a negative vote on this amendment. It is a bad amendment. It is going to cause a lot of controversy. As a matter of fact, there will be money coming from 49 States—

Mr. BURD. Mr. Speaker, a point of order.

The SPEAKER. The gentleman will yield.

### POINT OF ORDER

Mr. BURD. Mr. Speaker, a point of order.

What does the Turnpike Commission have to do with the abortion issue that we are talking about?

Mr. TRELLO. What does their bill on referendum have to do with this issue then?

Mr. BURD. Mr. Speaker, I do not understand his line of argument.

Mr. TRELLO. I rest my case.

The SPEAKER. The Chair recognizes the gentleman from Luzerne, Mr. Blaum.

Mr. BLAUM. Thank you, Mr. Speaker.

I believe that for some, maybe even many, the Bowser amendment may be a tough issue with the belief that a vote in favor of the Bowser amendment may be interpreted as being lukewarm on prolife, that a vote against the Bowser amendment might be interpreted as not giving the people their say in this matter. But I do not think we ought to sell the people back home short. I think that when we leave here tomorrow, they are going to know in a very few days what the Bowser amendment was intended to do.

Mr. Speaker, I rise to oppose the Bowser amendment, and in doing so, I know it will be interpreted in my district in support of the Freind-Cunningham amendment. As I said earlier, in a very short time the people are going to know what the Bowser amendment was. At the very least, it will institute at least a year's delay in enacting this amendment. It is not a vote in favor of the enactment of the Freind-Cunningham amendment, and I believe that it should be defeated.

The SPEAKER. The Chair recognizes the gentleman from Lackawanna, Mr. Cawley.

Mr. CAWLEY. Thank you, Mr. Speaker.

Mr. Speaker, people have said, ask the people back home what they think, and they said, that is what we should do. I only wish that the millions of babies—not fetuses, babies—could be asked how they feel about this issue prior to them being aborted. I would like to ask those babies. I wish it were possible to let us know how they feel prior to them being aborted. I am asking the prolife representatives—

The SPEAKER. The gentleman will yield.

The question before the House is the question raised in the amendment by Mr. Bowser, which is whether or not a referendum is in order. Would the gentleman please try to confine his remarks to that?

Mr. CAWLEY. I apologize, Mr. Speaker.

I am asking the prolife representatives to vote against the Bowser amendment. If I have to lose an election on one issue, then let it be because I was trying to save the life of a child—not a fetus again, a child. I will be very proud to know that I stood my ground and I did it not my way but my Maker's way. Thank you.

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

Mr. ROCKS. Thank you, Mr. Speaker.

Mr. Speaker, just a couple of points, and they are brief. I am a sponsor of this bill, and like many other members in here who are very committed in Pennsylvania and like millions of people whom we think we represent, I want to stop abortion. Mr. Speaker, for some of the things that were said in regard to the Bowser amendment tonight, I would not mind this question going before the public of Pennsylvania. I do not think the Bowser amendment is the way to do it.

In the time that I have been fortunate enough to be involved in the so-called prolife movement, I thought there was something that was always very important, and that was absolute honesty on this issue. I would like to mention two points absolutely honest. The first is that if it was not for a Supreme Court decision in 1973, this issue would never have launched into the public forum of this Nation. Those nine justices did not take this issue and put it before any voters. Secondly, there should be no doubt that the ultimate goal of the prolife movement is the passage of a human life amendment.

The SPEAKER. The gentleman will yield.

The question before the House is the amendment offered by the gentleman from Erie, A5283. That is all that is before the House.

For what purpose does the gentleman from Butler, Mr. Burd, rise?

Mr. BURD. Thank you, Mr. Speaker.

I was going to raise that question. Thank you.

The SPEAKER. The speaker, Mr. Rocks, is cautioned, as are the other speakers, to hold to the subject of the Bowser amendment.

For what purpose does the gentleman from Berks, Mr. Davies, rise?

Mr. DAVIES. Mr. Speaker, while you were engaged in conversation, the 2 minutes expired for the current speaker, and I would remind the Chair of that fact that we are within those limits.

The SPEAKER. The Chair used up that time. The gentleman still has 48 seconds.

Mr. ROCKS. Thank you, Mr. Speaker.

In 48 seconds, and directly on the Bowser amendment, the human life amendment must be ratified by this General Assembly. It does not go out before the public of Pennsylvania. The ratification vote ultimately and hopefully will be right here in this chamber. Mr. Speaker, that honesty, I believe, is still completely important in this movement, and I would hope that tonight we defeat the Bowser amendment and move to the final passage of this bill. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the gentleman from Cumberland, Mr. Kennedy.

Mr. KENNEDY. Thank you, Mr. Speaker. I always hear I will just be brief, and I will be brief.

I support the Bowser amendment on the basis that if this piece of legislation is passed in this General Assembly and reaches the ballot box in Pennsylvania, we are going to witness probably the greatest onslaught of voter registration and voter participation that this State has seen in quite a while. I think that is healthy. All along the line, starting from the Health and Welfare Committee level, I voted for this legislation. If you check the record on the amendments, I will be recorded as one in support of what the gentlemen are trying to accomplish with this bill. But with the Bowser amendment, I feel that ultimately the people will have a choice. I believe it will at least draw those who normally stay home on election day, it will get them out and get them registered, and they will voice their opinion. Thank you, Mr. Speaker.

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

Mr. BROWN. Thank you, Mr. Speaker.

I would like to speak as someone who has supported constantly initiative and referendum, and ask again that the members of this House consider allowing the people to decide. Now, we hear over and over again, trust; then we hear, fear; then we hear, we do not want a large turnout; this issue on the ballot will bring them out of the woodwork. I thought we wanted to get as many people out to the polls. We hear over and over again, send them a message, whether it is the Supreme Court, the State court, whoever that justice might be. What better message to send than the voice of all the millions of voters of Pennsylvania saying either "yes" or "no" than a hundred or so of us?

I ask for an affirmative vote on the Bowser amendment.

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

Mr. BELFANTI. Mr. Speaker, I rise once again, as I did earlier this evening, in support of the Bowser amendment. To say that this ballot issue will cause more abortions to occur this year is untrue and, I believe, ludicrous, and also is nothing more than a scare tactic. If this bill passes without the

Bowser amendment, abortions in Pennsylvania will continue anyway. We have done nothing here today or yesterday to ban abortions by our votes.

I am voting for this abortion package, and I will stand by my vote next election, but I will also tell my constituents that I gave them a chance to be heard. I feel that to vote "no" on this amendment is to deny the citizens of this Commonwealth the same right that they have given us.

I am prolife, and I would not vote for this amendment if I felt that it would cause one child's death needlessly. But once again I repeat, the Freind-Cunningham amendment does not ban abortions; it only makes them more cumbersome, and they will continue to be performed in this Commonwealth. My constituents will appreciate the opportunity to personally speak on this issue, and so will yours. I urge a "yes" vote on the Bowser amendment and then a "yes" vote on this entire package. Thank you.

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

Mrs. HEISER. Mr. Speaker, for 2 days I have sat here and listened to the members of this General Assembly in their wisdom deciding what is proper for the people of the Commonwealth. I am one of 10 women here in this House. I am the mother of two grown children. I am also considerably older than a high percentage of the gentlemen, my colleagues. I have also heard from the special-interest groups - the prochoice, the prolife, the NOW group. You gentlemen who know me know that I am pretty much of an old-fashioned woman. However, I have never in my day felt so intimidated and so degraded as I sat here and these gentlemen know exactly what is right for a woman. I would suggest that the prolife, the prochoicers, the NOW people, and the average woman out there should be given the opportunity in a referendum as well as the men out there to decide what is right as far as this legislation is concerned, and I ask you to support the Bowser amendment. Thank you very much.

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

Mr. PENDLETON. Thank you, Mr. Speaker.

Mr. Speaker, I do not expect that anything I am going to say is going to persuade anybody, but I want to speak to the Bowser amendment. There are strong feelings here with regard to this amendment, very strong, and those feelings are really only reflective of what I think the Commonwealth feels with respect to this legislation. Hardly a week goes by that my 81-year-old mother, the mother of 14 children, does not say to me, William, abortion is murder, and I love my children and I would give my life for them, but I would not want anybody else to tell me to give my life for them.

This issue is a strong issue involving more than just fetuses, unborn children, mothers, families. It involves the general community. I have heard physicians possibly pitted against physicians in this legislation today, institutions of health care that we must have a great deal of trust in, and I am deeply concerned that we are going to substitute our feelings here for those of the people of the Commonwealth. I am prepared in a representative government to substitute my judgment, my

thoughts, for those of my constituents, but I am not prepared to substitute my feelings. I am going to support the Bowser amendment because I think the Commonwealth needs to have a say in this matter. Thank you.

**FILMING PERMISSION GRANTED**

The SPEAKER. The Chair has given permission to channel 11, Pittsburgh, to silent-film for 10 minutes.

**CONSIDERATION OF SB 742 CONTINUED**

On the question recurring,

Will the House agree to the amendments No. A5283 to amendments No. A4911?

The following roll call was recorded:

**YEAS—93**

Anderson	Fleck	Livengood	Richardson
Barber	Frazier	Lloyd	Ritter
Belfanti	Fryer	McVerry	Saurman
Beloff	Gladeck	Madigan	Showers
Berson	Greenfield	Manmiller	Sieminski
Bittle	Greenwood	Marmion	Smith, B.
Bowser	Gruitza	Merry	Smith, L. E.
Brown	Hagarty	Michlovic	Snyder
Burd	Harper	Miller	Spencer
Clark	Hasay	Moehlmann	Stairs
Cochran	Heiser	Mowery	Steighner
Cohen	Hoeffel	Murphy	Stuban
Cornell	Honaman	Noye	Sweet
Coslett	Hutchinson, A.	O'Donnell	Swift
Cowell	Itkin	Oliver	Taylor, F. E.
DeVerter	Jackson	Pendleton	Van Horne
DeWeese	Kennedy	Piccola	Wambach
Davies	Kukovich	Pistella	Wass
Deal	Lashingier	Pott	Wiggins
Dininni	Lehr	Punt	Williams, H.
Emerson	Letterman	Rappaport	Williams, J. D.
Evans	Levin	Rasco	Wright, D. R.
Fargo	Lewis	Reber	Zwilk
Fischer			

**NAYS—100**

Alden	Duffy	Levi	Salvatore
Armstrong	Durham	Lucyk	Serafini
Arty	Fee	McCall	Seventy
Belardi	Foster, W. W.	McClatchy	Shupnik
Blaum	Foster, Jr., A.	McIntyre	Sirianni
Borski	Freind	McMonagle	Spitz
Boyes	Gallagher	Mackowski	Stevens
Brandt	Gallen	Maiale	Stewart
Burns	Gamble	Manderino	Swaim
Caltagirone	Gannon	Micozzie	Taddonio
Cappabianca	Geist	Miscevich	Taylor, E. Z.
Cawley	George	Morris	Telek
Cessar	Grabowski	Mrkonic	Tigue
Cimini	Gray	Mullen	Trello
Civera	Grieco	Olasz	Vroon
Clymer	Gruppo	Perzel	Wargo
Colafella	Haluska	Peterson	Wenger
Cole	Hayes	Petrarca	Weston
Cordisco	Horgos	Petrone	Wogan
Cunningham	Johnson	Phillips	Wozniak
DeMedio	Kanuck	Pitts	Wright, J. L.
Dawida	Klingaman	Pratt	Wright, R. C.
Dietz	Kolter	Rieger	
Dombrowski	Kowalyszyn	Rocks	Ryan,
Donatucci	Laughlin	Rybak	Speaker
Dorr	Lescovitz		

NOT VOTING—1

Smith, E. H.

EXCUSED—8

Daikeler Irvis Pievsky Wachob  
Hutchinson, W. Nahill Pucciarelli Wilson

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

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mr. SAURMAN offered the following amendments No. A5243 to amendments No. A4911:

Amend amendments, page 1, lines 1 through 9, by striking out all of said lines and inserting

Amend Title, page 1, line 2, by inserting after "Statutes,"

regulating abortions and

Amend Sec. 1, page 1, line 9, by inserting after "adding"

a chapter and

Amend Bill, page 1, by inserting between lines 9 and 10

Amend amendments, page 19, lines 8 through 13, by striking out all of said lines and inserting

Amend Bill, page 2, line 12, by striking out all of said line and inserting

Section 4. The provisions of section 7107 added by this act shall take effect in 30 days and the remainder of this act shall take effect immediately.

On the question,

Will the House agree to the amendments No. A5243 to amendments No. A4911?

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

Mr. SAURMAN. Mr. Speaker, for about 10 days now, in fact, one person, one life, I think, has been overlooked, the efforts at least of one individual, Senator Singel, who originally wrote and passed through the committee process and through the Senate SB 742. This amendment merely puts back into the amended version the original language of Senator Singel's bill, as amended by Representative Letterman this morning. That is all the amendment does, is return that language so that the efforts of Senator Singel have been put back into the original form in consideration of his position. I ask the support of this amendment. Thank you.

FILMING PERMISSION GRANTED

The SPEAKER. The Chair has given permission to channel 4 to do 10 minutes of silent filming on the floor.

CONSIDERATION OF SB 742 CONTINUED

POINT OF ORDER

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

Mr. GREENFIELD. A point of order.

Does the 2-minute suspension hold for the balance of this consideration of SB 742?

The SPEAKER. It does.

Mr. GREENFIELD. Thank you.

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

Mr. FREIND. Mr. Speaker, I will yield to the gentleman, Mr. Letterman, on this issue.

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

Mr. LETTERMAN. Thank you, Mr. Speaker.

Mr. Speaker, I very much agree with this amendment. I would like to see this passed as soon as possible so we can stop the kind of what they want to call athletic events in the State of Pennsylvania in the "tough man" competition. Also, that amendment of mine would protect all the athletic events of high schools and colleges throughout the State. If this is germane to the bill—I am not sure it is now—I would surely like to see it pass the way it was, and Mr. Singel agreed to my amendment to his bill. Thank you.

On the question recurring,

Will the House agree to the amendments No. A5243 to amendments No. A4911?

The following roll call was recorded:

YEAS—185

Alden	Fargo	Lewis	Saurman
Anderson	Fee	Livengood	Serafini
Armstrong	Fischer	Lloyd	Seventy
Arty	Fleck	Lucyk	Showers
Barber	Foster, W. W.	McCall	Shupnik
Belardi	Foster, Jr., A.	McClatchy	Sieminski
Belfanti	Frazier	McIntyre	Sirianni
Beloff	Freind	McMonagle	Smith, B.
Berson	Fryer	McVerry	Smith, E. H.
Bittle	Gallagher	Mackowski	Smith, L. E.
Blaum	Gallen	Madigan	Snyder
Borski	Gamble	Maiale	Spencer
Bowser	Gannon	Manderino	Spitz
Brandt	Geist	Manniller	Stairs
Brown	George	Marmion	Steighner
Burd	Gladeck	Merry	Stevens
Burns	Grabowski	Michlovic	Stewart
Caltagirone	Gray	Micozzie	Stuban
Cappabianca	Greenfield	Miller	Swaim
Cawley	Greenwood	Miscevich	Sweet
Cimini	Grieco	Moehlmann	Swift
Civera	Gruitza	Mowery	Taddonio
Clark	Gruppo	Mrkonic	Taylor, E. Z.
Clymer	Hagarty	Mullen	Taylor, F. E.
Cochran	Haluska	Murphy	Telek
Cohen	Harper	Noye	Tigue
Colafella	Hasay	O'Donnell	Trello
Cole	Heiser	Olasz	Van Horne
Cordisco	Hoeffel	Oliver	Vroon
Cornell	Honaman	Pendleton	Wambach
Coslett	Horgos	Perzel	Wargo
Cowell	Hutchinson, A.	Peterson	Wass
Cunningham	Itkin	Petrarca	Wenger
DeMedio	Johnson	Petrone	Weston
DeVertter	Kanuck	Phillips	Wiggins
DeWeese	Kennedy	Pistella	Williams, H.
Davies	Klingaman	Pitts	Williams, J. D.
Dawida	Kolter	Pott	Wogan
Dietz	Kowalyshyn	Pratt	Wozniak
Dininni	Kukovich	Punt	Wright, D. R.
Dombrowski	Lashinger	Rappaport	Wright, J. L.

Donatucci	Laughlin	Rasco	Wright, R. C.
Dorr	Lehr	Reber	Zwikl
Duffy	Lescovitz	Rieger	
Durham	Letterman	Ritter	Ryan,
Emerson	Levi	Rybak	Speaker
Evans	Levin	Salvatore	

NAYS—2

Jackson Piccola

NOT VOTING—7

Boyes	Deal	Morris	Rocks
Cessar	Hayes	Richardson	

EXCUSED—8

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

**REMARKS ON VOTES**

The SPEAKER. The Chair recognizes the majority leader and the majority whip who, if they had been at their desks, would have voted in the affirmative on amendment No. A5243.

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

**CONSIDERATION OF SB 742 CONTINUED**

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

Mrs. HAGARTY offered the following amendment No. A5302 to amendments No. A4911:

Amend amendments, page 19, line 14, by striking out all of said line and inserting in 30 days.

On the question,

Will the House agree to the amendment No. A5302 to amendments No. A4911?

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

Mrs. HAGARTY. Thank you, Mr. Speaker.

Mr. Speaker, this amendment simply makes the effective date of this act in 30 days. The current language would have it be effective immediately, which I think would create a great deal of confusion.

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

Mr. FREIND. Mr. Speaker, the lady, Mrs. Hagarty, and I have discussed this. We agree, because there are a lot of provisions in this bill. There should be 30 days after it is signed into law before it goes into effect so everyone will become aware of the provisions. I support the amendment.

On the question recurring,  
Will the House agree to the amendment No. A5302 to amendments No. A4911?

The following roll call was recorded:

YEAS—185

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

NAYS—3

Blaum Ritter Tigue

NOT VOTING—6

Brandt	Greenfield	Honaman	Kukovich
Brown	Greenwood		

EXCUSED—8

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

**AMENDMENT A5283 RECONSIDERED**

The SPEAKER. The Chair recognizes the gentleman from Erie, Mr. Bowser, who moves that the vote by which amendment A5283 to amendment A4911 was defeated on the 9th day of December be reconsidered, the motion being seconded by the gentleman from Allegheny, Mr. Pott.

**REMARKS ON VOTES**

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

Mr. RITTER. I do not know what is going on in this area, but I voted in the negative on the last amendment No. A5302. I would like the record to show that I meant to vote in the affirmative. It has been a long day.

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

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

Mr. BROWN. Mr. Speaker, I made the same mistake. I would like to be recorded in the affirmative on amendment No. A5302.

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

**CONSIDERATION OF SB 742 CONTINUED**

The SPEAKER. The question before the House is the motion by the gentleman, Mr. Bowser, seconded by the gentleman, Mr. Pott, to reconsider the vote by which the Bowser amendment was defeated.

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

The following roll call was recorded:

**YEAS—169**

Anderson	Fischer	Livengood	Saurman
Armstrong	Fleck	Lloyd	Serafini
Arty	Foster, W. W.	Lucyk	Seventy
Barber	Foster, Jr., A.	McCall	Showers
Belfanti	Frazier	McClatchy	Shupnik
Berson	Freind	McIntyre	Sieminski
Bittle	Fryer	McMonagle	Smith, B.
Blaum	Gallagher	McVerry	Smith, E. H.
Borski	Gamble	Mackowski	Smith, L. E.
Bowser	Gannon	Madigan	Snyder
Boyes	George	Manderino	Spencer
Brandt	Gladeck	Manmiller	Spitz
Brown	Grabowski	Marmion	Stairs
Burd	Greenfield	Merry	Steighner
Burns	Greenwood	Michlovic	Stevens
Cappabianca	Grieco	Miller	Stewart
Cawley	Gruitza	Miscevich	Stuban
Cessar	Gruppo	Moehlmann	Swaim
Cimini	Hagarty	Morris	Sweet
Clark	Haluska	Mowery	Swift
Clymer	Harper	Mullen	Taddonio
Cochran	Hasay	Murphy	Taylor, E. Z.
Cohen	Hayes	Noye	Taylor, F. E.
Colafella	Heiser	O'Donnell	Telek
Cole	Hoeffel	Oliver	Tigue
Cordisco	Honaman	Pendleton	Van Horne
Cornell	Hutchinson, A.	Perzel	Vroon
Coslett	Itkin	Peterson	Wambach
Cowell	Jackson	Petrarca	Wargo

DeMedio	Johnson	Phillips	Wass
DeWeese	Kennedy	Piccola	Weston
Davies	Klingaman	Pistella	Wiggins
Dawida	Kolter	Pott	Williams, H.
Deal	Kowalyshyn	Punt	Williams, J. D.
Dombrowski	Kukovich	Rappaport	Wogan
Donatucci	Lashingier	Rasco	Wozniak
Dorr	Laughlin	Reber	Wright, D. R.
Duffy	Lehr	Richardson	Wright, R. C.
Durham	Lescovitz	Rieger	Zwikl
Emerson	Letterman	Ritter	
Evans	Levi	Rocks	Ryan,
Fargo	Levin	Rybak	Speaker
Fee	Lewis	Salvatore	

**NAYS—20**

Alden	Dietz	Kanuck	Petrone
Belardi	Dininni	Maiale	Pitts
Beloff	Gallen	Micozzie	Pratt
Caltagirone	Gray	Mrkonc	Trello
DeVerter	Horgos	Olasz	Wenger

**NOT VOTING—5**

Civera	Geist	Sirianni	Wright, J. L.
Cunningham			

**EXCUSED—8**

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

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

The clerk read the following amendments No. A5283 to amendments No. A4911:

Amend amendments, page 19, by inserting between lines 7 and 8

Section 4. The provisions of Title 18 Pa.C.S. Ch. 32(relating to abortions) shall not apply to any person until a question thereon is submitted to the electors of the Commonwealth at the next municipal or general election occurring at least 60 days after the effective date of this act and a majority voting thereon vote in the affirmative.

The question shall be in substantially the following form:

Do you favor the regulation of abortions as provided in the "Abortion Control Act?"

Amend amendments, page 19, line 10, by striking out all of said line and inserting

5

On the question recurring,  
Will the House agree to the amendments No. A5283 to amendments No. A4911?

**REMARKS ON VOTE**

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

Mr. GEIST. I ask that the record reflect that I intended to vote "yes" on the motion to reconsider.

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

**CONSIDERATION OF SB 742 CONTINUED**

The SPEAKER. The Chair recognizes the gentleman from Erie, Mr. Bowser. The 2-minute rule continues.

Mr. BOWSER. Thank you, Mr. Speaker.

Again I ask for your support on this. While I am on my feet, I want to make a couple of statements. There were many statements made during the past debate, prolife and prochoice. I was on record a while ago and I want to make it expressively clear that I am supporting this legislation. I will support it whether this amendment goes in or not. I would appreciate your support. I hope you will all think about this before the final vote. Thank you very much.

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

Mr. L. E. SMITH. Mr. Speaker, in all the years I have been here, I have been a prolife supporter, and I intend to vote for this bill tonight.

I do not think my legislative district is much different than anyone else's. I have people who are very emotional about this issue. I have had letters and correspondence from women who have said to me privately, I wrote to you about the abortion bill but that is not really the way I feel.

I do not think there is a better way for us to know exactly how our constituents feel than to let them go into the secrecy of an election booth and demonstrate their feelings. Then we will know, and we will not go on for the next 18 years trying to decide this question. Thank you.

On the question recurring,

Will the House agree to the amendments No. A5283 to amendments No. A4911?

The following roll call was recorded:

**YEAS—92**

Anderson	Fleck	Lloyd	Richardson
Barber	Frazier	McVerry	Ritter
Belfanti	Fryer	Madigan	Saurman
Berson	Gladeck	Manmiller	Showers
Bittle	Greenfield	Marmion	Smith, B.
Bowser	Greenwood	Merry	Smith, L. E.
Brown	Gruitza	Michlovic	Snyder
Burd	Hagarty	Miller	Spencer
Clark	Harper	Moehlmann	Stairs
Cochran	Hasay	Mowery	Steighner
Cohen	Heiser	Murphy	Stewart
Cornell	Hoeffel	Noye	Stuban
Coslett	Honaman	O'Donnell	Sweet
Cowell	Hutchinson, A.	Oliver	Swift
DeVerter	Itkin	Pendleton	Taylor, F. E.
DeWeese	Jackson	Phillips	Van Horne
Davies	Kukovich	Piccola	Wambach
Deal	Lashingier	Pistella	Wass
Dininni	Lehr	Pott	Wiggins
Emerson	Letterman	Punt	Williams, H.
Evans	Levin	Rappaport	Williams, J. D.
Fargo	Lewis	Rasco	Wright, D. R.
Fischer	Livengood	Reber	Zwilk

**NAYS—101**

Alden	Duffy	Lescovitz	Serafini
Armstrong	Durham	Levi	Seventy
Arty	Fee	Lucy	Shupnik
Belardi	Foster, W. W.	McCall	Sieminski
Blaum	Foster, Jr., A.	McClatchy	Sirianni
Borski	Freind	McIntyre	Smith, E. H.
Boyes	Gallagher	McMonagle	Spitz

Brandt	Gallen	Mackowski	Stevens
Burns	Gamble	Maiale	Swaim
Caltagirone	Gannon	Manderino	Taddonio
Cappabianca	Geist	Micozzie	Taylor, E. Z.
Cawley	George	Miscevich	Telek
Cessar	Grabowski	Morris	Tigue
Cimini	Gray	Mrkonic	Trello
Civera	Grieco	Mullen	Vroon
Clymer	Gruppo	Olasz	Wargo
Colafrella	Haluska	Perzel	Wenger
Cole	Hayes	Peterson	Weston
Cordisco	Horgos	Petrarca	Wogan
Cunningham	Johnson	Petrone	Wozniak
DeMedio	Kanuck	Pitts	Wright, J. L.
Dawida	Kennedy	Pratt	Wright, R. C.
Dietz	Klingaman	Rieger	
Dombrowski	Kolter	Rocks	Ryan,
Donatucci	Kowalyszyn	Rybak	Speaker
Dorr	Laughlin	Salvatore	

**NOT VOTING—1**

Beloff

**EXCUSED—8**

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

**REMARKS ON VOTE**

The SPEAKER. The Chair recognizes the gentleman from Cumberland, Mr. Kennedy.

Mr. KENNEDY. On amendment A5283, Mr. Speaker, I was recorded in the negative. I wish to be recorded in the affirmative.

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

**CONSIDERATION OF SB 742 CONTINUED  
CONSTITUTIONAL POINT OF ORDER**

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

Mr. DAVIES. To get back to my constitutional questions, Mr. Speaker.

The SPEAKER. Is it the understanding of the Chair that the gentleman, Mr. Davies, raises the question of constitutionality on amendment A4911 as amended?

Mr. DAVIES. That is right, Mr. Speaker, yes.

The SPEAKER. The gentleman is in order.

The question before the House is the constitutionality of the Freind amendment A4911 as amended.

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

Mr. DAVIES. Mr. Speaker, first of all, I challenge the constitutionality of it, and I will put them all together rather than delay on each separate one.

Article I, section 1, which is defending life, this amendment clearly violates a woman's life and places a woman's life in jeopardy in many instances. What it will do eventually, since the people will never decide this issue, is put abortion back into what they call the back-alley situation. In addition to this, in pursuing their own happiness, what this abortion bill will clearly do is place upon many families unwanted children who cannot survive in a normal life, and of course, again, this infringes upon that article I in which their pursuit of happiness is involved.

On religious freedom, I would like to interrogate any one of the five members of this body, because by doctrine and moral consciousness, it infringes upon the very religion that I practice, and that faith, and by direction in letter, it also— And I would be kind enough to read that letter in which, again, my moral conscience is being directed by an official religion. In addition to this, other organized religions have, so that this body has now exacted its will on my moral conscience. I will not ask each one of those individuals, because it would take too much time. In addition to this, it does to those others who, of course, share that same view. Thank you, Mr. Speaker.

#### CONSTITUTIONAL POINT OF ORDER WITHDRAWN

Mr. DAVIES. I now withdraw my constitutional objections.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

#### REMARKS SUBMITTED FOR THE RECORD

The SPEAKER. The Chair recognizes the gentleman from Cumberland, Mr. Mowery.

Mr. MOWERY. Mr. Speaker, I have remarks that I would like to have submitted for the record, please.

The SPEAKER. The gentleman will send them to the desk.

Mr. MOWERY submitted the following remarks for the Legislative Journal:

I am in favor of Pro Life Legislation - I have voted in favor of this type of legislation in the past as well as for eliminating tax payers money to be used for this purpose of abortion.

I am further in favor:

1. 24 hour cooling off period
2. In favor of parents being notified - however the requirement of going to a judge as the alternative is too limiting. Few teenagers will seek this method of relief in a court system that is already overcrowded - and force our young people to once again return to back alley abortions.
3. Requirements for autopsies and strict reporting is a very worthwhile objective and I agree - However the burden is placed on the medical profession of this state by the addition of the criminal penalties. This is beyond my comprehension.

PENALTIES ———(YOU HAVE ON SEPARATE SHEET)

Ladies and gentlemen, this will set back quality medical care for women seeking abortions in this state. The stiff criminal pen-

alties in this bill will increase an already prohibitive cost of malpractice insurance for the physician.

The insurance companies will withdraw the coverage completely to doctors performing abortions in this State. Many doctors have indicated that they will no longer perform this procedure if this bill were to pass.

If we are going to place severe criminal penalties on the medical profession as it relates to abortions, then why not place criminal penalties on physicians or doctors who may fail to follow proper surgical procedures on cancer operations - heart operations - or any one of some 10,000 surgical procedures. Yes, I know the answer - because we are talking about saving human life - Yes so am I - New life, as well as preserving human life in its entirety - newly born - teenagers - forty year olds - senior citizens. The criminal penalties are not only unconstitutional but could affect the surgical delivery system in this State for all Pennsylvanians for years to come.

Yes - I am in favor of a reporting system in the Commonwealth, Yes I am in favor of saving human lives. But I am NOT IN FAVOR of increasing medical costs for all citizens due to the extremely high demands put on the medical professions and the hospitals by this proposed legislation. Increasing the load on the court system, putting doctors in front of judges and forcing those seeking abortions to go to the back alleys and across state lines.

Another area has received very little attention during our debate which is extremely important to me. A section of the bill calls for annual hearings - the Board (made up of 12 members - appointed by the Governor) shall call an annual hearing. One of the purposes of the hearing is to determine when the unborn child is viable - thus this board would be in a position to determine the direction of abortions in Pennsylvania in the years ahead, with the Governor of the Commonwealth in a position to make the appointments to the Board.

I feel it is extremely important that decisions relating to human life should not be placed in the power of one man.

Yes - the list is long and I could go on - However the day has been long!

I believe the real issue is that we have gone far beyond the logical and realistic tightening up of our abortion laws which I feel personally are needed. We are now well into the field of attempting to legislate morality. Just as our forefathers found when you do attempt to legislate morality - you infringe upon the rights of others. In my opinion this bill has gone extremely too far and invades upon the rights of others.

Since I firmly believe many of my fellow legislators are being influenced by a highly emotional electorate on this issue - I would like to leave you with this thought:

**"YOUR REPRESENTATIVE OWES YOU NOT HIS INDUSTRY ALONE, AND BETRAYS instead of serving you, if he sacrifices it to your opinion."**

Edmund Burke to the electors -  
November 3, 1774

For the reasons outlined and not on the issue of pro-life which I support I will vote against this bill.

#### STATEMENT SUBMITTED FOR THE RECORD

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

Mr. RITTER. Mr. Speaker, I am convinced that this bill is unconstitutional. I intend to vote in the negative. On behalf of Representative Zwinkl and myself, I would ask that these statements from various religious organizations across this Commonwealth be entered on the record, Mr. Speaker.

The SPEAKER. The gentleman will send the statements to the desk. They are part of the statement of the gentleman, Mr. Ritter, I understand.

Mr. RITTER. Yes, Mr. Speaker. They are in support of the position that Mr. Zwinkl and I are taking on the bill.

Mr. RITTER submitted a statement for the Legislative Journal.

(For statement, see Appendix.)

### STATEMENT SUBMITTED FOR THE RECORD

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

Mr. SNYDER. Mr. Speaker, due to the lateness of the hour, I would like to submit a statement for the record.

The SPEAKER. The gentleman will send his remarks to the desk.

Mr. SNYDER submitted the following statement for the Legislative Journal:

HOUSE OF REPRESENTATIVES  
Commonwealth of Pennsylvania  
Harrisburg

### STATEMENT FOR THE RECORD

Senate Bill 742

December 8, 1981

The issues raised by the Omnibus Abortion Control Act introduced as an amendment to Senate Bill 742 by Representatives Freind and Cunningham are many and complex.

As a legislator, the question currently before this body has resulted in much personal anguish in reaching a decision as to how to vote within the framework of the restrictions imposed.

My personal belief is to support many aspects of the measure as introduced. I believe that the majority of my district would support aspects of the bill providing protection and safeguards for both the mother and the unborn child. Yet, when one considers the implications of passing such a measure as an act within the Pennsylvania Crimes Code, support of this amendment would, I believe, be contrary to my pledge to uphold the constitution and to protect the public I serve.

Each individual's religion has its beliefs on this issue and within the religious bodies there are many differing viewpoints. There currently does not exist any common consensus as to the question of when life begins. How can we as legislators make such a decision part of the statutory law of the Commonwealth without such a consensus? Are we not imposing our religious beliefs onto the 12 million citizens of Pennsylvania?

The constitution requires separation of church and state. Are we not violating this basic freedom and right?

Furthermore, I would be much more willing to vote in favor of this legislation if it were amended into the Pennsylvania health and welfare laws. To incorporate such an act into the Crimes Code permits the courts to apply the definitions of the act to all other acts of criminality. Is this really what we want to do?

In addition, I believe the action being taken today circumvents the legislative process of providing input and review of the contents of the proposal. To avoid the committee process and try to understand the effect of over 100 amendments in one afternoon is not giving such an important measure as this its proper due process. The legislation should be able to withstand the checks and balances of our system. To do otherwise will establish a dangerous precedent. The failure of this body to permit the public to decide the matter by ballot demonstrates an unwillingness to let the people speak on the issue.

For these reasons, I must oppose the Freind/Cunningham amendment.

Donald W. Snyder  
134th Legislative District

### REMARKS SUBMITTED FOR THE RECORD

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

Mr. DeWEESE. I would like also to submit my remarks for the record. I would only like to say that I believe this is like Prohibition; it is going to change, and we are going to regret the decision we make here tonight. Thank you.

The SPEAKER. The Chair thanks the gentleman.

Mr. DeWEESE submitted the following remarks for the Legislative Journal:

We hear this afternoon in this chamber the collective voice of what has been termed "an organized hypocrisy." On the one hand, we are asked to believe that the proponents of this measure really have the interests of the unborn at heart. Well, let us give the devil his due—perhaps they might. But what is the obverse of this argument?

Will they be willing—are they willing now?—to vote funds for day-care centers, kindergartens, special programs for retarded children—the whole panoply of social welfare that will be required to give this new host of children a chance in the steaming jungles of urban life?

No, ladies and gentlemen, they will most manifestly not be willing to spend a cent for such programs. But on the other end of the scale, since these men and women mistakenly believe that the state should have no say in social welfare programs, and in many cases would willingly return us to the situation that existed in England at the time of the poor laws in the last century, they will vote only for new prisons and all the other melancholy evidence of societal breakdown.

These benighted individuals labor under a striking paradox that soon collapses under the ponderous burden of hypocrisy placed upon it. No legislature—however well qualified or well intentioned—can ever hope to craft a statute that will guarantee anyone what the proponents of this bill seek.

Who are you to drag this deliberative body along so wearisome a Trail of Tears (the *Via Dolorosa*), to drag a woman from the safety, science, and sacred privacy of the medical consulting room into the charnel house of the law? Can we hope to write a law that will deal with this question definitively? Absolutely not! Over and over we hear the moribund platitudes and unrealistic expectations of the anti choice movement. How dare we bring in here a matter that is so patently the province of medicine and ecclesiastical doctrine? Let the decision whether to have an abortion or not rest with those most concerned with it—the woman, the man, and the doctor.

Finally, let us keep in mind the pathetic aftermath of Prohibition. One portion of the populace sought the abolition of all alcoholic beverages; another segment was as equally opposed to any law telling one that he or she could or could not consume beer, wine, or cocktails. After fourteen doleful years (1919-33), Prohibition ignominiously expired—and its demise brought the majesty of the Federal law into serious disrepute. Can we afford to parallel this national legislative debacle with another in the 1980's? Do we have the temerity to think that the passage of a mere law will undo the course of society's evolution along the lines it has taken with regard to personal freedom in recent decades? The answer is No! Many of us talk with great vehemence about "getting government off the backs of the people." Well, let the upholders of this statement now prove their worth by defeating this bill, or let them show the people of Pennsylvania that such statements are only the death cries of a discredited, mean-spirited, and vindictive political and social theory.

Mr. Speaker, I call for the rejection of this abominable proposal!

### COURT DECISION SUBMITTED FOR THE RECORD

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

Mr. REBER. Mr. Speaker, if it would be in order, I would like to submit for the record the decision of the United States Supreme Court in *Roe v. Wade*. I want it to be very clear on the record, as far as I am concerned, we have said on a number of occasions that this body wants to send a message to the Federal courts. I certainly would like to send a message to the Federal courts to make sure they scrutinize this piece of legislation very greatly. I feel it is blatantly unconstitutional, and accordingly, we want the record to reflect so. Thank you.

The SPEAKER. The gentleman will send his statement to the desk.

Mr. REBER submitted a court decision for the Legislative Journal.

(For court decision, see Appendix.)

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

Mr. RICHARDSON. Yes, Mr. Speaker.

The SPEAKER. The gentleman may proceed.

Mr. RICHARDSON. Thank you, Mr. Speaker.

Mr. Speaker, I rise to oppose the Freind amendment to SB 742, and I do not have any remarks to submit. I would like to make mine for the record.

I would like to first say that not only have we defied the process which all of us as members have been afforded in this House of Representatives through the committee process, but we have taken the opportunity to deny that process and also deny the people and the citizens of this Commonwealth the right even to a referendum, an amendment that we thought would probably be apropos to a situation where many people were confused.

After some twisting of some arms, it clearly indicates to me that we deal with a dual system of justice in this same House of Representatives. One day we are for the committee process; another day we are against the committee process. Another time we are for amendments, and the next time we are not for amendments. Sometimes we are for moving the previous question; other times we are not for moving the previous question, which seems to put a lot of ambiguity in terms of our own direction about whom we truly represent - 58,000 or 60,000 people or our own personal interests. I have watched with interest the way the proponents of this bill have manipulated and used the system to the advantage of an issue that is getting a lot of maybe mileage in terms of their home constituencies, but not in terms of those women who are suffering tremendously because of this.

None of the amendments at this point, nor the bill, speaks directly to dealing with the process that is going to deal with the wealthy and the rich who will be able to get abortions at any time, nor will we ever be able to dictate or direct that

those persons who can get those abortions, that there ever be a record of them. It seems that the proponents of the bill are not worried about that. There is always a dividing line - those who have versus those who do not have. It seems to me that if we are going to deal effectively and consistently along those issues and along those lines, then we need to deal with these problems directly.

Finally, I say this: That by deception, by default, and by all the other maneuvers that have been used, with inclinations of noting how we can use the man's English—

The SPEAKER. The gentleman will yield.

The Chair has attempted to be lenient. The gentleman has far exceeded the 2-minute limit.

Mr. RICHARDSON. I did not know. This also speaks now to the—

The SPEAKER. The 2-minute limit applies to the entire SB 742 discussion.

Mr. RICHARDSON. Well, my final sentence, Mr. Speaker, is this: I would hope that each and every individual would recognize the injustices that were done in this bill. Not only is it not germane, it is unconstitutional, and the committee process has been violated by invoking this into SB 742, which was a "tough guy" bill and not an abortion bill.

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

Mrs. HAGARTY. Thank you, Mr. Speaker.

Mr. Speaker, when I began on the Health and Welfare Committee to consider this issue and my thoughts prior to being in this House were that abortion was a woman's issue and it was a matter of choice. I no longer believe that is the issue, Mr. Speaker. I believe that we have fundamentally a religious issue before us. I say that because at the heart of this amendment is a definition of human life, which begins at the moment of conception as defined in the Freind-Cunningham bill.

I listened to people from every religion testify before our Health and Welfare Committee - members of the Jewish faith, the Episcopalian faith, the Lutheran faith, the Roman Catholic Church. I listened to doctors, scientists, other theologians, and I learned that there was absolutely no agreement among religions; there was no agreement among scientists; and there was no agreement among lawyers or doctors as to when human life begins. I believe that to support this amendment is to deny the individual right of practice of one's religion and, consistent with that religion, for that religion and that individual to make the decision as to when human life begins. Thank you.

### MOTION TO SUSPEND RULES

The SPEAKER. The Chair recognizes the majority leader.

Mr. HAYES. Mr. Speaker, I move that the House rules be suspended at this time to permit work beyond the hour of 11 o'clock.

On the question,

Will the House agree to the motion?

### POINT OF ORDER

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

The SPEAKER. The gentleman will yield.

Mr. LEVIN. Not to take the vote. I want to know whether it is a debatable motion.

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

Mr. LEVIN. To inquire whether or not that motion is a debatable motion.

The SPEAKER. It is the opinion of the Chair that the motion is an incidental motion that is not debatable.

Mr. LEVIN. Did I understand you, Mr. Speaker, that the motion to suspend the rules is not debatable?

The SPEAKER. The Chair is advised that when the motion to suspend the rules is coupled for the purpose of doing something that is debatable, then it would be. In this case, the Chair is advised that the suspension of the rules for the purpose of considering an incidental event is not debatable.

The Chair recognizes the minority whip.

Mr. MANDERINO. Mr. Speaker, the motion that is being put to the House is simply to suspend a rule that is written into the rules of the House, which says that this House will work only until a certain hour each day, and that hour is designated in the rules, and in order to work longer, we must suspend the rules.

The SPEAKER. The gentleman will yield.

The Chair's initial inclination was in complete accord with what the gentleman has just said. The Chair was advised, however, that that was not the case and will at this time put the House at ease for a few moments to look into the question further.

Mr. MANDERINO. Thank you.

The SPEAKER. The House will come to order.

It is the ruling of the Chair that the motion is not debatable for the following reason: If a motion to suspend the rules is made in connection with a matter other than matters that are of an incidental nature which arise out of the work of the body of this House, then it would be debatable. However, incidental questions not being debatable, such as the question that is concerning us now, the motion to suspend the rules in connection with it is not debatable.

### MOTION TO ADJOURN

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

Mr. RICHARDSON. Point of order, Mr. Speaker.

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

Mr. RICHARDSON. Mr. Speaker, I do now move that this House adjourn until Monday, December 14, 1981, at 1 o'clock.

The SPEAKER. The motion of the gentleman is in order. The question before the House— Will the gentleman state the time again?

Mr. RICHARDSON. December 14, Monday, at 1 o'clock.

The SPEAKER. December 14 at 1 p.m.

The question before the House is the motion by the gentleman, Mr. Richardson, that this House do not adjourn until December 14 at 1 p.m.

On the question,

Will the House agree to the motion?

The SPEAKER. The Chair recognizes the majority leader.

Mr. HAYES. Thank you, Mr. Speaker.

I would oppose the motion, not that we are going to stay here the rest of the night working on the legislative program, because it is not my intention to do so, but I do believe we ought to finish what is immediately before us and not let the last 2 days go to complete waste. It is not my intention to stay here until daybreak working on the legislative program. I did not mention that to the minority whip that it is not my intention to stay here, but I do believe that we ought to finish the business at hand. On that basis, I would oppose the gentleman's motion.

The SPEAKER. The Chair recognizes the minority whip.

Mr. MANDERINO. Mr. Speaker, this House has been in session since 10 o'clock this morning. That is some 13 hours ago. This House has been working on, yes, a very important piece of legislation. Our last recess was for the lunch hour. There has been no recess for the members to get dinner; there has been no provision made, until I understand maybe a half hour ago, to even think about sending for food for the members, and my guess would be it is going to take another 2 hours for food to get here. And that is not in criticism of anyone who will make the arrangements; it will just take that long to find food for this many people.

We have no assurances that we are not going to go to caucus and take up other measures this evening. We would be perfectly happy to continue on SB 742 and to complete it, and that is the business at hand I guess, if we knew we were adjourning at the end of that, but I do not think we are being told that. And if we are being told that, I would like the majority leader to tell us that we are just talking about finishing SB 742 and then adjourning. But my understanding of what is planned is that you want to go to other bills and caucus and budget matters that are still in the Senate and in conference committee, and frankly, I think we ought to adjourn and come back Monday, if that is the case.

Mr. HAYES. I distinctly said, Mr. Speaker, that it is not my intention to continue with the calendar, period. But I do believe we ought to finish our work on this bill, or this week will have been devoted to nothing but oratory concerning SB 742.

Mr. MANDERINO. I am willing to ask Mr. Richardson to withdraw his motion to adjourn if we are talking about SB 742, and if for any reason he is unable to do that, I would ask members on my side at least to— He will withdraw his motion with that understanding.

The SPEAKER. The motion before the House is not debatable, except by the majority and minority leaders.

**PARLIAMENTARY INQUIRY**

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

Mr. DAVIES. Point of parliamentary inquiry.

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

Mr. DAVIES. Mr. Speaker, if we would suspend or come back at that time, in that interim is there any way that a member could request a true fiscal bill on the bill before us? A true fiscal note. I stand corrected, Mr. Speaker.

The SPEAKER. The Chair is unable to answer what a true fiscal note is. It is the understanding of the Chair that one has been provided.

Mr. DAVIES. Yes, a fiscal note has been provided. I have not been able to ascertain anything off that fiscal note. I would just like the opportunity to really get a feel for the costs on it, and I do not think I have that information now, Mr. Speaker.

The SPEAKER. The Chair would suggest the gentleman speak to the chairman of the Appropriations Committee.

Mr. DAVIES. I have, Mr. Speaker. Thank you.

**POINT OF ORDER**

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

Mr. GREENFIELD. Point of order, Mr. Speaker.

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

Mr. GREENFIELD. We have sat here for a number of hours, Mr. Speaker, debating this bill. There are many of us on both sides of this issue who would like to be recorded before we leave this House.

**POINT OF ORDER**

The SPEAKER. For what purpose does the gentleman from Cambria, Mr. Stewart, rise?

Mr. STEWART. Mr. Speaker, I hate to rise for a point of order, but we go through this quite a bit in this House. Why do we not dispose of rule 15 first and the 11 o'clock problem before we start talking about everything else?

The SPEAKER. I would be happy to.

The gentleman, Mr. Greenfield, has the floor. The gentleman may continue.

Mr. GREENFIELD. I would like to know if I would be in order to move the previous question, Mr. Speaker, so we can vote on SB 742 and be recorded, for those members who have sat here all day debating this.

The SPEAKER. That would be inappropriate at this time, inasmuch as there is a motion to adjourn on the floor.

Mr. GREENFIELD. I withdraw my motion, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The question before the House is the motion of the gentleman, Mr. Richardson, to adjourn the House until December 14, 1981, at 1 p.m. Did the gentleman, Mr. Richardson, withdraw that motion?

Mr. RICHARDSON. Mr. Speaker, I withdrew my motion to adjourn this House until December 14, 1981, at 1 o'clock, under the condition that we finish SB 742 and vote it and that would be the end. That was my understanding.

The SPEAKER. The question before the House is the motion of the gentleman, Mr. Richardson, to adjourn.

The Chair, Mr. Richardson, is unable to agree to conditions. The only motion that the Chair recognizes is the motion to adjourn. The Chair cannot enter into such an agreement.

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

**YEAS—22**

Berson	Harper	Moehlmann	Ritter
Brown	Heiser	Oliver	Stairs
DeWeese	Itkin	Pistella	Swift
Emerson	Kukovich	Rasco	Williams, H.
Evans	Levin	Richardson	Zwilk
Gruitza	Michlovic		

**NAYS—165**

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

**NOT VOTING—7**

Barber	Bowser	Cornell	Wiggins
Beloff	Cole	Deal	

EXCUSED—8

Daikeler	Irviss	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

RULES SUSPENDED

The SPEAKER. The Chair recognizes the majority leader.

Mr. HAYES. Mr. Speaker, I move that rule 15 of this House be suspended to permit the House to conduct business beyond the time of 11 o'clock.

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

PARLIAMENTARY INQUIRY

Mr. RITTER. Mr. Speaker, parliamentary inquiry.

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

Mr. RITTER. Mr. Speaker, it seems to me that we are asked to suspend the rules, when the rules already provide that all we have to do is take a roll-call vote to see whether we want to continue after 11 o'clock. My parliamentary inquiry is, why then, if we do that, do we need to vote to suspend the rules?

The SPEAKER. What rule is the gentleman referring to?

Mr. RITTER. Rule 15, Mr. Speaker. It reads, adjourn at 11 o'clock, "...unless otherwise ordered by a roll call vote...."

The SPEAKER. That is exactly what we are attempting to do at this time - suspend the rules so that it is not necessary to adjourn at 11 o'clock.

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

The following roll call was recorded:

YEAS—169

Alden	Durham	Levin	Saurman
Anderson	Emerson	Lewis	Serafini
Armstrong	Fargo	Livengood	Seventy
Arty	Fee	Lloyd	Showers
Belardi	Fischer	Lucyk	Shupnik
Belfanti	Foster, W. W.	McCall	Sieminski
Beloff	Foster, Jr., A.	McClatchy	Sirianni
Berson	Freind	McIntyre	Smith, B.
Bittle	Fryer	McMonagle	Smith, E. H.
Blaum	Gallagher	McVerry	Smith, L. E.
Borski	Gallen	Mackowski	Snyder
Bowser	Gamble	Madigan	Spencer
Boyes	Gannon	Maiale	Spitz
Brandt	Geist	Manmiller	Stairs
Burd	George	Merry	Steighner
Burns	Gladeck	Michlovic	Stevens
Caltagirone	Grabowski	Micozzie	Stewart
Cappabianca	Gray	Miller	Stuban
Cawley	Greenfield	Miscevich	Swaim
Cessar	Greenwood	Morris	Sweet
Cimini	Grieco	Mowery	Taddonio
Civera	Gruppo	Mrkonic	Taylor, E. Z.
Clark	Hagarty	Mullen	Taylor, F. E.
Clymer	Haluska	Murphy	Telek
Cochran	Harper	Noye	Tigue
Cohen	Hasay	O'Donnell	Trello
Colafella	Hayes	Olasz	Van Horne

Cole	Hoeffel	Oliver	Vroon
Cordisco	Honaman	Pendleton	Wambach
Cornell	Horgos	Perzel	Wargo
Coslett	Hutchinson, A.	Peterson	Wass
Cowell	Jackson	Petrarca	Wenger
Cunningham	Johnson	Petrone	Weston
DeMedio	Kanuck	Phillips	Wogan
DeVerter	Klingaman	Pitts	Wozniak
Davies	Kolter	Pratt	Wright, D. R.
Dawida	Kowalyszyn	Punt	Wright, J. L.
Dietz	Lashinger	Rappaport	Wright, R. C.
Dininni	Laughlin	Reber	Zwikel
Dombrowski	Lehr	Rieger	
Donatucci	Lescovitz	Rocks	Ryan,
Dorr	Letterman	Rybak	Speaker
Duffy	Levi	Salvatore	

NAYS—21

Barber	Heiser	Moehlmann	Richardson
Brown	Itkin	Piccola	Ritter
DeWeese	Kennedy	Pistella	Swift
Evans	Kukovich	Pott	Williams, H.
Fleck	Manderino	Rasco	Williams, J. D.
Frazier			

NOT VOTING—4

Deal	Gruitza	Marmion	Wiggins
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EXCUSED—8

Daikeler	Irviss	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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

The SPEAKER. The rule is suspended.

CONSIDERATION OF SB 742 CONTINUED

On the question recurring,

Will the House agree to the amendments No. A4911 as amended?

The following roll call was recorded:

YEAS—131

Alden	Duffy	Levi	Rybak
Armstrong	Durham	Livengood	Salvatore
Arty	Fee	Lloyd	Serafini
Belardi	Fischer	Lucyk	Seventy
Belfanti	Foster, Jr., A.	McCall	Shupnik
Beloff	Frazier	McClatchy	Sieminski
Bittle	Freind	McIntyre	Sirianni
Blaum	Gallagher	McMonagle	Smith, E. H.
Borski	Gallen	Mackowski	Smith, L. E.
Bowser	Gamble	Madigan	Spitz
Boyes	Gannon	Maiale	Stairs
Burd	Geist	Manderino	Steighner
Burns	George	Manmiller	Stevens
Caltagirone	Grabowski	Marmion	Stewart
Cappabianca	Gray	Micozzie	Swaim
Cawley	Grieco	Miscevich	Taddonio
Cessar	Gruitza	Morris	Taylor, E. Z.
Cimini	Gruppo	Mrkonic	Taylor, F. E.
Civera	Haluska	Mullen	Telek
Clark	Hasay	Murphy	Tigue
Clymer	Hayes	Noye	Trello
Cohen	Horgos	Olasz	Vroon
Colafella	Hutchinson, A.	Perzel	Wargo
Cole	Johnson	Peterson	Wass
Cordisco	Kanuck	Petrarca	Wenger
Coslett	Kennedy	Petrone	Weston
Cowell	Klingaman	Phillips	Wogan
Cunningham	Kolter	Pitts	Wozniak
DeMedio	Kowalyszyn	Pott	Wright, D. R.

Dawida	Laughlin	Pratt	Wright, J. L.
Dietz	Lehr	Punt	
Dininni	Lescovitz	Rieger	Ryan,
Dombrowski	Letterman	Rocks	Speaker
Donatucci			

NAYS—62

Anderson	Fryer	Merry	Saurman
Barber	Gladeck	Michlovic	Showers
Berson	Greenfield	Miller	Smith, B.
Brandt	Greenwood	Moehlmann	Snyder
Brown	Hagarty	Mowery	Spencer
Cochran	Harper	O'Donnell	Stuban
Cornell	Heiser	Oliver	Sweet
DeVerter	Hoeffel	Pendleton	Swift
DeWeese	Honaman	Piccola	Van Horne
Davies	Itkin	Pistella	Wambach
Deal	Jackson	Rappaport	Wiggins
Dorr	Kukovich	Rasco	Williams, H.
Emerson	Lashingner	Reber	Williams, J. D.
Evans	Levin	Richardson	Wright, R. C.
Fargo	Lewis	Ritter	Zwinkl
Foster, W. W.	McVerry		

NOT VOTING—1

Fleck

EXCUSED—8

Daikeler	Irviss	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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?

**STATEMENT SUBMITTED FOR THE RECORD**

The SPEAKER. The Chair recognizes the gentleman from Lawrence, Mr. Pratt. The gentleman, Mr. Pratt, desires to submit his remarks for the record. Would the gentleman send his remarks to the desk?

Mr. PRATT submitted a statement for the Legislative Journal.

(For statement, see Appendix.)

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?

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

Mr. FLECK. Thank you, Mr. Speaker.

Will the gentleman, Mr. Freind, submit to one question?

The SPEAKER. The gentleman from Delaware County, Mr. Freind, will stand for interrogation. The gentleman, Mr. Fleck, may proceed.

Mr. FLECK. Mr. Speaker, in light of everything that has gone on today, will you join me in a motion to have this bill put into print so that we can read the bill and know clearly

what it is we are voting on, prior to sending it unamendable to the Senate for a "yes-no" vote?

Mr. FREIND. Mr. Speaker, the last thing in the world I would like to do is be discourteous. Number one, unless the Senate has changed their rules during this term, the Senate has no prohibition against amending a Senate bill. Number two, they can suspend their rules. Thirdly, I think it is important that we decide this issue tonight.

If you would like to make that motion, the will of the membership will decide, but I will not join in that motion.

Mr. FLECK. Thank you for answering that question. I appreciate it.

May I make a statement?

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

Mr. FLECK. I would like not to take much of your time. I simply want to state that I have been here for 2 days. I came here with my intention to support this legislation. I came here attempting to amend it into a bill that was meaningful, that could stand constitutional tests and would be good law for the Commonwealth. I still would like to support this. However, I do not know how any of us can realistically vote with the process that was followed, with editorial changes in amendments, divided amendments, back and forth. I do not know how we realistically can honestly stand here and say that we have read the words, that we know the lines, that we understand what it is we are committing the people of the Commonwealth to. I cannot do it, and responsibly I am going to be forced to ask now, please, that when the vote is taken, I be recorded as present.

The SPEAKER. If that was in the nature of a parliamentary inquiry, the answer to the inquiry is "no."

**REMARKS ON VOTE**

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

Mrs. HARPER. On the Freind amendment A4911, Mr. Speaker, I voted in the affirmative. I would like to be recorded in the negative. Thank you.

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

**CONSIDERATION OF SB 742 CONTINUED**

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

Mr. DUFFY. I would say, let us get on with the vote on this and get out of here tonight.

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—132

Alden	Donatucci	Levi	Rybak
Armstrong	Duffy	Livengood	Salvatore
Arty	Durham	Lloyd	Serafini
Belardi	Fee	Lucyk	Seventy
Belfanti	Fischer	McCall	Shupnik

Beloff	Foster, Jr., A.	McClatchy	Sieminski
Bittle	Frazier	McIntyre	Sirianni
Blaum	Freind	McMonagle	Smith, E. H.
Borski	Gallagher	Mackowski	Smith, L. E.
Bowser	Gallen	Madigan	Spitz
Boyes	Gamble	Majale	Strairs
Burd	Gannon	Manderino	Steighner
Burns	Geist	Manmiller	Stevens
Caltagirone	George	Marmion	Stewart
Cappabianca	Grabowski	Micozzie	Swaim
Cawley	Gray	Miscevich	Taddonio
Cessar	Grieco	Morris	Taylor, E. Z.
Cimini	Gruitza	Mrkonjic	Taylor, F. E.
Civera	Gruppo	Mullen	Telek
Clark	Haluska	Murphy	Tigue
Clymer	Hasay	Noye	Trello
Cochran	Hayes	Olasz	Vroon
Cohen	Horgos	Perzel	Wargo
Colafella	Hutchinson, A.	Peterson	Wass
Cole	Johnson	Petrarca	Wenger
Cordisco	Kanuck	Petrone	Weston
Coslett	Kennedy	Phillips	Wogan
Cowell	Klingaman	Pitts	Wozniak
Cunningham	Kolter	Pott	Wright, D. R.
DeMedio	Kowalyszyn	Pratt	Wright, J. L.
Dawida	Laughlin	Punt	
Dietz	Lehr	Rieger	Ryan,
Dininni	Lescovitz	Rocks	Speaker
Dombrowski	Letterman		

NAYS—61

Anderson	Gladeck	Merry	Saurman
Barber	Greenfield	Michlovic	Showers
Berson	Greenwood	Miller	Smith, B.
Brandt	Hagarty	Moehlmann	Snyder
Brown	Harper	Mowery	Spencer
Cornell	Heiser	O'Donnell	Stuban
DeVerter	Hoeffel	Oliver	Sweet
DeWeese	Honaman	Pendleton	Swift
Davies	Itkin	Piccola	Van Horne
Deal	Jackson	Pistella	Wambach
Dorr	Kukovich	Rappaport	Wiggins
Emerson	Lashingier	Rasco	Williams, H.
Evans	Levin	Reber	Williams, J. D.
Fargo	Lewis	Richardson	Wright, R. C.
Foster, W. W.	McVerry	Ritter	Zwinkl
Fryer			

NOT VOTING—1

Fleck

EXCUSED—8

Daikeler	Irvis	Pievsky	Wachob
Hutchinson, W.	Nahill	Pucciarelli	Wilson

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.

**STATE GOVERNMENT COMMITTEE MEETING**

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

Mr. GALLEN. Mr. Speaker, there will be an immediate meeting of the State Government Committee in room 401. It will be very brief.

**MOTION TO ADJOURN**

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

Mr. RICHARDSON. I would like to move that this House do now adjourn until December 14, 1981, at 1 o'clock.

The SPEAKER. The gentleman, Mr. Richardson, moves that this House do now adjourn until December 14 at 1 o'clock.

The Chair recognizes the majority leader.

Mr. HAYES. I would ask the gentleman to withdraw. We are going to adjourn here in just a moment. The members can leave. The State Government Committee is going to report a bill, but we are not going to do any more legislative program. We are not going to do any more.

The SPEAKER. The Chair recognizes the minority whip.

Mr. MANDERINO. Mr. Speaker, would the majority leader inform us if the adjournment motion that he will put, or which he will accept, will be for Monday?

The SPEAKER. The majority leader advises the Chair that he requests that the Chair remain open for the purpose of taking a report from the State Government Committee, and at that time, other than the business that usually flows through the desk, the House will adjourn until Monday at the normal hour.

Mr. MANDERINO. Thank you, Mr. Speaker.

The SPEAKER. Is that correct, Mr. Majority Leader?

Mr. HAYES. I did not hear the question, Mr. Speaker. But could I make an announcement before we get into all of that?

The Chief Clerk is going to have food here in just a short while, and I respectfully suggest that the Representatives go to the Chief Clerk's office if they care to get a bite to eat before they return to their rooms or travel to their homes.

Now, what was the question, Mr. Speaker?

The SPEAKER. The Chair suggested to the minority whip that it was the intention of the majority leader that other than taking a report of committee, this House would adjourn until Monday at 1 o'clock.

Mr. HAYES. Yes, sir, Mr. Speaker.

The SPEAKER. And the usual business that passes through the chamber.

**SENATE MESSAGE**

**AMENDED HOUSE BILLS  
RETURNED FOR CONCURRENCE**

The clerk of the Senate, being introduced, returned **HB 696, PN 2511**; and **HB 904, PN 2641**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested.

The SPEAKER. The bills will appear on the calendar.

**SENATE MESSAGE****HOUSE-AMENDED SENATE  
BILLS CONCURRED IN**

The clerk of the Senate, being introduced, informed that the Senate has concurred in the amendments made by the House of Representatives to **SB 920, PN 1435**; and **SB 930, PN 1407**.

**SENATE MESSAGE****HOUSE BILL  
CONCURRED IN BY SENATE**

The clerk of the Senate, being introduced, returned **HB 427, PN 1539**, with information that the Senate has passed the same without amendment.

**BILL SIGNED BY SPEAKER**

The Chair gave notice that he was about to sign the following bill, which was then signed:

**HB 427, PN 1539**

An Act amending the "Public Defender Act," approved December 2, 1968 (P. L. 1144, No. 358), providing for the payment of expenses incurred in parole proceedings.

**SENATE MESSAGE****AMENDED HOUSE BILL  
RETURNED FOR CONCURRENCE**

The clerk of the Senate, being introduced, returned **HB 82, PN 2642**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested.

The SPEAKER. The bill will appear on the calendar.

**SENATE MESSAGE****REPORT OF COMMITTEE  
OF CONFERENCE REJECTED**

The clerk of the Senate, being introduced, informed that the Senate has rejected the report of the Committee of Conference on the subject of the differences existing between the two Houses on **SB 618, PN 1509**.

**SENATE MESSAGE****AMENDED SENATE BILL  
RETURNED FOR CONCURRENCE**

The clerk of the Senate, being introduced, informed that the Senate has concurred in the amendments made by the House by amending said amendments to **SB 618, PN 1534**.

Ordered, That the clerk present the same to the House requesting concurrence.

**BILLS REMOVED FROM TABLE  
FOR CALENDAR**

The SPEAKER. The Chair recognizes the majority leader. Mr. HAYES. Mr. Speaker, I move that **HB 182, HB 846, HB 1689, and HB 1079** be removed from the table and placed on the active calendar.

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

**RECESS**

The SPEAKER. Without objection, this House will stand in recess for a period of 20 minutes, until 11:45. The Chair hears no objection.

**AFTER RECESS**

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

**BILL REPORTED FROM COMMITTEE,  
CONSIDERED FIRST TIME, AND TABLED****HB 2110, PN 2658 (Amended)**

By Rep. GALLEN

An Act to apportion the Commonwealth of Pennsylvania into congressional districts in conformity with constitutional requirements; and providing for the nomination and election of Congressmen.

STATE GOVERNMENT.

**BILLS AND RESOLUTIONS PASSED OVER**

The SPEAKER. Without objection, all remaining bills and resolutions on today's calendar will be passed over. The Chair hears none.

**ADJOURNMENT**

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

Mr. WAMBACH. Mr. Speaker, I move that this House do now adjourn until Monday, December 14, 1981, at 1 p.m., e.s.t.

On the question,  
Will the House agree to the motion?  
Motion was agreed to, and at 11:46 p.m., e.s.t., the House adjourned.