

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

TUESDAY, JUNE 5, 1990

SESSION OF 1990 174TH OF THE GENERAL ASSEMBLY

No. 36

HOUSE OF REPRESENTATIVES

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

THE SPEAKER PRO TEMPORE (IVAN ITKIN) PRESIDING

PRAYER

REV. CLYDE W. ROACH, Chaplain of the House of Representatives, from Harrisburg, Pennsylvania, offered the following prayer:

Let us pray:

Almighty God, in whom we live and move and have our being, we express our delight in having been called by You to be servants of Your people. Prepare our hearts and minds that we may serve them with truth and excellence, ever knowing that we serve You best when we accomplish and promote the will of Your people.

Make us ever aware that great accomplishments can begin right here with us, even when our labors appear tedious and trivial.

Be Thou near us, and grant that we may feel Your presence as we govern Your people. May we make full proof of our stewardship in both word and deed so that one day we may hear, "Well done, thou good and faithful servant."

In Your dear name we pray. Amen.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was recited by members and visitors.)

JOURNAL APPROVAL POSTPONED

The SPEAKER pro tempore. Without objection, the approval of the Journal of Monday, June 4, 1990, will be postponed until printed. The Chair hears no objection.

HOUSE BILLS INTRODUCED AND REFERRED

No. 2638 By Representatives RUDY, McHALE, E. Z. TAYLOR, MAIALE, BILLOW, MELIO, PISTELLA, HECKLER, TRELLO, STABACK, TELEK, JAROLIN, JOHNSON, MORRIS and HARPER

An Act amending the act of May 17, 1921 (P. L. 682, No. 284), known as "The Insurance Company Law of 1921," requiring emergency medical service coverage.

Referred to Committee on INSURANCE, June 5, 1990.

No. 2639 By Representatives MELIO, COLAIZZO, MORRIS, COHEN, COLAFELLA, KOSINSKI, PISTELLA, VROON, JOHNSON, DeLUCA, TANGRETTI, STISH, RYBAK, DIETTERICK, GIGLIOTTI, LAUGHLIN, E. Z. TAYLOR, WILLIAMS, FOX, HERMAN, NAHILL, D. R. WRIGHT, MICHLOVIC, STRITTMATTER, BIRMELIN, SERAFINI, TIGUE, TRICH, RAYMOND, ADOLPH, BELARDI, HALUSKA, CORRIGAN, BATTISTO, DALEY, McHALE, THOMAS, R. C. WRIGHT and RICHARDSON

An Act amending the act of August 22, 1953 (P. L. 1344, No. 383), known as "The Marriage Law," providing for the distribution of information relating to Fetal Alcohol Syndrome.

Referred to Committee on HEALTH AND WELFARE, June 5, 1990.

HOUSE RESOLUTION INTRODUCED AND REFERRED

No. 329 By Representatives DOMBROWSKI, SCRIMENTI, CAPPABIANCA, MERRY and BOYES

Memorializing Congress to reject the proposed flat rate tax on wine producers and wholesalers.

Referred to Committee on RULES, June 5, 1990.

SENATE MESSAGE

ADJOURNMENT RESOLUTION FOR CONCURRENCE

The clerk of the Senate, being introduced, presented the following extract from the Journal of the Senate, which was read as follows:

In the Senate
June 4, 1990

RESOLVED, (the House of Representatives concurring), That when the Senate adjourns this week it reconvene on Monday, June 11, 1990, unless sooner recalled by the President Pro Tempore of the Senate; and be it further

RESOLVED, That when the House of Representatives adjourns this week it reconvene on Monday, June 11, 1990, unless sooner recalled by the Speaker of the House of Representatives.

Ordered, That the clerk present the same to the House of Representatives for its concurrence.

On the question,
Will the House concur in the resolution of the Senate?
Resolution was concurred in.
Ordered, That the clerk inform the Senate accordingly.

SENATE MESSAGE

**HOUSE BILL
CONCURRED IN BY SENATE**

The clerk of the Senate, being introduced, returned **HB 1149, PN 1320**, with information that the Senate has passed the same without amendment.

BILLS REMOVED FROM TABLE

The SPEAKER pro tempore. The Chair now recognizes the majority leader.

Mr. DeWEESE. Mr. Speaker, I move that the following bills be removed from the tabled calendar and placed on the active calendar:

- HB 444;
- HB 717;
- HB 1361;
- HB 2098;
- HB 2483;
- HB 2509; and
- HB 2575.

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

LEAVES OF ABSENCE

The SPEAKER pro tempore. Are there requests for leaves of absence?

The Chair recognizes the majority caucus secretary, the gentleman from Lawrence, Mr. Fee.

Mr. FEE. Thank you, Mr. Speaker.

The lady from Lehigh, Ms. RITTER; the gentleman from Chester, Mr. MORRIS; and the gentleman from Westmoreland, Mr. PETRARCA, for today.

The SPEAKER pro tempore. Without objection, leaves of absence are granted.

The Chair now recognizes the minority whip.

Mr. HAYES. I request a leave for the gentleman from Philadelphia County, Mr. John TAYLOR, for the day.

The SPEAKER pro tempore. Without objection, the leave of absence is granted. The Chair hears no objection.

VOTE CORRECTION

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Bucks, Mr. Corrigan.

Mr. CORRIGAN. Mr. Speaker, I would like to correct the record.

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

Mr. CORRIGAN. On Monday, June 4, I failed to vote on HB 2156. I would like to be recorded in the affirmative.

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

MASTER ROLL CALL

The SPEAKER pro tempore. The Chair is about to take the master roll call. Members will proceed to vote.

The following roll call was recorded:

PRESENT—197

| | | | |
|--------------|------------|------------|---------------|
| Acosta | Dombrowski | LaGrotta | Rieger |
| Adolph | Donatucci | Langtry | Robbins |
| Allen | Dorr | Lashingur | Robinson |
| Angstadt | Durham | Laughlin | Roebuck |
| Argall | Evans | Lee | Rudy |
| Barley | Fairchild | Leh | Ryan |
| Battisto | Fargo | Lescovitz | Rybak |
| Belardi | Farmer | Levdansky | Saloom |
| Belfanti | Fee | Linton | Saurman |
| Billow | Fleagle | Lloyd | Scheetz |
| Birmelin | Flick | Lucyk | Schuler |
| Bishop | Foster | McCall | Scrimenti |
| Black | Fox | McHale | Semmel |
| Blaum | Freeman | McNally | Serafini |
| Bortner | Freind | McVerry | Smith, B. |
| Bowley | Gallen | Maiale | Smith, S. H. |
| Boyes | Gamble | Maine | Snyder, D. W. |
| Brandt | Gannon | Markosek | Snyder, G. |
| Broujos | Geist | Marsico | Staback |
| Bunt | George | Mayernik | Stairs |
| Burd | Gigliotti | Melio | Steighner |
| Burns | Gladeck | Merry | Stish |
| Bush | Godshall | Michlovic | Strittmatter |
| Caltagirone | Gruitza | Micozzie | Stuban |
| Cappabianca | Gruppo | Mihalich | Tangretti |
| Carlson | Hagarty | Miller | Taylor, E. Z. |
| Carn | Haluska | Moehlmann | Taylor, F. |
| Cawley | Harper | Mowery | Telek |
| Cessar | Hasay | Mrkonic | Thomas |
| Chadwick | Hayden | Murphy | Tigue |
| Civera | Hayes | Nahill | Trello |
| Clark, B. D. | Heckler | Nailor | Trich |
| Clark, D. F. | Herman | Noye | Van Horne |
| Clark, J. H. | Hershey | O'Brien | Veon |
| Clymer | Hess | Olasz | Vroon |
| Cohen | Howlett | Oliver | Wambach |
| Colaifella | Hughes | Perzel | Wass |
| Colaizzo | Itkin | Pesci | Weston |
| Cole | Jackson | Petrone | Williams |
| Cornell | Jadlowiec | Phillips | Wilson |
| Corrigan | James | Piccola | Wogan |
| Cowell | Jarolin | Pievsky | Wozniak |
| Coy | Johnson | Pistella | Wright, D. R. |
| DeLuca | Josephs | Pitts | Wright, J. L. |
| DeWeese | Kaiser | Pressmann | Wright, R. C. |
| Daley | Kasunic | Preston | Yandrisevits |
| Davies | Kenney | Raymond | |
| Dempsey | Kondrich | Reber | O'Donnell, |
| Dietterick | Kosinski | Reinard | Speaker |
| Distler | Kukovich | Richardson | |

ADDITIONS—0

NOT VOTING—0

EXCUSED—5

Dininni Petrarca Ritter Taylor, J.
Morris

LEAVES ADDED—1

Maiale

WELCOMES

The SPEAKER pro tempore. The Chair now at this time wishes to welcome Peter Fenstermacher, who is the summer intern and is also the guest of Representative Dennis Leh of Berks County. Mr. Fenstermacher is located to the left of the Speaker. Would he rise and be recognized.

The Chair also wishes to welcome Maria Cole and Tim Cotter, who are the guest pages of Representative Fox, and they are located on the House floor. Would they please rise and be acknowledged.

The Chair is also very pleased today to introduce the fifth grade students and teachers from the Merion Elementary School. They are seated in the rear of the House, and they are the guests of Representative Lois Hagarty. It is my understanding that Betsy Zoll, one of the students here today, is a friend of our Speaker, Mr. O'Donnell. Would all of the students and their teachers please rise and be recognized at this time.

**BILL REPORTED FROM COMMITTEE,
CONSIDERED FIRST TIME, AND
RECOMMITTED TO COMMITTEE ON RULES**

HB 2299, PN 3096 By Rep. COWELL

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), known as the "Public School Code of 1949," creating a financial incentive for school districts to reduce class sizes in kindergarten through third grade.

EDUCATION.

BILL REREPORTED FROM COMMITTEE

SB 522, PN 2244 (Amended) By Rep. CALTAGIRONE

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, prohibiting unsolicited commercial telephone calls during certain hours; and further providing for unlawful collection agency practices.

JUDICIARY.

LEAVE OF ABSENCE

The SPEAKER pro tempore. The Chair recognizes the gentleman from Lawrence, Mr. Fee.

Mr. FEE. Mr. Speaker, could you return to leaves of absence?

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

Mr. FEE. Mr. Speaker, I would ask for a leave for Mr. MAIALE, the gentleman from Philadelphia.

The SPEAKER pro tempore. Without objection, the leave of absence is granted. The Chair hears none.

CALENDAR

BILLS ON SECOND CONSIDERATION

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

HB 2424, PN 3599.

* * *

The House proceeded to second consideration of **HB 25, PN 3608**, entitled:

An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, providing for the commission to order the acquisition of small water and sewer utilities.

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

BILL RECOMMITTED

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. DeWEESE. Mr. Speaker, I move that **HB 25, PN 3608**, be recommitted to the Appropriations Committee for a fiscal note.

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

* * *

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

HB 2183, PN 3605.

* * *

The House proceeded to second consideration of **HB 2465, PN 3606**, entitled:

An Act amending the act of July 2, 1984 (P. L. 553, No. 110), known as the "Engineering School Equipment Act," further providing for the coverage of the act, for reallocation of unused funds and for the expiration of the act.

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

BILL RECOMMITTED

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. DeWEESE. Mr. Speaker, I move that HB 2465, PN 3606, be recommitted to the Appropriations Committee for a fiscal note.

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

* * *

The House proceeded to second consideration of SB 888, PN 2047, entitled:

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), entitled "Tax Reform Code of 1971," further providing for cigarette licensing and license fees.

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

BILL RECOMMITTED

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. DeWEESE. Mr. Speaker, I move that SB 888, PN 2047, be recommitted to the Appropriations Committee for a fiscal note.

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

* * *

The House proceeded to second consideration of SB 889, PN 2217, entitled:

An Act amending the act of May 20, 1949 (P. L. 1584, No. 478), entitled "Unfair Cigarette Sales Act," further defining certain terms; regulating sales; providing remedies; providing penalties; and making an appropriation.

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

BILL RECOMMITTED

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. DeWEESE. Mr. Speaker, I move that SB 889, PN 2217, be recommitted to the Appropriations Committee for a fiscal note.

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

* * *

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

HB 2609, PN 3587.

* * *

The House proceeded to second consideration of **HB 1228, PN 3612**, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for the statute of limitations involving certain sexual offenses.

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

BILL RECOMMITTED

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. DeWEESE. Mr. Speaker, I move that HB 1228, PN 3612, be recommitted to the Appropriations Committee for a fiscal note.

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

* * *

The House proceeded to second consideration of **HB 1441, PN 3613**, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for drug trafficking sentencing and penalties.

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

BILL RECOMMITTED

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. DeWEESE. Mr. Speaker, I move that HB 1441, PN 3613, be recommitted to the Appropriations Committee for a fiscal note.

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

* * *

The House proceeded to second consideration of **HB 1882, PN 3615**, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for damages in actions on retail theft.

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

BILL RECOMMITTED

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. DeWEESE. Mr. Speaker, I move that HB 1882, PN 3615, be recommitted to the Appropriations Committee for a fiscal note.

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

* * *

The House proceeded to second consideration of **HB 2376**, **PN 3616**, entitled:

An Act prohibiting contracts, combinations and conspiracies in restraint of trade or commerce; prohibiting monopolies and attempts to monopolize trade or commerce; prescribing powers and duties of certain State officers and agencies; providing for remedies, fines and penalties for violations of the act; and barring certain causes of action.

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

BILL RECOMMITTED

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. DeWEESE. Mr. Speaker, I move that **HB 2376**, **PN 3616**, be recommitted to the Appropriations Committee for a fiscal note.

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

* * *

The House proceeded to second consideration of **HB 712**, **PN 793**, entitled:

An Act amending the act of June 23, 1931 (P. L. 932, No. 317), known as "The Third Class City Code," further providing for the publication of a certain notice relating to fiscal matters.

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

BILL RECOMMITTED

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. DeWEESE. Mr. Speaker, I move that **HB 712**, **PN 793**, be recommitted to the Appropriations Committee for a fiscal note.

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

* * *

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

HB 713, **PN 3617**; and **HB 786**, **PN 3619**.

* * *

The House proceeded to second consideration of **HB 2099**, **PN 2766**, entitled:

An Act amending the act of December 31, 1965 (P. L. 1257, No. 511), known as "The Local Tax Enabling Act," further providing for vacation of tax ordinances and resolutions.

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

BILL RECOMMITTED

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. DeWEESE. Mr. Speaker, I move that **HB 2099**, **PN 2766**, be recommitted to the Appropriations Committee for a fiscal note.

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

* * *

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

HB 2120, **PN 2794**; **HB 2121**, **PN 2795**; **HB 2122**, **PN 2796**; **HB 2245**, **PN 2999**; and **HB 2309**, **PN 3621**.

* * *

The House proceeded to second consideration of **HB 2343**, **PN 3171**, entitled:

An Act amending the act of December 6, 1972 (P. L. 1383, No. 293), entitled "An act requiring municipal pension systems to have an actuarial investigation of the fund made by an actuary who shall report his findings to the Department of Community Affairs," further providing for reports by certain municipalities and local governmental units, for the filing of reports and for failure to file timely reports.

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

BILL RECOMMITTED

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. DeWEESE. Mr. Speaker, I move that **HB 2343**, **PN 3171**, be recommitted to the Appropriations Committee for a fiscal note.

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

* * *

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

HB 2374, **PN 3622**.

* * *

The House proceeded to second consideration of **HB 2617, PN 3595**, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, prohibiting the disclosure of confidential tax information by certain persons.

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

BILL RECOMMITTED

The **SPEAKER pro tempore**. The Chair recognizes the majority leader.

Mr. DeWEESE. Mr. Speaker, I move that **HB 2617, PN 3595**, be recommitted to the Appropriations Committee for a fiscal note.

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

* * *

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

SB 741, PN 2218; SB 742, PN 2219; SB 743, PN 2220; SB 744, PN 2221; SB 745, PN 2222; SB 746, PN 2223; SB 749, PN 2224; SB 750, PN 2225; SB 751, PN 2226; SB 752, PN 2227; SB 753, PN 2228; HB 2066, PN 3610; and HB 2272, PN 3045.

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 2350, PN 3162**, entitled:

A Supplement to the act of June 12, 1931 (P. L. 575, No. 200), entitled, "An act providing for joint action by Pennsylvania and New Jersey in the development of the ports on the lower Delaware River, and the improvement of the facilities for transportation across the river; authorizing the Governor, for these purposes, to enter into an agreement with New Jersey; creating The Delaware River Joint Commission and specifying the powers and duties thereof, including the power to finance projects by the issuance of revenue bonds; transferring to the new commission all the powers of the Delaware River Bridge Joint Commission; and making an appropriation," authorizing certain projects of the Delaware River Port Authority pursuant to Article XII of the Compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey creating the Delaware River Port Authority.

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

The **SPEAKER pro tempore**. 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—196

| | | | |
|--------------|------------|------------|---------------|
| Acosta | Dombrowski | LaGrotta | Rieger |
| Adolph | Donatucci | Langtry | Robbins |
| Allen | Dorr | Lashinger | Robinson |
| Angstadt | Durham | Laughlin | Roebuck |
| Argall | Evans | Lee | Rudy |
| Barley | Fairchild | Leh | Ryan |
| Battisto | Fargo | Lescovitz | Rybak |
| Belardi | Farmer | Levdansky | Saloom |
| Belfanti | Fee | Linton | Saurman |
| Billow | Fleagle | Lloyd | Scheetz |
| Birmelin | Flick | Lucyk | Schuler |
| Bishop | Foster | McCall | Scrimenti |
| Black | Fox | McHale | Semmel |
| Blaum | Freeman | McNally | Serafini |
| Bortner | Freind | McVerry | Smith, B. |
| Bowley | Gallen | Maine | Smith, S. H. |
| Boyes | Gamble | Markosek | Snyder, D. W. |
| Brandt | Gannon | Marsico | Snyder, G. |
| Broujos | Geist | Mayerink | Staback |
| Bunt | George | Melio | Stairs |
| Burd | Gigliotti | Merry | Steighner |
| Burns | Gladeck | Michlovic | Stish |
| Bush | Godshall | Micozzie | Strittmatter |
| Caltagirone | Gruitza | Mihalich | Suban |
| Cappabianca | Gruppo | Miller | Tangretti |
| Carlson | Hagarty | Moehlmann | Taylor, E. Z. |
| Carn | Haluska | Mowery | Taylor, F. |
| Cawley | Harper | Mrkonic | Telek |
| Cessar | Hasay | Murphy | Thomas |
| Chadwick | Hayden | Nahill | Tigue |
| Civera | Hayes | Nailor | Trello |
| Clark, B. D. | Heckler | Noye | Trich |
| Clark, D. F. | Herman | O'Brien | Van Horne |
| Clark, J. H. | Hershey | Olasz | Veon |
| Clymer | Hess | Oliver | Vroon |
| Cohen | Howlett | Perzel | Wambach |
| Colaella | Hughes | Pesci | Wass |
| Colaizzo | Itkin | Petrone | Weston |
| Cole | Jackson | Phillips | Williams |
| Cornell | Jadlowiec | Piccola | Wilson |
| Corrigan | James | Pievsky | Wogan |
| Cowell | Jarolin | Pistella | Wozniak |
| Coy | Johnson | Pitts | Wright, D. R. |
| DeLuca | Josephs | Pressmann | Wright, J. L. |
| DeWeese | Kaiser | Preston | Wright, R. C. |
| Daley | Kasunic | Raymond | Yandrisevits |
| Davies | Kenney | Reber | |
| Dempsey | Kondrich | Reinard | O'Donnell, |
| Dietterick | Kosinski | Richardson | Speaker |
| Distler | Kukovich | | |

NAYS—0

NOT VOTING—0

EXCUSED—6

| | | | |
|---------|----------|--------|------------|
| Dininni | Morris | Ritter | Taylor, J. |
| Maiale | Petrarca | | |

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

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

* * *

The House proceeded to third consideration of **HB 2571, PN 3520**, entitled:

An Act appropriating money from the Sunny Day Fund to the Department of Commerce for various projects throughout this Commonwealth for fiscal year 1990-1991.

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

The SPEAKER pro tempore. 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 Montgomery, Mr. Saurman.

Mr. SAURMAN. Thank you, Mr. Speaker.

Mr. Speaker, I just want to let everyone know, because I think it is important and we frequently do not hear, one of the projects in this bill is called Enzymatics in Montgomery County, and it started with a \$22,910 seed grant from the Ben Franklin Partnership Program back in 1985. Two additional grants of \$110,000 were also granted by the Ben Franklin challenge grant. Then they secured \$8,649,000, plus subsequently another almost \$7 million. This company will employ 332 people by the year 1993, and I think that it is important to realize that these programs do work, and this is an example of that. I just wanted it read into the record and wanted us to be alert, and we in Montgomery County thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair now recognizes the gentleman from Lehigh, Mr. Pressmann.

Mr. PRESSMANN. Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of the bill, but I also rise in support of the bill with a note of caution.

Mr. Speaker, those of us who were here in the General Assembly when the Sunny Day Fund was established a number of years ago by the late Speaker, Mr. Manderino, the idea behind the Sunny Day Fund was that this State would take large amounts of cash to induce large manufacturing companies to come and locate in Pennsylvania or to rebuild their plants, to keep them here in Pennsylvania. I think over the years we have seen an erosion of that philosophy.

This bill that we have before us also reflects that erosion of that philosophy. It includes a research and development project for a hospital, which I think is a worthy project, and the original bill did mention research and development projects, but the fact that we are using this funding with a non-profit organization must raise some questions.

The second problem I have with the bill is that there is a project for a distribution center in Luzerne County, a warehouse project. This is not a manufacturing project, which was the original intent of the bill - to keep manufacturing jobs in Pennsylvania and to draw manufacturing jobs to Pennsylvania. I think it behooves us in the legislature to keep a close

eye on the Sunny Day Fund in the future and make sure that the original philosophy of the bill stays intact.

I still ask for a "yes" vote on the bill.

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

Mr. BLAUM. Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of the bill and specifically because of the project located in Luzerne County, in the Wilkes-Barre area.

The Sunny Day Fund appropriates \$5 million to Lord and Taylor, one of the most prestigious department stores in this country, to create 1,000, 1,000 jobs in northeastern Pennsylvania. I think it bodes well for the Sunny Day Fund—not only with this project; the bill contains several other projects—in that we are creating jobs in Pennsylvania. I think also a special word of thanks goes to the Governor's Response Team, who was instrumental in convincing the May Corporation, who oversees Lord and Taylor, to bring them to the Wilkes-Barre area.

Again, we are talking about 1,000 good-paying jobs that are going to be coming to northeastern Pennsylvania within the next 5 years, and it is something that I think this General Assembly can be very proud of.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,
Shall the bill pass finally?

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

YEAS—195

| | | | |
|--------------|------------|------------|---------------|
| Acosta | Dombrowski | Kukovich | Richardson |
| Adolph | Donatucci | LaGrotta | Rieger |
| Allen | Dorr | Langtry | Robbins |
| Angstadt | Durham | Lashingner | Robinson |
| Argall | Evans | Laughlin | Roebuck |
| Barley | Fairchild | Lee | Rudy |
| Battisto | Fargo | Leh | Ryan |
| Belardi | Farmer | Lescovitz | Rybak |
| Belfanti | Fee | Levdansky | Saloom |
| Billow | Fleagle | Linton | Saurman |
| Birmelin | Flick | Lloyd | Scheetz |
| Bishop | Foster | Lucyk | Schuler |
| Black | Fox | McCall | Scrimenti |
| Blaum | Freeman | McHale | Semmel |
| Bortner | Freind | McNally | Serafini |
| Bowley | Gallen | McVerry | Smith, B. |
| Boyes | Gamble | Maine | Smith, S. H. |
| Brandt | Gannon | Markosek | Snyder, D. W. |
| Broujos | Geist | Marsico | Snyder, G. |
| Bunt | George | Mayernik | Staback |
| Burd | Gigliotti | Melio | Stairs |
| Burns | Gladeck | Merry | Steighner |
| Bush | Godshall | Michlovic | Stish |
| Caltagirone | Gruitza | Micozzie | Stuban |
| Cappabianca | Gruppo | Mihalich | Tangretti |
| Carlson | Hagarty | Miller | Taylor, E. Z. |
| Carn | Haluska | Moehlmann | Taylor, F. |
| Cawley | Harper | Mowery | Telek |
| Cessar | Hasay | Mrkonic | Thomas |
| Chadwick | Hayden | Murphy | Tigue |
| Civera | Hayes | Nahill | Trello |
| Clark, B. D. | Heckler | Nailor | Trich |
| Clark, D. F. | Herman | Noye | Van Horne |
| Clark, J. H. | Hershey | O'Brien | Veon |
| Clymer | Hess | Olasz | Vroon |

| | | | |
|------------|-----------|-----------|---------------|
| Cohen | Howlett | Oliver | Wambach |
| Colafranca | Hughes | Perzel | Wass |
| Colaizzo | Itkin | Pesci | Weston |
| Cole | Jackson | Petrone | Williams |
| Cornell | Jadlowiec | Phillips | Wilson |
| Corrigan | James | Piccola | Wogan |
| Cowell | Jarolin | Pievsky | Wozniak |
| Coy | Johnson | Pistella | Wright, D. R. |
| DeLuca | Josephs | Pitts | Wright, J. L. |
| DeWeese | Kaiser | Pressmann | Wright, R. C. |
| Daley | Kasunic | Preston | Yandrisevits |
| Davies | Kenney | Raymond | |
| Dempsey | Kondrich | Reber | O'Donnell, |
| Dietterick | Kosinski | Reinard | Speaker |
| Distler | | | |

NAYS—1

Strittmatter

NOT VOTING—0

EXCUSED—6

| | | | |
|---------|----------|--------|------------|
| Dininni | Morris | Ritter | Taylor, J. |
| Maiale | Petrarca | | |

The two-thirds majority required by Act 32 of 1985 having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

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

WELCOMES

The SPEAKER pro tempore. The Chair at this time would like to welcome students from the Sullivan County Elementary School, who are the guests of Representative Kenny Lee, and they are located in the balcony. Would the students please rise and be recognized.

The Chair also wishes to welcome Julie Clements, who is the guest page and granddaughter of Representative Merry and is his guest today, and she is located along the page row. Will she stand and be recognized.

BILLS ON THIRD CONSIDERATION CONTINUED

The House proceeded to third consideration of **HB 2607, PN 3585**, entitled:

An Act amending the act of July 2, 1984 (P. L. 527, No. 106), known as the "Recreational Improvement and Rehabilitation Act," further providing for additional rehabilitation projects; changing the allocation of funds and the availability of funds to cities of the first and second class; and making a repeal.

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

Mr. WOZNIAK offered the following amendments No. A1833:

Amend Bill, page 1, by inserting between lines 12 and 13

Section 1. The definition of "recreational purposes" in section 2 of the act of July 2, 1984 (P.L.527, No.106), known as the Recreational Improvement and Rehabilitation Act, is amended to read:

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Recreation purposes." Any use of land for public park, zoo, fishing, hunting, boating, snowmobiling, open space and interpretive environmental education purposes or scenic sights or preservation of historical significance or for any related public recreation purpose.

Amend Sec. 1, page 1, line 13, by striking out "1" and inserting

2

Amend Sec. 1, page 1, lines 13 through 15, by striking out "of July 2, 1984" in line 13, all of line 14 and "Rehabilitation Act" in line 15

Amend Sec. 1 (Sec. 3), page 2, line 12, by inserting brackets before and after "and" and inserting an underscored comma immediately thereafter

Amend Sec. 1 (Sec. 3), page 2, line 13, by inserting after "boating"

and snowmobiling

Amend Sec. 2, page 8, line 25, by striking out "2" and inserting

3

Amend Sec. 3, page 8, line 26, by striking out "3" and inserting

4

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

The SPEAKER pro tempore. On that question, the Chair recognizes Mr. Wozniak.

Mr. WOZNIAK. Thank you, Mr. Speaker.

This amendment simply adds the recreational sport of snowmobiling to the RIRA (Recreational Improvement and Rehabilitation Act) bill that is up in front of us. Along with fishing, hunting, and boating, we are including now snowmobiling as also to be included in the RIRA funding mechanism, if they are successful.

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

The following roll call was recorded:

YEAS—195

| | | | |
|----------|------------|-----------|---------------|
| Acosta | Dombrowski | Kukovich | Richardson |
| Adolph | Donatucci | LaGrotta | Rieger |
| Allen | Dorr | Langtry | Robbins |
| Angstadt | Durham | Lashinger | Robinson |
| Argall | Evans | Laughlin | Roebuck |
| Barley | Fairchild | Lee | Rudy |
| Battisto | Fargo | Leh | Ryan |
| Belardi | Farmer | Lescovitz | Rybak |
| Belfanti | Fee | Levdansky | Saloom |
| Billow | Fleagle | Linton | Saurman |
| Birmelin | Flick | Lloyd | Scheetz |
| Bishop | Foster | Lucyk | Schuler |
| Black | Fox | McCall | Scrimenti |
| Blaum | Freeman | McHale | Semmel |
| Bortner | Freind | McNally | Serafini |
| Bowley | Gallen | McVerry | Smith, B. |
| Boyes | Gamble | Maine | Smith, S. H. |
| Brandt | Gannon | Markosek | Snyder, D. W. |
| Broujos | Geist | Marsico | Snyder, G. |
| Bunt | George | Mayernik | Staback |
| Burd | Gigliotti | Melio | Stairs |
| Burns | Gladeck | Merry | Steighner |

| | | | |
|--------------|-----------|-----------|---------------|
| Bush | Godshall | Michlovic | Stish |
| Caltagirone | Gruitza | Micozzie | Strittmatter |
| Cappabianca | Gruppo | Mihalich | Stuban |
| Carlson | Hagarty | Miller | Tangretti |
| Carn | Haluska | Moehlmann | Taylor, E. Z. |
| Cawley | Harper | Mowery | Taylor, F. |
| Cessar | Hasay | Mrkonic | Telek |
| Chadwick | Hayden | Murphy | Thomas |
| Civera | Hayes | Nahill | Tigue |
| Clark, B. D. | Heckler | Nailor | Trello |
| Clark, D. F. | Herman | Noye | Trich |
| Clark, J. H. | Hershey | O'Brien | Van Horne |
| Clymer | Hess | Olasz | Veon |
| Cohen | Howlett | Oliver | Vroon |
| Colaella | Hughes | Perzel | Wambach |
| Colaizzo | Itkin | Pesci | Wass |
| Cole | Jackson | Petrone | Weston |
| Cornell | Jadlowiec | Phillips | Wilson |
| Corrigan | James | Piccola | Wogan |
| Cowell | Jarolin | Pievsky | Wozniak |
| Coy | Johnson | Pistella | Wright, D. R. |
| DeLuca | Josephs | Pitts | Wright, J. L. |
| DeWeese | Kaiser | Pressmann | Wright, R. C. |
| Daley | Kasunic | Preston | Yandrisevits |
| Davies | Kenney | Raymond | |
| Dempsey | Kondrich | Reber | O'Donnell, |
| Dietterick | Kosinski | Reinard | Speaker |
| Distler | | | |

NAYS—0

NOT VOTING—1

Williams

EXCUSED—6

| | | | |
|---------|----------|--------|------------|
| Dininni | Morris | Ritter | Taylor, J. |
| Maiale | Petrarca | | |

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

On the question,

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

Bill as amended was agreed to.

The SPEAKER pro tempore. 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 Perry, Mr. Noye.

Mr. NOYE. Thank you, Mr. Speaker.

Mr. Speaker, would the sponsor of the bill stand for a brief interrogation?

The SPEAKER pro tempore. The gentleman from Cambria, Mr. Haluska, consents to being interrogated. The gentleman from Perry may proceed.

Mr. NOYE. Thank you, Mr. Speaker.

Mr. Speaker, one of the provisions in the bill, as I read it, allows for the abolishment of the matching funds provision. One of the things that concerns me about that—and please feel free to correct me if I misunderstand this—but particularly in rural areas, one of the real pluses to the rural communities was the availability of volunteer labor and volunteer manpower that was accounted for by the department as part of the matching funds. They were not necessarily responsible for coming up with every dollar, but a certain portion of the

amount of volunteer labor that they could supply towards the building of the project qualified that as a matching fund provision.

The way the bill is drafted now, sir, will that not create a problem for those communities by really being eligible to gain those kinds of funds?

Mr. HALUSKA. Will you repeat your question, please?

Mr. NOYE. One of the provisions in the act calls for the deletion of the matching fund section. One of the things that made it appealing to small rural communities to apply for funding and to make them eligible was the fact that under the matching fund section, the department allowed a certain percentage of those matching funds to be in volunteer labor rather than in actual dollars.

By the elimination in the act of the matching fund section, are we not making it more difficult, are we not making it less appealing, to these small rural municipalities and organizations to qualify for or apply for that funding?

Mr. HALUSKA. Mr. Speaker, I cannot understand why this would defer or be a negative factor for the small communities, because it removes the necessity of using matching funds. They still may proceed with that concept if they so desire, but in other places where they do not have the availability of that help, this makes it possible for them to proceed by having full funding.

Mr. NOYE. Are you saying then, sir, that all we are doing with the wording, the way it is in the bill right now, is removing that obstacle of the matching funds and that that barrier in the process is removed and the playing field remains level then for communities, regardless of size, to qualify for these funds in the section that applies to those under 4,000 population?

Mr. HALUSKA. Yes.

Mr. NOYE. Okay. Thank you, Mr. Speaker.

On the question recurring,

Shall the bill pass finally?

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

YEAS—195

| | | | |
|----------|------------|------------|---------------|
| Acosta | Dombrowski | Kukovich | Richardson |
| Adolph | Donatucci | LaGrotta | Rieger |
| Allen | Dorr | Langtry | Robbins |
| Angstadt | Durham | Lashingier | Robinson |
| Argall | Evans | Laughlin | Roebuck |
| Barley | Fairchild | Lee | Rudy |
| Battisto | Fargo | Leh | Ryan |
| Belardi | Farmer | Lescovitz | Rybak |
| Belfanti | Fee | Levdansky | Saloom |
| Billow | Fleagle | Linton | Saurman |
| Birmelin | Flick | Lloyd | Scheetz |
| Bishop | Foster | Lucyk | Schuler |
| Black | Fox | McCall | Scrimenti |
| Blaum | Freeman | McHale | Semmel |
| Bortner | Freind | McNally | Serafini |
| Bowley | Gallen | McVerry | Smith, B. |
| Boyes | Gamble | Maine | Smith, S. H. |
| Brandt | Gannon | Markosek | Snyder, D. W. |
| Broujos | Geist | Marsico | Snyder, G. |
| Bunt | George | Mayernik | Staback |
| Burd | Gigliotti | Melio | Stairs |
| Burns | Gladeck | Merry | Steighner |
| Bush | Godshall | Michlovic | Stish |

| | | | |
|--------------|-----------|-----------|---------------|
| Caltagirone | Gruitza | Micozzie | Stuban |
| Cappabianca | Gruppo | Mihalich | Tangretti |
| Carlson | Hagarty | Miller | Taylor, E. Z. |
| Carn | Haluska | Moehlmann | Taylor, F. |
| Cawley | Harper | Mowery | Telek |
| Cessar | Hasay | Mrkonic | Thomas |
| Chadwick | Hayden | Murphy | Tigue |
| Civera | Hayes | Nahill | Trello |
| Clark, B. D. | Heckler | Nailor | Trich |
| Clark, D. F. | Herman | Noye | Van Horne |
| Clark, J. H. | Hershey | O'Brien | Veon |
| Clymer | Hess | Olasz | Vroon |
| Cohen | Howlett | Oliver | Wambach |
| Colaifella | Hughes | Perzel | Wass |
| Colaizzo | Itkin | Pesci | Weston |
| Cole | Jackson | Petrone | Williams |
| Cornell | Jadlowiec | Phillips | Wilson |
| Corrigan | James | Piccola | Wogan |
| Cowell | Jarolin | Pievsky | Wozniak |
| Coy | Johnson | Pistella | Wright, D. R. |
| DeLuca | Josephs | Pitts | Wright, J. L. |
| DeWeese | Kaiser | Pressmann | Wright, R. C. |
| Daley | Kasunic | Preston | Yandrisevits |
| Davies | Kenney | Raymond | |
| Dempsey | Kondrich | Reber | O'Donnell, |
| Dietterick | Kosinski | Reinard | Speaker |
| Distler | | | |

NAYS—1

Strittmatter

NOT VOTING—0

EXCUSED—6

| | | | |
|---------|----------|--------|------------|
| Dininni | Morris | Ritter | Taylor, J. |
| Maiale | Petrarca | | |

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

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

* * *

The House proceeded to third consideration of **HB 1554**, **PN 1815**, entitled:

An Act amending the act of May 29, 1945 (P. L. 1134, No. 405), entitled "An act to create a commission to act jointly with commissions appointed for like purpose by the States of West Virginia and Maryland, the Commonwealth of Virginia and the District of Columbia, which, together with three members to be appointed by the President of the United States, shall constitute the Interstate Commission on the Potomac River Basin, with power to cooperate in the abatement of the existing pollution, and in the control of future pollution of the waters of the drainage basin of the Potomac River within the States of Maryland and West Virginia, the Commonwealth of Virginia and the District of Columbia; to authorize the Governor of the State to execute on behalf of this State a compact with representatives of other states for the purpose of forming the above-mentioned commission; and creating a Potomac Valley Conservancy District; providing for the appointment of the Pennsylvania members of said commission for the Commonwealth of Pennsylvania, and their terms of office; and providing an appropriation," further providing for the members of the commission for the Commonwealth.

On the question,

Will the House agree to the bill on third consideration?
Bill was agreed to.

The SPEAKER pro tempore. 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—196

| | | | |
|--------------|------------|------------|---------------|
| Acosta | Dombrowski | LaGrotta | Rieger |
| Adolph | Donatucci | Langtry | Robbins |
| Allen | Dorr | Lashingier | Robinson |
| Angstadt | Durham | Laughlin | Roebuck |
| Argall | Evans | Lee | Rudy |
| Barley | Fairchild | Leh | Ryan |
| Battisto | Fargo | Lescovitz | Rybak |
| Belardi | Farmer | Levdansky | Saloom |
| Belfanti | Fee | Linton | Saurman |
| Billow | Feagle | Lloyd | Scheetz |
| Birmelin | Flick | Lucyk | Schuler |
| Bishop | Foster | McCall | Scrimenti |
| Black | Fox | McHale | Semmel |
| Blaum | Freeman | McNally | Serafini |
| Bortner | Freind | McVerry | Smith, B. |
| Bowley | Gallen | Maine | Smith, S. H. |
| Boyes | Gamble | Markosek | Snyder, D. W. |
| Brandt | Gannon | Marsico | Snyder, G. |
| Broujos | Geist | Mayernik | Staback |
| Bunt | George | Melio | Stairs |
| Burd | Gigliotti | Merry | Steighner |
| Burns | Gladeck | Michlovic | Stish |
| Bush | Godshall | Micozzie | Strittmatter |
| Caltagirone | Gruitza | Mihalich | Stuban |
| Cappabianca | Gruppo | Miller | Tangretti |
| Carlson | Hagarty | Moehlmann | Taylor, E. Z. |
| Carn | Haluska | Mowery | Taylor, F. |
| Cawley | Harper | Mrkonic | Telek |
| Cessar | Hasay | Murphy | Thomas |
| Chadwick | Hayden | Nahill | Tigue |
| Civera | Hayes | Nailor | Trello |
| Clark, B. D. | Heckler | Noye | Trich |
| Clark, D. F. | Herman | O'Brien | Van Horne |
| Clark, J. H. | Hershey | Olasz | Veon |
| Clymer | Hess | Oliver | Vroon |
| Cohen | Howlett | Perzel | Wambach |
| Colaifella | Hughes | Pesci | Wass |
| Colaizzo | Itkin | Petrone | Weston |
| Cole | Jackson | Phillips | Williams |
| Cornell | Jadlowiec | Piccola | Wilson |
| Corrigan | James | Pievsky | Wogan |
| Cowell | Jarolin | Pistella | Wozniak |
| Coy | Johnson | Pitts | Wright, D. R. |
| DeLuca | Josephs | Pressmann | Wright, J. L. |
| DeWeese | Kaiser | Preston | Wright, R. C. |
| Daley | Kasunic | Raymond | Yandrisevits |
| Davies | Kenney | Reber | |
| Dempsey | Kondrich | Reinard | O'Donnell, |
| Dietterick | Kosinski | Richardson | Speaker |
| Distler | Kukovich | | |

NAYS—0

NOT VOTING—0

EXCUSED—6

| | | | |
|---------|----------|--------|------------|
| Dininni | Morris | Ritter | Taylor, J. |
| Maiale | Petrarca | | |

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

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

* * *

The House proceeded to third consideration of **HB 2362, PN 3199**, entitled:

An Act amending the act of July 13, 1987 (P. L. 348, No. 67), known as the "Vietnam Veterans Health Initiative Act," extending the expiration date.

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

The **SPEAKER** pro tempore. 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—196

- | | | | |
|--------------|------------|------------|---------------|
| Acosta | Dombrowski | LaGrotta | Rieger |
| Adolph | Donatucci | Langtry | Robbins |
| Allen | Dorr | Lashingier | Robinson |
| Angstadt | Durham | Laughlin | Roebuck |
| Argall | Evans | Lee | Rudy |
| Barley | Fairchild | Leh | Ryan |
| Battisto | Fargo | Lescovitz | Rybak |
| Belardi | Farmer | Levdansky | Saloom |
| Belfanti | Fee | Linton | Saurman |
| Billow | Fleagle | Lloyd | Scheetz |
| Birmelin | Flick | Lucyk | Schuler |
| Bishop | Foster | McCall | Scrimenti |
| Black | Fox | McHale | Semmel |
| Blaum | Freeman | McNally | Serafini |
| Bortner | Freind | McVerry | Smith, B. |
| Bowley | Gallen | Maine | Smith, S. H. |
| Boyes | Gamble | Markosek | Snyder, D. W. |
| Brandt | Gannon | Marsico | Snyder, G. |
| Broujos | Geist | Mayernik | Staback |
| Bunt | George | Melio | Stairs |
| Burd | Gigliotti | Merry | Steighner |
| Burns | Gladeck | Michlovic | Stish |
| Bush | Godshall | Micozzie | Strittmatter |
| Caltagirone | Gruitza | Mihalich | Stuban |
| Cappabianca | Gruppo | Miller | Tangretti |
| Carlson | Hagarty | Moehlmann | Taylor, E. Z. |
| Carn | Haluska | Mowery | Taylor, F. |
| Cawley | Harper | Mrkonic | Telek |
| Cessar | Hasay | Murphy | Thomas |
| Chadwick | Hayden | Nahill | Tigue |
| Civera | Hayes | Nailor | Trello |
| Clark, B. D. | Heckler | Noye | Trich |
| Clark, D. F. | Herman | O'Brien | Van Horne |
| Clark, J. H. | Hershey | Olasz | Veon |
| Clymer | Hess | Oliver | Vroon |
| Cohen | Howlett | Perzel | Wambach |
| Colafiglia | Hughes | Pesci | Wass |
| Colaizzo | Itkin | Petrone | Weston |
| Cole | Jackson | Phillips | Williams |
| Cornell | Jadlowiec | Piccola | Wilson |
| Corrigan | James | Pievsky | Wogan |
| Cowell | Jarolin | Pistella | Wozniak |
| Coy | Johnson | Pitts | Wright, D. R. |
| DeLuca | Josephs | Pressmann | Wright, J. L. |
| DeWeese | Kaiser | Preston | Wright, R. C. |
| Daley | Kasunic | Raymond | Yandrisevits |
| Davies | Kenney | Reber | |
| Dempsey | Kondrich | Reinard | O'Donnell, |
| Dietterick | Kosinski | Richardson | Speaker |
| Distler | Kukovich | | |

NAYS—0

NOT VOTING—0

EXCUSED—6

- | | | | |
|---------|----------|--------|------------|
| Dininni | Morris | Ritter | Taylor, J. |
| Maiale | Petrarca | | |

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

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

* * *

The House proceeded to third consideration of **HB 2133, PN 3016**, entitled:

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, adding a definition of "newborn child"; further providing for notice of hearings; providing for confidentiality for adoptive parents; providing for the furnishing of counseling to parents whose parental rights are being relinquished; further providing for involuntary termination of parental rights; providing for preplacement investigations and reports; further providing for the contents of reports of intention to adopt; and further providing for preference as to religious upbringing of an adopted child.

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

BILL TABLED

The **SPEAKER** pro tempore. The Chair recognizes the lady, Mrs. Hagarty.

Mrs. **HAGARTY**. Mr. Speaker, I move that **HB 2133, PN 3016**, be placed on the table.

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

BILL REMOVED FROM TABLE

The **SPEAKER** pro tempore. The Chair recognizes the lady, Mrs. Hagarty.

Mrs. **HAGARTY**. I move that **HB 2133, PN 3016**, 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.

* * *

The House proceeded to third consideration of **SB 725, PN 789**, entitled:

An Act amending the act of July 7, 1947 (P. L. 1368, No. 542), entitled, as amended, "Real Estate Tax Sale Law," further providing for the distribution of moneys collected and for notice of distribution of moneys obtained from tax sales.

On the question,

Will the House agree to the bill on third consideration?

BILL TABLED

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. DeWEESE. I move that SB 725, PN 789, be placed on the table.

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

BILL REMOVED FROM TABLE

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. DeWEESE. Mr. Speaker, I move that SB 725 be taken from the table and placed again on the active calendar.

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

* * *

The House proceeded to third consideration of **HB 1849, PN 2376**, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, defining "trail bikes"; and permitting limited highway crossing and use.

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

BILL TABLED

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

Mr. ARGALL. I move that HB 1849, PN 2376, be placed on the table.

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

BILL REMOVED FROM TABLE

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

Mr. ARGALL. I move that HB 1849, PN 2376, be taken from the table and placed again on the active calendar.

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

WELCOME

The SPEAKER pro tempore. The Chair wishes at this time to welcome members of the Williamsport-Lycoming Chamber

of Commerce. They are Randy Wright, Bill Young, Bill Wendel, Fred Corey, and Russell Reitz. They are to the left of the Speaker, and they are the guests today of Representatives Dempsey and Bush. Would they please rise and be recognized.

BILLS ON THIRD CONSIDERATION CONTINUED

The House proceeded to third consideration of **HB 2293, PN 3270**, entitled:

An Act providing for the establishment of a Timber Bridge Program within the Department of Transportation.

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

Mr. BOWLEY offered the following amendment No. A1725:

Amend Sec. 3, page 2, line 16, by inserting after "hardwoods"
indigenous to this Commonwealth

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

The SPEAKER pro tempore. On that question, the Chair recognizes Mr. Bowley.

Mr. BOWLEY. Thank you, Mr. Speaker.

Mr. Speaker, this particular amendment just adds some language that was inadvertently taken out by the House Transportation Committee, adding the words "indigenous to this Commonwealth" to the bill, and I would ask for the members' support.

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

The following roll call was recorded:

YEAS—196

| | | | |
|-------------|------------|-----------|---------------|
| Acosta | Dombrowski | LaGrotta | Rieger |
| Adolph | Donatucci | Langtry | Robbins |
| Allen | Dorr | Lashinger | Robinson |
| Angstadt | Durham | Laughlin | Roebuck |
| Argall | Evans | Lee | Rudy |
| Barley | Fairchild | Leh | Ryan |
| Battisto | Fargo | Lescovitz | Rybak |
| Belardi | Farmer | Levdansky | Saloom |
| Belfanti | Fee | Linton | Saurman |
| Billow | Fleagle | Lloyd | Scheetz |
| Birmelin | Flick | Lucyk | Schuler |
| Bishop | Foster | McCall | Scrimenti |
| Black | Fox | McHale | Semmel |
| Blaum | Freeman | McNally | Serafini |
| Bortner | Freind | McVerry | Smith, B. |
| Bowley | Gallen | Maine | Smith, S. H. |
| Boyes | Gamble | Markosek | Snyder, D. W. |
| Brandt | Gannon | Marsico | Snyder, G. |
| Broujos | Geist | Mayernik | Staback |
| Bunt | George | Melio | Stairs |
| Burd | Gigliotti | Merry | Steighner |
| Burns | Gladeck | Michlovic | Stish |
| Bush | Godshall | Micozzie | Strittmatter |
| Caltagirone | Gruitza | Mihalich | Stuban |
| Cappabianca | Gruppo | Miller | Tangretti |
| Carlson | Hagarty | Moehlmann | Taylor, E. Z. |
| Carn | Haluska | Mowery | Taylor, F. |
| Cawley | Harper | Mrkonic | Telek |
| Cessar | Hasay | Murphy | Thomas |

| | | | |
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| Chadwick | Hayden | Nahill | Tigue |
| Civera | Hayes | Nailor | Trello |
| Clark, B. D. | Heckler | Noye | Trich |
| Clark, D. F. | Herman | O'Brien | Van Horne |
| Clark, J. H. | Hershey | Olasz | Veon |
| Clymer | Hess | Oliver | Vroon |
| Cohen | Howlett | Perzel | Wambach |
| Colaifella | Hughes | Pesci | Wass |
| Colaizzo | Itkin | Petrone | Weston |
| Cole | Jackson | Phillips | Williams |
| Cornell | Jadlowiec | Piccola | Wilson |
| Corrigan | James | Pievsy | Wogan |
| Cowell | Jarolin | Pistella | Wozniak |
| Coy | Johnson | Pitts | Wright, D. R. |
| DeLuca | Josephs | Pressmann | Wright, J. L. |
| DeWeese | Kaiser | Preston | Wright, R. C. |
| Daley | Kasunic | Raymond | Yandrisevits |
| Davies | Kenney | Reber | |
| Dempsey | Kondrich | Reinard | O'Donnell, |
| Dietterick | Kosinski | Richardson | Speaker |
| Distler | Kukovich | | |

NAYS—0

NOT VOTING—0

EXCUSED—6

| | | | |
|---------|----------|--------|------------|
| Dininni | Morris | Ritter | Taylor, J. |
| Maiale | Petrarca | | |

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

On the question,

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

Mr. BROUJOS offered the following amendments No. A1807:

Amend Bill, page 4, by inserting between lines 1 and 2 Section 6. Covered bridges.

The department is authorized to utilize timber for construction of covered bridges upon application of any municipality which agrees to pay for the additional cost of construction required for the covered bridge, in accordance with department regulations.

Amend Sec. 6, page 4, line 2, by striking out "6" and inserting

7

Amend Sec. 7, page 4, line 6, by striking out "7" and inserting

8

Amend Sec. 8, page 4, line 9, by striking out "8" and inserting

9

On the question,

Will the House agree to the amendments?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Cumberland, Mr. Broujos.

Mr. BROUJOS. Mr. Speaker, this amendment provides that municipalities which wish to pay the additional cost of having a covered bridge could do so and the department would promulgate regulations to tell them how it could be done.

Covered bridges have been an important part of our heritage. Cumberland County, for instance, had 24 covered bridges at one time. Most of the counties of Pennsylvania

have had covered bridges. Now that we have gone into a Timber Bridge Program, we should carry it to the extent that any municipality that desires to construct the covered portion of a timber bridge as a replica of a covered bridge should have the opportunity to do so so long as they pay the cost. The term "municipalities" includes counties, so the county could either do it on their own initiative as a tourist attraction or municipalities could do it through a county.

I would ask for support for this. It is no cost to this State.

The SPEAKER pro tempore. The Chair thanks the gentleman and now recognizes the gentleman from Warren, Mr. Bowley.

Mr. BOWLEY. Thank you, Mr. Speaker.

Mr. Speaker, I worked with Mr. Broujos on this particular amendment and do support it and ask for the members' support.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—196

| | | | |
|--------------|------------|------------|---------------|
| Acosta | Dombrowski | LaGrotta | Rieger |
| Adolph | Donatucci | Langtry | Robbins |
| Allen | Dorr | Lashingier | Robinson |
| Angstadt | Durham | Laughlin | Roebuck |
| Argall | Evans | Lee | Rudy |
| Barley | Fairchild | Leh | Ryan |
| Battisto | Fargo | Lescovitz | Rybak |
| Belardi | Farmer | Levdansky | Saloom |
| Belfanti | Fee | Linton | Saurman |
| Billow | Fleagle | Lloyd | Scheetz |
| Birmelin | Flick | Lucyk | Schuler |
| Bishop | Foster | McCall | Scrimenti |
| Black | Fox | McHale | Semmel |
| Blaum | Freeman | McNally | Serafini |
| Bortner | Freind | McVerry | Smith, B. |
| Bowley | Gallen | Maine | Smith, S. H. |
| Boyes | Gamble | Markosek | Snyder, D. W. |
| Brandt | Gannon | Marsico | Snyder, G. |
| Broujos | Geist | Mayernik | Staback |
| Bunt | George | Melio | Stairs |
| Burd | Gigliotti | Merry | Steighner |
| Burns | Gladeck | Michlovic | Stish |
| Bush | Godshall | Micozzie | Stittmatter |
| Caltagirone | Gruitza | Mihalich | Stuban |
| Cappabianca | Gruppo | Miller | Tangretti |
| Carlson | Hagarty | Moehlmann | Taylor, E. Z. |
| Carn | Haluska | Mowery | Taylor, F. |
| Cawley | Harper | Mrkonic | Telek |
| Cessar | Hasay | Murphy | Thomas |
| Chadwick | Hayden | Nahill | Tigue |
| Civera | Hayes | Nailor | Trello |
| Clark, B. D. | Heckler | Noye | Trich |
| Clark, D. F. | Herman | O'Brien | Van Horne |
| Clark, J. H. | Hershey | Olasz | Veon |
| Clymer | Hess | Oliver | Vroon |
| Cohen | Howlett | Perzel | Wambach |
| Colaifella | Hughes | Pesci | Wass |
| Colaizzo | Itkin | Petrone | Weston |
| Cole | Jackson | Phillips | Williams |
| Cornell | Jadlowiec | Piccola | Wilson |
| Corrigan | James | Pievsy | Wogan |
| Cowell | Jarolin | Pistella | Wozniak |
| Coy | Johnson | Pitts | Wright, D. R. |
| DeLuca | Josephs | Pressmann | Wright, J. L. |
| DeWeese | Kaiser | Preston | Wright, R. C. |

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|------------|----------|------------|--------------|
| Daley | Kasunic | Raymond | Yandrisevits |
| Davies | Kenney | Reber | |
| Dempsey | Kondrich | Reinard | O'Donnell, |
| Dietterick | Kosinski | Richardson | Speaker |
| Distler | Kukovich | | |

NAYS—0

NOT VOTING—0

EXCUSED—6

| | | | |
|---------|----------|--------|------------|
| Dininni | Morris | Ritter | Taylor, J. |
| Maiale | Petrarca | | |

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

On the question recurring,

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

Bill as amended was agreed to.

The SPEAKER pro tempore. 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—194

| | | | |
|--------------|-----------|-----------|---------------|
| Acosta | Donatucci | LaGrotta | Rieger |
| Adolph | Dorr | Langtry | Robbins |
| Angstadt | Durham | Lashinger | Robinson |
| Barley | Evans | Laughlin | Roebuck |
| Battisto | Fairchild | Lee | Rudy |
| Belardi | Fargo | Leh | Ryan |
| Belfanti | Farmer | Lescovitz | Rybak |
| Billow | Fee | Levdansky | Saloom |
| Birmelin | Fleagle | Linton | Saurman |
| Bishop | Flick | Lloyd | Scheetz |
| Black | Foster | Lucy | Schuler |
| Blaum | Fox | McCall | Scrimenti |
| Bortner | Freeman | McHale | Semmel |
| Bowley | Freind | McNally | Serafini |
| Boyes | Gallen | McVerry | Smith, B. |
| Brandt | Gamble | Maine | Smith, S. H. |
| Broujos | Gannon | Markosek | Snyder, D. W. |
| Bunt | Geist | Marsico | Snyder, G. |
| Burd | George | Mayernik | Staback |
| Burns | Gigliotti | Melio | Stairs |
| Bush | Gladeck | Merry | Steighner |
| Caltagirone | Godshall | Michlovic | Stish |
| Cappabianca | Gruzza | Micozzie | Strittmatter |
| Carlson | Gruppo | Mihalich | Stuban |
| Carn | Hagarty | Miller | Tangretti |
| Cawley | Haluska | Moehlmann | Taylor, E. Z. |
| Cessar | Harper | Mowery | Taylor, F. |
| Chadwick | Hasay | Mrkonic | Telek |
| Civera | Hayden | Murphy | Thomas |
| Clark, B. D. | Hayes | Nahill | Tigue |
| Clark, D. F. | Heckler | Nailor | Trello |
| Clark, J. H. | Herman | Noye | Trich |
| Clymer | Hershey | O'Brien | Van Horne |
| Cohen | Hess | Olasz | Veon |
| Colafrella | Howlett | Oliver | Vroon |
| Colaizzo | Hughes | Perzel | Wambach |
| Cole | Itkin | Pesci | Wass |
| Cornell | Jackson | Petrone | Weston |
| Corrigan | Jadlowiec | Phillips | Williams |
| Cowell | James | Piccola | Wilson |
| Coy | Jarolin | Pievsky | Wogan |
| DeLuca | Johnson | Pistella | Wozniak |
| DeWeese | Josephs | Pitts | Wright, D. R. |
| Daley | Kaiser | Pressmann | Wright, J. L. |

| | | | |
|------------|----------|------------|---------------|
| Davies | Kasunic | Preston | Wright, R. C. |
| Dempsey | Kenney | Raymond | Yandrisevits |
| Dietterick | Kondrich | Reber | |
| Distler | Kosinski | Reinard | O'Donnell, |
| Dombrowski | Kukovich | Richardson | Speaker |

NAYS—2

Allen Argall

NOT VOTING—0

EXCUSED—6

| | | | |
|---------|----------|--------|------------|
| Dininni | Morris | Ritter | Taylor, J. |
| Maiale | Petrarca | | |

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

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

STATEMENT BY MR. DAVIES

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

Mr. DAVIES. Unanimous consent, Mr. Speaker.

The SPEAKER pro tempore. Without objection, the gentleman may proceed.

Mr. DAVIES. Mr. Speaker, it is with great sadness I note for the record the death of Carol Ilgenfritz this past week.

Carol was an employee of the Republican Caucus for 29 years. She served faithfully and with dedication as administrative assistant in our office for many years.

She will be sadly missed by her many friends and fellow employees of the House of Representatives. Thank you.

The SPEAKER pro tempore. I am sure I am speaking for the entire House in sharing with the sympathy of the family on this sad occasion.

The Chair thanks the gentleman.

RECESS

The SPEAKER pro tempore. At this time the Chair is announcing a recess of the House until 1 o'clock. The Chair hears no objection. The House will reconvene at 1 p.m.

AFTER RECESS

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

THE SPEAKER (ROBERT W. O'DONNELL) PRESIDING

BILLS SIGNED BY SPEAKER

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

HB 1149, PN 1320

An Act designating a certain bridge on Township Route 415 in Stewardson Township, Potter County, as the Cross Fork Veterans Memorial Bridge.

SB 1472, PN 1946

An Act amending the act of May 11, 1889 (P. L. 188, No. 210), entitled "A further supplement to an act, entitled 'An act to establish a board of wardens for the Port of Philadelphia, and for the regulation of pilots and pilotage, and for other purposes';.....," further regulating the rates of pilotage; and specifying fees for certain services.

CALENDAR CONTINUED

BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 941, PN 2510**, entitled:

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, changing and adding provisions relating to the selection of justices and judges.

On the question,

Will the House agree to the bill on third consideration?

Mr. FREEMAN offered the following amendments No. A1617:

Amend Title, page 1, lines 2 and 3, by striking out "changing and adding provisions relating to" in line 2, all of line 3 and inserting

providing for the election of certain justices and judges.

Amend Sec. 1, page 1, lines 8 through 15; pages 2 through 8, lines 1 through 30; page 9, lines 1 through 3, by striking out all of said lines on said pages and inserting

(1) That section 13(a) of Article V be amended and that the section be amended by adding a subsection to read:

§ 13. Election of justices, judges and justices of the peace; vacancies.

(a) [Justices, judges] Judges, other than judges of the Superior Court and the Commonwealth Court, and justices of the peace shall be elected at the municipal election next preceding the commencement of their respective terms of office by the electors of the [Commonwealth or the] respective districts in which they are to serve.

(a.1) (1) Justices of the Supreme Court, Judges of the Superior Court and Judges of the Commonwealth Court shall be elected at the municipal election next preceding the commencement of their respective terms of office by the electors of the respective judicial electoral districts. One justice or judge shall be elected from each judicial electoral district for each appellate court.

(2) Prior to the municipal election next following one year from the adoption of this subsection, the General Assembly shall, by law, divide the Commonwealth into seven Supreme Court judicial electoral districts, and as many Superior Court electoral districts and Commonwealth Court electoral districts as there are Superior Court and Commonwealth Court judges as provided by law. Each district shall be composed of compact and contiguous territory as nearly equal in population as practicable and shall be based on the 1990 Federal decennial census. These districts shall in like manner be reapportioned following each subsequent decennial census.

(3) The General Assembly shall, by law, determine the manner of elections under this subsection.

On the question,

Will the House agree to the amendments?

The SPEAKER. On that question, the Chair recognizes Mr. Freeman.

Mr. FREEMAN. Thank you, Mr. Speaker.

Mr. Speaker, the amendment that we have before us provides for the district election of appellate court judges and is identical to the amendment that I offered to HB 539 on December 5, which at that time was supported overwhelmingly by the members of this House by a vote of 126 to 68.

Mr. Speaker, like many members of this House, I have concerns over the so-called merit selection proposal embodied in HB 941. To my mind, we do a tremendous disservice to the people of Pennsylvania when we take away their right to elect judges and instead entrust that selection process to a nameless and faceless panel of experts who have their own interests at stake and their own personal axes to grind.

Furthermore, instead of removing politics from the process of selecting appellate court judges, as the proponents of merit selection claim merit selection will do, to my mind, merit selection only intensifies the political process, intensifies the politics at stake in judicial selection by throwing it into the most political body in this State, our State Senate.

Does anyone really think that we remove politics from the process of judicial selection when we relegate that task to the same body that has shown itself to horse-trade over such positions as the LCB (Liquor Control Board), the PUC (Public Utility Commission), and the Turnpike Commission?

I think there is a further irony at stake here, too, a further irony that comes into play when we deal with merit selection. You know, at the very time that eastern and central Europe are reshaping their governmental institutions to become more democratic, to mold along democratic lines—

Mr. BORTNER. Mr. Speaker?

PARLIAMENTARY INQUIRY

The SPEAKER. For what purpose does the gentleman rise? Mr. BORTNER. Point of parliamentary inquiry.

The SPEAKER. The gentleman will state his point.

Mr. BORTNER. Are we on the Freeman amendment now—

The SPEAKER. We are.

Mr. BORTNER. —or are we on HB 941? I would request the Speaker to instruct the gentleman offering the amendment to speak on his amendment unless we are going to debate the bill at this time.

The SPEAKER. The Chair appreciates the gentleman's advice.

The gentleman, Mr. Freeman, may continue.

Mr. FREEMAN. Thank you, Mr. Speaker. I am merely building an argument for my amendment, and I appreciate the comments of the gentleman, Mr. Bortner.

As I was saying, there is a certain irony at play here. At a time when the peoples of eastern and central Europe are

reshaping their institutions to take in a more democratic approach, we are being asked to retreat from the very democratic impulses which make us in many respects, I think, a very shining example—

The SPEAKER. Will the gentleman suspend?

The Chair was apparently more moved by the gentleman's advice than the gentleman with the microphone.

The gentleman may continue.

Mr. FREEMAN. Thank you, Mr. Speaker.

If I can be allowed to finish this sentence before the end of the day, perhaps we could move on to final debate.

I think one of the important aspects of our system of government here is that we are an example to the emerging democracies of the East, and what the Freeman-Gallen amendment attempts to do is to insure that the democratic process can work in the selection of our judges.

To my mind, there are problems with the current system of electing judges on a statewide basis. Like many in this House, I think I recognize the shortcomings of our current system. Under the current system it is often very difficult for voters to learn the qualifications of candidates, to learn of their reputations, due in large part to the large size of the constituency of running on a statewide level and because of the limitations imposed by the Canons of Ethics. There is also a tendency under the current system, a tendency all too prevalent, to vote for a candidate based on the popularity of their name, the ethnic appeal of their name, or on the geographic location of the candidate.

There is something wrong also, I feel, with a system that awards roughly half of our 31 appellate court judgeships to one county, the county of Allegheny. Let us not fool ourselves. This happens not because that county produces the best legal minds in the Commonwealth but because of its voting strength, of its geographic appeal to the voting bloc of the southwest, and the lack of stigma associated with the name "Allegheny County" as opposed to other urban locales.

The amendment that I offer here today in cosponsorship with my colleague, Jim Gallen, offers a middle course, if you will. The district election of appellate court judges will insure greater geographic balance than is currently existing in our court system by drawing on the legal talent from all portions of the Commonwealth. More importantly, it affords the voter a far better opportunity to learn the qualifications and reputations of the candidates due to the smaller scale of the district; the ability for the voter to gain a better handle, if you will, on the qualifications of the candidates in their region. Furthermore, district elections will make campaigns for the appellate courts far more manageable and make it much more likely that the average voter will get the chance to meet the candidates and learn of their qualifications firsthand in the campaign process.

If anyone doubts the positive aspects of a smaller district to elect judges from, then they have only to look at the election of our judges on the common pleas courts. Even the proponents of merit selection seem to feel the electorate does a good job in choosing judges on this level of the judiciary. Why else

would they not have included that in their proposal for merit selection?

Voters do a good job at the common pleas level, because the size of the district is far more manageable and the reputations and qualifications of the candidates are much more familiar to the people of their particular county.

District election is an appropriate middle course that preserves and improves upon our popular election of our appellate court judges and yet steers clear of the intense behind-the-scene politics and horse trading of a merit selection process that utilizes faceless and nameless nominating panels and would require a two-thirds Senate approval for their selection.

I urge the members of this House to stand by the decision which they took on December 5 in endorsing district election of appellate court judges. I urge the membership to vote "yes" on the Freeman-Gallen amendment. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Mr. Ryan.

Mr. RYAN. Would the gentleman stand for a brief period of interrogation? The gentleman, Mr. Freeman.

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

Mr. RYAN. Mr. Speaker, I looked quickly through your amendment and I see that, at least I think I see what you are trying to do. We in the General Assembly will create a judicial electoral district for each of the appellate - one per appellate position. Is that essentially accurate?

Mr. FREEMAN. In essence, yes, Mr. Speaker.

Mr. RYAN. And then that will guarantee that these judicial seats on the appellate bench will be distributed throughout the Commonwealth. Is that accurate? I mean, is that not what you are trying to do?

Mr. FREEMAN. In essence, yes. We do allow certain leeway—

Mr. RYAN. Mr. Speaker, I cannot hear the gentleman, and I even have a squawk box.

Mr. FREEMAN. In essence, Mr. Speaker, that is correct. However, we do allow leeway, realizing there is a potential for a transition from obviously a statewide election process into a district election, and so we allow leeway in terms of the General Assembly having the authority to deal with that aspect of it in the final sentence of the amendment.

Mr. RYAN. All right. Now, I am guessing—at least I think I am guessing; maybe you have it in here—the Supreme Court today has five members from Allegheny County, as I recall. Is that accurate?

Mr. FREEMAN. I am taxing my memory, but it is either four or five as I recall.

Mr. RYAN. Well, whatever.

Is it your intention that the judicial district for central Pennsylvania, whatever it might be under this new amendment, would get the next Supreme Court seat that came up, or could Allegheny County also get one?

Mr. FREEMAN. That will be for this General Assembly to decide at a later date, once this is enacted as a part of the Constitution, as far as the process of determining how we then

divvy up the districts and select them. I should note, too, there is nothing in the language which would prohibit an able attorney from any corner of this State from running for any seat, just as Congressmen can actually, under the U.S. Constitution, run for Congress from any congressional district within their State, although the custom is that they come from that district. There is nothing to prohibit a very able jurist from running, say, from Lackawanna County if they come from Westmoreland County, the difference being that we will insure that the people of the various regions that make up our Commonwealth will have a voice in selecting those candidates as opposed to the system we are currently operating under, which seems to lean heavily upon Allegheny County as our main choice.

Mr. RYAN. All right. Now, the other problem that occurs to me—and I suspect I know your answer—who goes first? Who gets the first one? Which county gets the next Supreme Court seat? Or which Supreme Court judicial electoral district gets the next Supreme Court opening? How do you determine this?

Mr. FREEMAN. Again I refer the gentleman back to the section of the amendment that states, "The General Assembly shall, by law, determine the manner of elections under this subsection." That elastic clause, if you will, gives us the power, the authority, to determine the breakdown at a later date, once the voters have approved, through referendum, the concept of district election. It is conceivable that we could adopt, for instance, a system of drawing lots for the members of the Supreme Court to possibly determine which district they would be assigned to.

Mr. RYAN. Is not the idea— As I recall the debate from the last time we had an amendment similar to this—offered by you—as I recall that debate, the idea of this amendment of regionalization was to assure that all areas of the Commonwealth would be represented on our various appellate courts and no one strong county, such as Allegheny today, would have a disproportionate share of the appellate judges. Is that not really the thrust of the argument that was made here a month ago?

Mr. FREEMAN. I would say it is an important aspect of the argument for district election, but it is not the sole argument. From my standpoint, I think the strongest selling point for this proposal is the fact that smaller districts as opposed to a statewide race will make the selection of our appellate court judges by the voters a far easier task for them. It is far better for them to know the qualifications and the reputations of the judges if those candidates are running from a smaller district; if their reputation, for instance, is better known because they practiced law in one of the counties of that region over a period of time. So there is a better ability on the part of the voter to make an informed choice.

However, another aspect to it, and I think a very positive aspect, is by dividing the State into regions or districts, we increase the likelihood that we would draw on legal talent from all over the State as opposed to the tendency in recent elections to draw primarily upon Allegheny County for our appellate court judges.

Mr. RYAN. Would it be fair to say that if this amendment goes in and a referendum is adopted by the people, that there is no guarantee that things are going to really change in the makeup of the court?

Mr. FREEMAN. If the gentleman could expand upon that. I am not quite sure I follow his argument.

Mr. RYAN. Well, what I am saying is that the first time these amendments were offered, they were offered with the iron-clad guarantee, so to speak, that there was going to be regionalization and that every portion of this State was going to have representation, eventually, on the appellate courts. This amendment does not do that but rather leaves it up to a future General Assembly to enact laws, and there is no requirement that the laws enacted provide for equal distribution of the appellate courts throughout these electoral judicial districts.

Mr. FREEMAN. The amendment does provide for—

The SPEAKER. Will the gentlemen suspend?

The gentleman, Mr. Ryan, has the floor, but it is incumbent upon him at this point to frame a question for Mr. Freeman or not.

Mr. RYAN. Is it not?

Mr. FREEMAN. I thank the gentleman for his distinct question.

I would state simply and clearly that since this amendment is identical to the one that we debated last December, that the arguments are still the same. This provides for the district election of our appellate court judges. That is the bottom line. How we go about bringing that into practice, how we go about establishing or structuring the mechanics of that, is left to a future date by the General Assembly as pointed out by point (3) of the amendment, which states again, "The General Assembly shall, by law, determine the manner of elections under this subsection." Obviously we require that the State be divided up through this amendment into districts of roughly equal population, to meet any constitutional requirement on population, and that we choose our appellate court judges from those districts. A lot of the details that the gentleman, Mr. Ryan, brings up are details for a future General Assembly to deal with.

The SPEAKER. The Chair recognizes Mr. Bortner.

Mr. BORTNER. Mr. Speaker, I would like to also interrogate the maker of the amendment.

The SPEAKER. The gentleman indicates he is willing to be interrogated. The gentleman may proceed.

Mr. BORTNER. Mr. Speaker, how many districts would your amendment require?

Mr. FREEMAN. We require as many districts as there are members of the various appellate courts. For instance, in the case of the Supreme Court, there are seven members; therefore, there would be seven districts across the State, roughly of equal population. In the case of the Superior Court, the Constitution specifies that the court must be no less than seven members. So through the language we have adopted in our bill, we provide that there shall be as many districts as there are members. Currently there are 15 members of the

Superior Court, so for that appellate court, there will be 15 districts. In the case of the Commonwealth Court, the Constitution does not specify a number, so our amendment says that we will have as many districts as there are members of the Commonwealth Court. Since there are currently nine members of the Commonwealth Court, there would be nine separate districts across the State.

Mr. BORTNER. So these districts would not be—I suppose that is obvious—these districts would not be uniform; they would be different for each court?

Mr. FREEMAN. That is correct. Each court would have a separate set of districts. They would all be uniform in the sense of meeting the constitutional standard of population. As the gentleman is aware, we must have districts of roughly equal population to meet any kind of constitutional question of representation. So they would be equal in population for their particular court.

Mr. BORTNER. At the present time, what would be required is 7 Supreme Court districts to be created, 15 Superior Court districts, and the creation of 9 Commonwealth Court districts.

Mr. FREEMAN. The gentleman is correct.

Mr. BORTNER. I think in response to the minority leader you started to answer this question: Your amendment does not deal at all with the process to create those districts?

Mr. FREEMAN. It does in the sense that we are required to do so following the 1990 Federal census. We are required, as we will be required in the way of congressional redistricting, to establish districts. That is spelled out in the amendment. As far as the manner of election, how we divvy up the districts - based with the current court, whether we provide for election of the entire court or divvy up the positions through some sort of lottery amongst the various jurists - that is for this General Assembly to determine at a later date. The important thing is, this amendment, dealing in a constitutional sense, deals with the framework. The nuts and bolts and mechanics of it will be dealt with by the General Assembly at a later date.

Mr. BORTNER. So—and this I am not sure of—you do not tie this in to, for example, the current reapportionment process that is utilized to create legislative districts?

Mr. FREEMAN. We followed the pattern laid down for reapportionment of congressional districts in the sense that we vest that responsibility in the General Assembly, as is currently done for congressional districts.

Mr. BORTNER. But, for example, in the case of House districts and senatorial districts, there is a commission which contains four members of the caucuses and a neutral party. Does this require the imposition of that kind of a body to create the districts or is that also to be left up for—

Mr. FREEMAN. Specifically it does not require, but there would be nothing to prohibit that being adopted by the General Assembly if they so choose to deal with the districts in that way, in that manner.

Mr. BORTNER. Did I understand you in response to the minority leader's question to state that there would be no residency requirement?

Mr. FREEMAN. That is correct, just as there is no residency requirement for Congressmen in our State. Under the Federal Constitution, a Congressman has to come from the State, but there is no requirement that they must come from the district that they represent. Obviously, as is common practice in the U.S. Congress, you do come from the district you represent, and there is a certain edge given to any candidate, obviously, who comes from that district. I anticipate the same would happen with judicial candidates at the appellate level. Even though we do not require them to be residents of their district, because we do not want to shut out any potential talent that is out there, we would nevertheless obviously favor someone who would come from that particular region, and obviously his reputation and qualifications would be better known within that region.

Mr. BORTNER. Thank you, Mr. Speaker.

I would like to also speak on the amendment, if I may.

The SPEAKER. The gentleman may proceed.

Mr. BORTNER. Thank you very much.

As the prime sponsor of HB 941, I would urge the members to vote "no" on the Freeman amendment, regardless of how you feel about the "merits," if I can use that term, of HB 941. I say that not because I am trying to preserve my bill or preserve my issue, because I realize there are different philosophical considerations on this subject. I urge you to defeat this amendment because I honestly believe it is a step backward. I honestly believe that the present system of electing judges on a statewide basis is to be preferred to creating some narrower districts where we would elect judges almost in the same manner that we currently elect House members and Senators.

It would seem to me to be not only ironic but a very, very bad situation if we created a system that elected judges and if people started to think in terms of judges actually representing them or representing their interests. I would hate to see the day that people talked in terms of their judge being Judge Papadakos or their being represented by Judge Cirillo or their living in Judge Beck's district when the judges on the court are not considering local issues or local interests. I mean, it is the exact opposite kind of system that we want to create.

The parties that come before the courts come before them from all over the State. They come before them with interests that frequently are statewide interests. They are not narrow interests; they are not local interests, and judges should not be put in a position where they are looking to a particular locality to not only elect them but to represent their interests.

The other problem with this amendment is that there are deficiencies in the current system that it does not address at all. One of the main ones is the concerns about fundraising. I think one of the biggest problems with the present system is that we make judges go around the State almost with a tin cup trying to raise money for judicial races. Now, I think the argument from the maker of this amendment is that what we would be doing here is creating districts that are smaller where that would not be quite as necessary.

In terms of the argument about creating districts that we would elect judges from and that is somehow allowing you to

run without having to raise a lot of money, think in terms of what a Supreme Court district would be like. We are talking about districts that I think would be roughly the size of two to two and a half congressional districts, and if you think in terms of your congressional district and throw in the adjoining congressional district and a little bit of another one, you get the idea of the kind of district that we are talking about. We are not talking about counties; we are not talking about small districts. We are talking about very, very large districts that would still require media-type campaigns. And I think what it would further do then is require you to go raise your money from one area or one particular interest which would tie you in even more to the voters that would be considering you if you are running for election.

As I said at the beginning of my remarks, regardless of how you feel about the overall issue of merit selection—and I understand that we will have some opportunity, I hope, to debate that issue at length—I think the idea of regional elections is a step backwards, it is counterproductive, and it is going to give us a judiciary that certainly is not more qualified but more beholden to particular interests and local interests.

I hope you will vote against the Freeman amendment and then, as we move on, consider the question of whether you feel we ought to continue a system that elects judges or move to a system that appoints judges on a merit basis. Thank you.

PARLIAMENTARY INQUIRY

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

Mr. RYAN. I believe it is a point of parliamentary inquiry. It is certainly an inquiry.

This amendment deals with the election of judges from districts, simply stated. The bill deals with merit selection as opposed to election. If this amendment were adopted, what effect does that have on, quote, "merit selection," because this amendment deals only with elections.

The SPEAKER. As a parliamentary matter, the effect of Representative Freeman's amendment, if adopted, would be to gut the bill. So the bill as it stands would have no content.

The Chair recognizes Mr. McNally.

Mr. McNALLY. Will the gentleman, Mr. Freeman, stand for brief interrogation, please?

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

Mr. McNALLY. Mr. Speaker, is it not true that under the scheme proposed by amendment 1617, that judicial districts would be drawn according to population to accommodate the one person-one-vote principle of Baker v. Carr?

Mr. FREEMAN. That is correct, Mr. Speaker. We would divide the State up into districts of roughly equal population to meet the one-person-one-vote requirement.

Mr. McNALLY. And the population figures that would be used to draw those districts would be based upon the decennial census conducted by the United States Government.

Mr. FREEMAN. That is correct, just as it is done for our districts as legislators and for congressional districts as well.

Mr. McNALLY. I guess my question then is, since judicial members of the bench have 10-year terms, supposing that a member of the bench were to retire at the age of 70 this year in 1990 and this scheme were to be in effect, the election to replace that vacancy would occur probably in 1991. However, the new judicial districts, because the census will not be ready until 1991, these new judicial districts could not be drawn until 1992. Would that not be correct?

Mr. FREEMAN. Given the constitutional requirement under the State Constitution that any amendment to the Constitution must pass two separate sessions of the legislature and then be approved by the voters in a referendum, the earliest possible date probably would be 1991.

Mr. McNALLY. Okay. But that would not be in time for the judicial elections that would begin in the spring of 1991.

Mr. FREEMAN. I would assume the gentleman is correct.

Mr. McNALLY. Okay. Now, the problem I have is this: Suppose we elect a person under the at-large system in 1991. They would continue their term, is that not correct, until the year 2001, and at that point, how do we fit them into one of these judicial districts which lines had been drawn 10 years previously?

Mr. FREEMAN. Again, it goes back to the question raised by the gentleman, Mr. Ryan, as far as how we would in essence divvy up the districts. We allow in this amendment for the General Assembly to determine, by law, the manner of election under this amendment. In doing so, we could take a number of avenues. Again, this is something for a General Assembly to deal with at a later date, but we could either assign all the members of the court to a specific district as a result of drawing by lot; we could require them to stand and choose their own districts. We would have that leeway, based on the elastic clause of point (3) of this amendment, to determine how the manner of election will be conducted.

The important principle at stake here is the principle of making sure that we have a regional system or a district system which will enable all the people of the Commonwealth of Pennsylvania to have a greater understanding of the people they vote for for appellate court judge and also to make sure that we can draw on the legal talent of all sections of the State and not just one particular county, as is currently being done with Allegheny County.

Mr. McNALLY. So I take it that your answer to my last question was that in fact you do not have in mind at this time any solution to the problem that I have posed of how do we fit a judge into a judicial district that was formed 10 years prior to his next election.

Mr. FREEMAN. Again, in response to the gentleman's question, as I mentioned, that is for a later General Assembly to determine. Again, it could be determined in a wide variety of fashions. We could have all the members of the court draw lot and, by drawing lot, be assigned to a specific district that has been formed. We could do it in a wide variety of ways. The important issue at stake here today is the principle of

regional election - of making sure that, again, the people have a better chance to understand who is running for the office of appellate court judge by having smaller districts that enhance familiarity with the candidates and also to insure that there is proper representation on the bench from all corners of the Commonwealth.

Mr. McNALLY. Mr. Speaker, my interrogation is over.

The SPEAKER. The Chair recognizes Mr. Gallen.

Mr. GALLEN. Thank you, Mr. Speaker.

It has been 8 years since I have been introducing legislation just like this which would create judicial districts, the main reason being that for the first time, we are going to get to know for whom we are voting. The current system of electing judges statewide is a total grab bag. Position on the ballot is more important than judicial ability, and this allows us not only to continue to have the people have a voice in electing their judges but for them to know who these judges are going to be and not have a Governor or give the Senate all the power to determine who our judges are going to be but allow the people to do it but with the realization of for whom they are voting and what their qualifications really are.

Mr. Speaker, I would appreciate an affirmative vote on this amendment.

The SPEAKER. The Chair recognizes Mr. Hayden.

Mr. HAYDEN. Thank you, Mr. Speaker.

I agree with Representative Bortner and think that we ought to reject this amendment.

As I listened to Representative Freeman's argument and the others who appear to be in favor of this amendment, they seemed to try to answer the question, when is an election not an election? What they failed to note is that in HB 941, after the initial appointment, the judge will sit for a term of 4 years and then be up for a retention election. So I guess the answer to that question, when is an election not an election, is when a judge stands for retention, but I would suggest that Representative Freeman ought to check with a certain common pleas judge in the city of Philadelphia, a Judge Snyder, who was unable to succeed with a retention election some 3 years ago.

Implicit in his argument is also the thought that somehow voters who have the presence of mind and are smart enough to elect us and elect members of the Senate do not have that same ability to be able to choose among candidates for the appellate bench. I think that presents the position of the schizophrenic voter as someone who takes the time and effort to find out about us but does not find out about the appellate court judges. I think that is a disingenuous argument, and if you are going to be in favor of elections, you ought to be in favor of elections and live with all the results.

Lastly, I would like to point out in response to the colloquy that Representative McNally had with Representative Freeman with respect to the proper drawing of the districts. You have heard some remark about drawing the districts in compliance with the case of Baker v. Carr and one-man-one-vote. Now, I know Representative Freeman's history is one to try to keep the process open and try to insure as many people participate. I guess Representative Freeman is not aware of a

case which was filed in the United States District Court for the Western District of Texas in November of 1989 in which a group calling themselves the League of United Latin-American Citizens, the Houston Lawyers Association, and other groups challenged just such a regional-election-type system, alleging that it violated the Voting Rights Act which was passed by Congress. They got a successful decision by the judge in the district court in the State of Texas, who in fact issued an injunction and ordered the State of Texas to reevaluate its system of partisan elections based on districts because too many people were disenfranchised through that process. Now, I know that is not the intended result of Representative Freeman's amendment, but as we have seen in other practical applications, that is certainly one of the factors that may occur.

I think the bottom line is Representative Freeman takes a bad situation and makes it worse by trying to extend it on a regional basis, and I would urge everyone here to reject the Freeman amendment.

The SPEAKER. The Chair recognizes Mr. Veon.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, I am as adamantly opposed to merit selection as the gentlemen, Mr. Bortner and Mr. Hayden, are in favor of it. I would hope at this time that for the reasons pointed out very articulately by the gentleman, Mr. Hayden, from Philadelphia and others, we defeat this well-intentioned but terribly wrong proposal by Mr. Freeman, and I would ask that all those strong opponents of merit selection join with the proponents, Mr. Bortner and Mr. Hayden, in defeating this proposal by Mr. Freeman here. Let us get on with the debate on merit selection and have a vote on that. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Mr. Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, I, too, would join with Mr. Veon in urging a "no" vote on this amendment.

This amendment has been very, very well critiqued by Mr. Bortner and Mr. Hayden. I do not agree with Mr. Bortner and Mr. Hayden on the merit selection bill, but I agree with them on this amendment.

Creating regional elections assumes that the Supreme Court of Pennsylvania and the Commonwealth Court and the Superior Court are legislative bodies, each of which has a constituency which it is supposed to aggressively defend in the manner that we aggressively defend our constituents. That is not what a court is. No one should run or has a possible platform for running on the grounds that they will do more for Lehigh County, they will do more for Dauphin County, they will do more for Philadelphia County. The court does not exist to distribute money from one county or another county. The court does not exist to represent local interests. The court exists to represent the law, which ought to be applied equally, without favor, to everybody in the State of Pennsylvania.

It is extremely dangerous to break a court down. As Representative Hayden said, in those few cases where courts are regionally elected, the Justice Department and many civil

rights litigants have been filing lawsuits and making great changes in those systems. District elections have led to great abuses in those few cases in which they have been tried. It is a very, very dangerous course of action.

I would urge both the defeat of this amendment and the defeat of the bill.

The SPEAKER. The Chair recognizes Representative Hagarty.

Mrs. HAGARTY. Thank you, Mr. Speaker.

Mr. Speaker, just to comment first on the notion that Bob Freeman suggested that something is antidemocratic about merit selection, I would just like to remind the members of a bit of our constitutional history.

The Constitution of 1776 in Pennsylvania, as well as the Constitutions of 1790 and 1838, provided for the appointment of judges. To suggest somehow that this is antidemocratic or that the scheme of appointment of judges is a move away from democracy clearly seems to me to disregard the very history of Pennsylvania and the original framers that we point to so often as embodying democracy, who saw at that time that appointment was a better method of judicial service than election.

Secondly, I urge you to think about the fact that regional election only solves one of the problems that have been suggested to be at the root of the problem today with our judiciary. The only problem that it solves is that of the disproportionate number of judges on our appellate courts who come from the larger counties, and if you think about that, I suggest to you it does not even solve that problem well. Think of your own county, and envision what region you are going to be put into. I suggest to you that if you are a smaller county, you will be with a larger county, and therefore, you will have as little opportunity now as a judge from your own area as you would under the present system, because the larger county, under this theory, will be able to elect its judge. If you think of your own situation and who served in either your congressional seat, your seat, or your senatorial seat, you will see the same result - that it will be the person from the most populous county or the county with the most political clout or that area that will end up winning.

Regional election will do nothing more than transfer all of the ills of the present system to ills of a new system. The fundamental problems it will not solve, and just to review some of those fundamental problems again, first, for those of you who think that the system is okay, I ask you to think about the public's attitude toward our judges. We have never had a situation which I think was as bad as it is now in which public confidence in the judiciary is so low.

Secondly, when our judges run, as we know, the abilities that it takes to run statewide are not the abilities that we need on the bench - the large amount of financing, the campaigning, the ability to garner TV time, the financing by the lawyers. All of those arguments that you have heard prevail in this regional suggestion.

I suggest that we defeat regional election—it is not an improvement; it encompasses all of the problems with the

system as it now is—and move on to consider merit selection. Thank you.

The SPEAKER. The Chair recognizes Mr. O'Brien.

Mr. O'BRIEN. Thank you, Mr. Speaker.

Mr. Speaker, I rise to oppose this amendment.

I suggest to the other members of the General Assembly that if we are really serious about correcting the geographic imbalance as presented by Mr. Freeman, there is a very simple solution, which we have debated before in this House, and that is simply remove the county of origin from the ballot that appears under the candidate's name. I suggest that anyone who is interested in that, I would be glad to cosponsor that legislation.

I think that the debate has proved one thing to me: The mechanics of the implementation of this program are so vague that they absolutely cannot work and, if we are really serious about correcting the geographic imbalance, that we get on with a real solution, and that is simply to remove the county of origin. Thank you.

The SPEAKER. The Chair recognizes Mr. Herman.

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

I would like to interrogate the maker of the amendment, if I may, Mr. Speaker.

The SPEAKER. The gentleman indicates he is willing to be interrogated. The gentleman may proceed.

Mr. HERMAN. Thank you, Mr. Speaker.

It seems to me that a part of your argument in bringing forward this amendment is to provide for a greater representation or a cross section of representation across the Commonwealth on our judgeship seats. Is that correct?

Mr. FREEMAN. I am sorry. I could not quite hear the gentleman. If he could repeat his question.

Mr. HERMAN. I said, it seems to me that one of the main thrusts of your argument in bringing forward this amendment is that you feel it will bring a greater cross section of representation on all of our major courts in Pennsylvania. Is that true? Geographical representation.

Mr. FREEMAN. Well, as I mentioned in the course of interrogation by the gentleman, Mr. Ryan, the intent of this amendment, Mr. Speaker, primarily, from my standpoint, is to insure that the voter has a better opportunity to understand the qualifications and reputation of the candidates who run for our appellate courts. Judging from the example of our common pleas races throughout this State, it is a classic case where if you have a smaller district, if candidates come from that particular region, there is a greater opportunity to learn about their qualifications, to make an informed choice on voting for judge. That is my primary concern here, but a secondary factor is the fact that under the current system, we seem to have a preponderance of judges coming from one segment of the Commonwealth. I think there is plenty of legal talent throughout the Commonwealth, in all of our counties, and this would provide for a greater opportunity for attorneys in those counties who have something to offer in the way of their candidacies to have the opportunity at a shot at being on the appellate court bench.

Mr. HERMAN. Thank you, Mr. Speaker. I have one more followup question.

Do you have any idea what the current makeup, geographically, among those members of any of these courts is at the present? Let me give you an example. I have been trying to get this from our staff and have been unable to. I thought maybe you would have the answer. I understand on our State Supreme Court, I think six members of that State Supreme Court are from Pittsburgh, Allegheny County, but one is from Philadelphia County. Now, obviously, none are from any of the other counties in Pennsylvania, any of the other 65. My question is, what about the makeup of the other courts that you mention in this amendment? Do you have any idea what their geographic location might be, their home area?

Mr. FREEMAN. I apologize to the gentleman again. I could not hear his question.

Mr. HERMAN. I will try again, Mr. Speaker. At any rate, I have been trying to find some information about the geographic representation of our current system, our current court structure on the courts, and our staff indicated that on the State Supreme Court, I believe that six members are from Allegheny County while only one is from Philadelphia. Now, obviously, the other 65 counties are not represented on the Supreme Court, if you are looking at it from a geographic representation point of view. Now, the other courts that you mention - the Commonwealth Court and the Superior Court—I do not have the amendment in front of me—I was curious whether you had any information on what their geographic representation might be.

The SPEAKER. The question the gentleman is addressing is, what is the county of origin of the current members of the appellate courts? The Chair finds it a relevant question and would request that the members find it a relevant question and permit the gentleman to respond.

Mr. FREEMAN. Thank you, Mr. Speaker.

In reviewing for today's debate, I went over the comments that were made on December 5, when this amendment was first offered and passed by the House overwhelmingly. At that time the gentleman, Mr. Pressmann, came to the mike and pointed out the fact that roughly half of the 31 appellate court judges come from Allegheny County. I do not have the actual breakdown by court, but roughly half of the 31 members on all 3 courts come from the single county of Allegheny.

Mr. HERMAN. Thank you, Mr. Speaker.

I have just been informed that Representative Bortner has the answer in more specific detail to this question, and I would, Mr. Speaker, ask that if he would stand to answer, I would appreciate that.

The SPEAKER. Has the gentleman concluded his interrogation of Representative Freeman?

Mr. HERMAN. Yes, I have.

The SPEAKER. The gentleman, Mr. Bortner, indicates he is willing to be interrogated. The gentleman, Mr. Herman, may proceed.

Mr. BORTNER. Let me answer your question first with just some general observations, and I think I understand the question you are asking.

The Supreme, the Superior, and the Commonwealth Courts have 31 judges in all. Of those 31 judges, 15 are from Allegheny County; 6 are from Philadelphia, so that 21 of 31 judges on all of the appellate courts in Pennsylvania, or 68 percent, come from those 2 counties. There are only eight counties represented on all of the courts—and I will not go through all of them—Montgomery, Delaware, Luzerne, and Lehigh, and Beaver County has one judge. I believe those may be all the counties that are represented. Dauphin County may still have a judge on the appellate courts.

I do not know if that is—I can go into more specificity, but those are some general observations and numbers, Mr. Speaker.

Mr. HERMAN. Thank you very much, Mr. Speaker. I really appreciate that information. It is exactly what I was looking for.

That is why I am standing to support this amendment, because it seems to me that it is quite obvious that the representation of central Pennsylvania is not evident under the current system of electing judges statewide, and obviously, by dividing the State into judicial districts, like we do with members of the legislature, both House and Senate, we would get a fairer cross section of representation and points of view that are being represented, those being rural as well as suburban and urban.

Some of the items that Mr. Bortner raised in his remarks about fundraising, I think, are also relevant and the fact that while with the judgeships it is kind of hard to know who they are, still, in having merit selection, we would not have any idea who these people are. At least the general public would have less knowledge of the candidates' qualifications and backgrounds through merit selection.

Secondly, regarding fundraising, obviously, by dividing the State into judicial districts, we will cut down on the number of funds that each candidate would have to raise and spend in order to become elected. Certainly it is easier for the voters to focus upon one single candidate to represent them on each of these courts or to be elected than it is on two or three elected at one time across the State on any of these.

I kind of find it hard to believe that we have so much trust in the democratic process in elections that we bestow that trust into the voters to elect members of the House of Representatives, the State Senate, the Governor, and certain statewide elected officials, yet we do not have that same trust in terms of having voters elect their judges, which is an equal part - an equal part - of the government system, the other equals, of course, being executive and legislative. Judicial is still a part of that.

Finally, I just think the whole idea that we are going to be able to have a better knowledge of the candidates who run for office on these courts from judicial districts certainly has more merit than merit selection. It would preserve the integrity of the democratic process of election and thereby provide for a greater provision for merit election.

With that, Mr. Speaker, I lend my support for this amendment. Thank you.

The SPEAKER. The Chair recognizes Mr. Trich.

Mr. TRICH. Thank you, Mr. Speaker.

I stand in support of the Freeman amendment, and quite frankly, I think that most of the debate today has been bogged down not so much on the merits of what the amendment tries to do but rather talking about what might happen after the fact. I think Mr. Freeman has very clearly pointed out not once but many times that if the legislation does in fact become law, the flexibility is certainly there to deal with the specifics as to how and where those districts will be drawn.

Quite frankly, I think the true argument today should be based on what the Freeman amendment states. For any of us, as responsible elected officials, to state that our present statewide system is without flaw would certainly be unrealistic. However, for us to abandon the individual right to vote in favor of a merit selection system, in my estimation, is also unrealistic. Therefore, the Freeman amendment serves as a practical, corrective compromise.

A previous speaker had mentioned that parochialism should not be a part of the court system, and I would tend to agree. However, this amendment does not try to create parochialism but rather gives the electorate an opportunity to know the people they are voting for. That, I think, is a good compromise and one that I would hope this body would support today as it did in December. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Mr. Dorr.

Mr. DORR. Thank you, Mr. Speaker.

Mr. Speaker, I believe that it is both the right and the responsibility of the people of this Commonwealth to elect their appellate court judges. This elitist attitude that only lawyers can determine the qualifications of judges, I think, is just completely wrong. The people of this Commonwealth have been electing judges in the common pleas courts for over 200 years now and have done, by and large, a very good job of that. I think all of us would agree that in our counties, generally speaking, we have judges who not only are competent but reflect the viewpoint of the people of that county, and I think that is entirely appropriate.

The opportunity to elect appellate court judges on a regional basis, I think, gives people a better opportunity to learn to know those candidates; an opportunity to vote for candidates who are more attuned to their particular way of thinking and their way of doing things, the attitudes of that region. All of those things are very appropriate, and I would urge support of the Freeman amendment. I would think that every Representative in this body, perhaps outside the counties of Allegheny and Philadelphia, should be supporting the Freeman amendment.

The SPEAKER. The Chair recognizes Mr. Wozniak.

Mr. WOZNIAK. Thank you, Mr. Speaker.

I think this amendment has merit.

Mr. Speaker, we did have an opportunity one time to have a judge try to run for a higher political office, but coming from

the county of Cambria, he did not have the political base to attempt to make such an effort.

I think that Representative Herman put a very good point across that by having regional or district voting of our higher justices, we have an opportunity to get the flavor of rural Pennsylvania, suburban Pennsylvania - small communities such as Johnstown and the large communities of Pittsburgh and Philadelphia - all to be able to sit with their philosophies on the bench, and I think we will have an opportunity for people to actually have the opportunity to get to know who their candidates are for these very, very important positions.

I think the regional or district approach to our judgeships in Pennsylvania is a very excellent way to attempt to bring the almost anonymous voting based on media or party votes down to a situation where the individual constituent will have an opportunity to know their candidates and make decisions based on what they know and not from what they hear. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Mr. Lee.

Mr. LEE. Thank you, Mr. Speaker.

I want to be very quick. I just want to raise a parliamentary point here.

I am basically of the opinion that I support any type of reform, and I support merit selection over judicial districting. However, you should be aware of the fact that this will be the only chance we have to vote for judicial districting today. We will have another chance to vote for merit selection in a later bill. So if you are supportive of both of these concepts, even if you support merit selection over this concept, I would urge you to vote in favor of this particular amendment. Thank you.

The SPEAKER. The Chair recognizes Mr. Bortner.

Mr. BORTNER. I would like to speak just one last time on the subject of the regional elections and point out one other thing that I think should be obvious, but maybe it is not.

In previous interrogation I tried to point out what the reapportionment process would be like where people lived in one Supreme Court district, a different Superior Court district, a different Commonwealth Court district - 7 districts for the Supreme Court, 15 for the Superior Court, and 9 for the Commonwealth Court. One difference between the districts that we represent and the districts that would be constructed for courts is that we only go through that process once every 10 years. I mean, until we change the Constitution, there are going to be 203 seats in this chamber; there will be 50 seats in the Senate. We have changed the number of judges in the Superior Court a number of times. We have changed the number of judges in Commonwealth Court at least one time. What would be required, from a practical point of view, is that every time we add one additional judge to any of the appellate courts, we would have to go through a reapportionment process. We would have to re-create districts, judicial districts, for whatever court we added a judge for, and as I said, we have done that because of workload for the Superior Court, I believe, on a couple of occasions and at least once for the Commonwealth Court, because I know it did not start out with nine judges.

I think we would be inviting a reapportionment nightmare, or the alternative would be that we would never add any judges to the appellate courts simply because the process would be too cumbersome. I think you ought to take that into consideration if you find this concept appealing at all - what it would mean in terms of practical aspects of implementing it.

I guess the last thing I would just say is that please remember that appellate judges exercise statewide jurisdiction, unlike those of us who are represented here or elected to the Senate. We represent districts. We are expected to have a narrow focus many times, to come up here and represent the people who put us here. Judges should not and are not expected to deal that way, and it does not make any sense at all to elect them on that basis when they make decisions affecting everybody in the Commonwealth of Pennsylvania. Thank you.

The SPEAKER. Is the gentleman, Mr. Pressmann, seeking recognition?

Mr. PRESSMANN. Thank you, Mr. Speaker.

Mr. Speaker, the opponents of Mr. Freeman's amendment have tried to nitpick this amendment to death. There are two basic questions at work here, and they are whether or not the people should have the right to choose their appellate judges or not and whether it should be done on a statewide basis or by a district basis. All the other arguments the opponents have made have been made to try to confuse the issue, to put fog over the issue, to create doubts about a very good proposal. They asked questions that are supposed to be worked out by the legislature when we write the enabling legislation for Mr. Freeman's proposal. Those things can be worked out.

All across the system, all across the country, there have been changes in forms of government and they have been able to work this out. In this State we used to have a different amount of legislators than we have now. In my county we used to have three county commissioners; now we have nine. In Mr. Ryan's county, they used to have three; now they have five, I believe. They were able to work these things out. They can be worked out.

Let us not nitpick a good idea to death. The decision for you is whether or not the people should have the right to choose their appellate judges or not and whether they should pick them by district or by a statewide basis.

I would ask for a "yes" vote.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—94

| | | | |
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| Allen | Dietterick | Johnson | Scheetz |
| Angstadt | Distler | Lashinger | Schuler |
| Argall | Dorr | Lee | Semmel |
| Barley | Fairchild | Leh | Serafini |
| Belardi | Fargo | Lloyd | Smith, B. |
| Belfanti | Fleagle | Lucyk | Smith, S. H. |
| Billow | Flick | Marsico | Snyder, D. W. |
| Birmelin | Foster | Merry | Snyder, G. |
| Black | Freeman | Miller | Staback |
| Bowley | Gallen | Moehlmann | Stairs |
| Brandt | Gannon | Mowery | Stish |
| Broujos | Geist | Nailor | Strittmatter |

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| Bunt | Gladeck | Noye | Stuban |
| Burd | Godshall | Pesci | Tangretti |
| Bush | Gruitza | Phillips | Taylor, E. Z. |
| Caltagirone | Gruppo | Piccola | Telek |
| Carlson | Hasay | Pitts. | Tigue |
| Cawley | Hayes | Pressmann | Trich |
| Chadwick | Herman | Reber | Vroon |
| Clark, D. F. | Hershey | Richardson | Wambach |
| Coy | Hess | Robbins | Wass |
| DeWeese | Howlett | Rudy | Wozniak |
| Davies | Jackson | Saurman | Wright, D. R. |
| Dempsey | Jadlowiec | | |

NAYS—102

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|--------------|-----------|-----------|---------------|
| Acosta | Durham | Langtry | Preston |
| Adolph | Evans | Laughlin | Raymond |
| Battisto | Farmer | Lescovitz | Reinard |
| Bishop | Fee | Levdansky | Rieger |
| Blaum | Fox | Linton | Robinson |
| Bortner | Freind | McCall | Roebuck |
| Boyes | Gamble | McHale | Ryan |
| Burns | George | McNally | Rybak |
| Cappabianca | Gigliotti | McVerry | Saloom |
| Carn | Hagarty | Maine | Scrimenti |
| Cessar | Haluska | Markosek | Steighner |
| Civera | Harper | Mayernik | Taylor, F. |
| Clark, B. D. | Hayden | Melio | Thomas |
| Clark, J. H. | Heckler | Michlovic | Trello |
| Clymer | Hughes | Micozzie | Van Horne |
| Cohen | Itkin | Mihalich | Veon |
| Colafiglia | James | Mrkoncic | Weston |
| Colaizzo | Jarolin | Murphy | Williams |
| Cole | Josephs | Nahill | Wilson |
| Cornell | Kaiser | O'Brien | Wogan |
| Corrigan | Kasunic | Olasz | Wright, J. L. |
| Cowell | Kenney | Oliver | Wright, R. C. |
| DeLuca | Kondrich | Perzel | Yandrisevits |
| Daley | Kosinski | Petrone | |
| Dombrowski | Kukovich | Pievskey | O'Donnell, |
| Donatucci | LaGrotta | Pistella | Speaker |

NOT VOTING—0

EXCUSED—6

| | | | |
|---------|----------|--------|------------|
| Dininni | Morris | Ritter | Taylor, J. |
| Maiale | Petrarca | | |

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

On the question recurring,

Will the House agree to the bill on third consideration?

Mr. BOWLEY offered the following amendments No. A1830:

Amend Sec. 1 (Sec. 13), page 3, line 13, by inserting brackets before and after "or judge"

Amend Sec. 1 (Sec. 15), page 8, lines 2 and 3, by striking out "or a judge elected under section 13(c) or retained under this section 15(b)"

Amend Sec. 1 (Sec. 15), page 8, line 9, by striking out "appointment"

Amend Sec. 1 (Sec. 15), page 8, line 10, by striking out the bracket before "appointment"

Amend Sec. 1 (Sec. 15), page 8, line 10, by striking out "election"

Amend Sec. 1 (Sec. 15), page 8, line 11, by striking out the bracket before "13(d)"

Amend Sec. 1 (Sec. 15), page 8, line 11, by striking out "13(c) ["

Amend Sec. 1 (Sec. 15), page 8, line 11, by inserting after "applicable]"

appointment

Amend Sec. 1 (Sec. 15), page 8, by inserting between lines 25 and 26

(c) A judge elected under section 13(c) may seek reelection at the expiration of his term.

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair requests the gentleman, Mr. Itkin, to preside.

The matter before the House is amendment A1830. The gentleman, Mr. Bowley, is recognized and may proceed.

Mr. BOWLEY. Thank you, Mr. Speaker.

Mr. Speaker, this is a very simple amendment. It would eliminate retention elections for judges of the courts of common pleas across the Commonwealth. At the end of their 10-year terms, they would have to stand for reelection.

I would ask for an affirmative vote.

THE SPEAKER PRO TEMPORE (IVAN ITKIN) PRESIDING

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

Mr. BORTNER. I would just urge the members to vote "no" on this amendment.

I think the current system of retention works fairly well. The effort is made to not politicize elections once judges are on the bench, and I think that that system works fairly well. People have an opportunity to speak on a judge who has been on the bench for 10 years, yet judges do not have to run, constantly looking over their shoulder every time they make a difficult decision, every time they make a hard decision.

It is a difficult thing for me actually to speak against. Because I cannot find any reasons or any merit to support the issue, it is hard for me to create arguments against it. I hope you will consider your own experience in your own counties and vote not to accept this amendment to the bill. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Cambria, Mr. Wozniak.

Mr. WOZNIAK. Thank you, Mr. Speaker.

I rise to support this amendment.

Last year I sent out a questionnaire, as we all do, and I had one dealing with judicial reform, and one of the major issues that the public was interested in was the issue of retention, and overwhelmingly, the citizens did not believe that retention was a good public policy.

The retention of judges, just all it is doing is making a very elite branch of this government more elite. There is no reason that the people who make the decisions of possibly life and death, jail sentences, and what have you, should not be able to go in front of a public forum as candidates and have candidates seeking those positions making arguments.

Mr. Speaker, I respect highly the judicial branch, but I think it has gained too much control and power in this Commonwealth, and the issue of retention is a dangerous method of continuing to foster such a program.

I would support the Bowley amendment and would hope that the rest of my colleagues would also do the same.

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

Mr. LLOYD. Thank you, Mr. Speaker.

Mr. Speaker, I would like to interrogate the maker of the amendment.

The SPEAKER pro tempore. The gentleman, Mr. Bowley, consents to being interrogated. The gentleman from Somerset, Mr. Lloyd, may proceed.

Mr. LLOYD. Mr. Speaker, I want to make sure I understand the effect of this amendment. As you described it, Mr. Speaker, you indicated that this would get rid of retention election for Supreme Court, Superior Court, and Commonwealth Court. Is that right or wrong?

Mr. BOWLEY. That is incorrect, Mr. Speaker. The intent of the amendment is only to eliminate retention elections for judges of the courts of common pleas.

Mr. LLOYD. Only the court of common pleas. In other words, this amendment does not take away retention election for the merit selection judges.

Mr. BOWLEY. That is correct, Mr. Speaker; it does not.

Mr. LLOYD. They would continue to be subject to, I think it is after 4 years, would continue to be subject to a retention election as they are in the bill as it originally came out of committee.

Mr. BOWLEY. That is correct.

Mr. LLOYD. Okay. Thank you.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Lehigh, Mr. McHale.

Mr. McHALE. Thank you, Mr. Speaker.

Mr. Speaker, I rise in strong opposition to the proposed amendment.

I am a politician, and I am proud of it. I run for office every 2 years by hopefully remaining in touch with my constituents and responding to the majority will. I do not believe that the term "politician" is pejorative. I do not believe, however, that we want our judges on the trial court level to become politicians.

This year, Mr. Speaker, we are celebrating the 200th anniversary of the Bill of Rights. I do not want a judge who is about to render a decision on fundamental liberty to be looking over his or her shoulder to determine whether or not that ruling will be popular. We adopted the Bill of Rights, Mr. Speaker, not to protect the popular majority but to protect dissent on behalf of the unpopular minority.

Do you really want a judge who is considering a labor injunction in the middle of a controversial dispute to make his or her decision based on whether or not the granting of that injunction will be popular, or do you instead, as I believe, want that judge to base his or her decision exclusively upon the rule of law? And when a judge of our courts of common pleas is faced with a decision of whether he or she will protect fundamental liberty under the First Amendment, do you want a finger to go into the wind to determine what is popular today, though, perhaps, lacking in truth tomorrow?

I am proud to be a politician; I am proud to respond to my constituents when I vote for laws, but I do not want our judges to become politicians. I want our judges to carry out the will of this legislature, be it popular or unpopular, and I want the Bill of Rights to stand for the protection of minorities whether or not it will aid in a judge's reelection.

We will strike a fundamental blow at the Bill of Rights if we adopt this amendment, and I therefore urge a negative vote.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Allegheny, my dear friend, Mr. Gamble.

Mr. GAMBLE. Thank you, dear Speaker.

Will the gentleman, Mr. Bortner, stand for a brief interrogation?

The SPEAKER pro tempore. The gentleman from York consents to being interrogated. The gentleman from Allegheny may proceed.

Mr. GAMBLE. Mr. Speaker, could you tell us what year the retention system went into effect in Pennsylvania?

Mr. BORTNER. I am not sure, but I think it was part of the 1968 Constitution. I was a pup then, so I do not remember for sure, but I think the 1968 Constitution is when retention was first put into place in Pennsylvania, but I would not want to swear to it.

Mr. GAMBLE. Mr. Speaker, do you know how many judges have been defeated under the retention system since it did go into effect, and we will assume that it was 1968, which is 22 years ago?

Mr. BORTNER. I do not know how many. I guess about a dozen, but I am not sure. I know of several cases, and I assume there are a few more.

Mr. GAMBLE. Okay. Thank you. That is all the interrogation.

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

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

Mr. GAMBLE. I did not know the answer to the question. I did not know whether it was 1966 or 1968, but it is my understanding that there are less than you can count on both hands of judges across this Commonwealth who have been defeated under the retention system, because, in my opinion, it just does not work. Over that period of time, we have had literally hundreds of candidates who have run for retention who were retained and only less than two handfuls who were defeated.

I think that is proof positive that the system does not work, and I urge your support of the Bowley amendment. Thank you.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Bucks, Mr. Clymer.

Mr. CLYMER. Thank you, Mr. Speaker.

Would the gentleman stand for interrogation, please, on the amendment?

The SPEAKER pro tempore. The gentleman from Warren agrees to be interrogated, and the gentleman from Bucks may proceed.

Mr. CLYMER. Thank you, Mr. Speaker.

Mr. Speaker, will this be unique to Pennsylvania regarding judges who will seek reelection to the court of common pleas, or are there other States that now have a similar kind of law effect?

Mr. BOWLEY. I am sorry, Mr. Speaker; I do not know what other States have. I just feel that a judge once every 10 years should have to stand for reelection.

Mr. CLYMER. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Lehigh, Mr. Pressmann.

Mr. PRESSMANN. Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of the amendment.

Mr. Speaker, when you look across this Commonwealth and as the gentleman, Mr. Gamble, said, so few judges have ever been defeated for retention, and there are several reasons why. One is they are insulated from their decisions. They are insulated from the people.

Not too long ago there was a judge in my county whom no one liked particularly. His decisions were rather strange. His behavior at times was rather unjudicial. When he came up for retention, I was sitting at a lunch table with a number of lawyers and they were complaining about him, and I said, "Well, what are you going to do about it?" and they said, "Well, we'll vote against him." I said, "Well, are you going to organize a committee against him, a 'vote no' committee? Are you going to raise money? Are you going to do something to take him off the bench?" and the answer was no. I said, "Why?" and they said, "Because we're afraid what he'll do to us if we run a 'vote no' committee." Because they were afraid of his power as a judge, that if they opposed him for retention, that he would win that election, which is almost a foregone conclusion that you will win these elections, and then he would use that power to abuse them further judicially.

We look over at the press. How closely do they cover these judges? When the judges stand for retention, do you ever see in your paper a long list of their decisions and other things that they have done while on the trial court? No; there is just the usual little article the Sunday before the election saying that judge so-and-so is up for election and that it has been a quiet race and he is expected to be retained, and they will tell you about his beloved cocker spaniel and about how, maybe if he is a real nice guy, about how he smiles a lot, or if he is a curmudgeon, they will talk about how he has this unfriendly demeanor. But they will not discuss in depth the decisions he has made or how he has behaved as a judge.

Mr. Speaker, the judiciary is so much insulated from us; the retention system has insulated them even more from the people. I think that every public official who is elected by the people and paid by the people should be held accountable completely. Retention does not allow that. A campaign, though, brings out the good and the bad in a public official and allows the people to make an informed decision.

I ask for a "yes" vote.

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

Mr. McVERRY. Thank you, Mr. Speaker.

I rise in opposition to the Bowley amendment.

I suggest to you that the Constitutional Convention of 1968 considered this topic in great depth. The primary purpose of the retention provision as adopted in that Constitution was to try to take your judges out of the political process.

Prior to that time, I venture to say—although I was not a pup as Representative Bortner was, I was not an older, experienced gentleman as I am now—the most powerful political figure or figures in each county were the judges, and they were the most powerful political people so that they could retain their position as judges, and they did. If you go back and research how many sitting judges were defeated in political elections prior to 1968, I would venture that the numbers and the percentages are very close to the numbers and percentages of people who have been defeated under the retention system since that time.

However, since that time, we have taken the judges for all intents and purposes, the judicial branch, out of the political process but for their initial election, and therefore, as Representative Pressmann has indicated, the judges are somewhat insulated from their decisions, and it is that very insulation from their decisions that allows them to be objective and to interpret the Constitution and interpret the rights of those who come before them for justice without being influenced by political ramifications or the need to raise tremendous amounts of money to run in a contested election after their term.

I suggest to you that the retention provisions that are in place in our Pennsylvania Constitution are good and they should be retained, and I urge your negative vote on the Bowley amendment. Thank you.

The SPEAKER pro tempore. The question recurs, will the House agree to the Bowley amendment? On the question, the Chair recognizes the gentleman from York for the second time, Mr. Bortner.

Mr. BORTNER. One last time on the Bowley amendment.

In 1968, I believe at the Constitutional Convention—which occurred right here, I believe, in this room—the delegates were looking for some compromise.

Now, the model we have at the Federal level is lifetime appointments, and by the way, I think the Founding Fathers knew a little bit about democracy and about government that is supposed to be responsive to the people. They created a judiciary that had lifetime appointments. The system of retention is to go someplace between a system of pure democracy, direct elections, and a system of lifetime appointments, and it put in place the system of retention elections.

I would like to point out to you that if the concern is about a bad judge, if the concern is about a judge who has gone sour, about a corrupt judge, you know, 10 years is an awful long time to wait to do something about it. There are other mechanisms already in place to deal with that - impeachment is one - and the majority leader has a bill that is going to be coming up shortly that is going to change the way that we discipline judges.

Retention is not put there to get rid of judges in those kinds of situations. As I said, 10 years is too long a time to wait to deal with that kind of a problem. Retention is placed there to put one additional check, put in place some opportunity for the people to have a say on judges without fully immersing them in the political process. If you believe that they ought to be fully immersed in the political process, then I suppose that this amendment would have some appeal to you.

I would like to suggest to you, like many other speakers did - Representative McHale, Representative McVerry, and others - that putting judges whom we ask to make some very difficult, some very controversial, some unpopular decisions that sometimes we are for and sometimes we are against, but we want them to have a measure of independence when they make those decisions. That is what retentions do, and I think it is a process that we ought to continue. Thank you.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Warren for the second time, Mr. Bowley.

Mr. BOWLEY. Thank you, Mr. Speaker.

I would like to thank everyone for listening to the comments heard today on this particular amendment that I have offered.

This amendment is not vindictive against any particular judge around the Commonwealth. I am simply trying to place the election of the judges that someday may stand before us and judge you and me and our fellow citizens, move the election of these judges into the hands of the Commonwealth. I trust the people of the Commonwealth. They elect you and me every 2 years. Certainly they will have the wisdom to decide and elect their judges once every 10 years.

I ask for an affirmative vote.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—64

| | | | |
|--------------|----------|------------|---------------|
| Allen | Dempsey | Jarolin | Robbins |
| Angstadt | Distler | Johnson | Robinson |
| Belfanti | Evans | Langtry | Scrimenti |
| Billow | Fargo | Lashingier | Semmel |
| Birmelin | Fleagle | Leh | Smith, B. |
| Black | Flick | Lucyk | Smith, S. H. |
| Bowley | Gamble | Marsico | Snyder, D. W. |
| Boyes | Gannon | Mowery | Stairs |
| Bunt | Geist | Mrkonic | Stish |
| Burd | Godshall | Noye | Stuban |
| Bush | Gruppo | Pesci | Taylor, E. Z. |
| Caltagirone | Hayes | Petrone | Telek |
| Clark, D. F. | Herman | Phillips | Tigue |
| Coy | Hershey | Pitts | Veon |
| DeLuca | Hess | Pressmann | Vroon |
| DeWeese | Howlett | Preston | Wozniak |

NAYS—130

| | | | |
|----------|-----------|-----------|----------|
| Acosta | Dorr | Lee | Rieger |
| Adolph | Durham | Lescovitz | Roebuck |
| Argall | Fairchild | Levdansky | Rudy |
| Barley | Farmer | Linton | Ryan |
| Battisto | Fee | Lloyd | Rybak |
| Belardi | Foster | McCall | Saloom |
| Blaum | Fox | McHale | Saurman |
| Bortner | Freeman | McNally | Scheetz |
| Brandt | Freind | McVerry | Schuler |
| Broujos | Gallen | Maine | Serafini |

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|--------------|-----------|------------|---------------|
| Burns | George | Markosek | Snyder, G. |
| Cappabianca | Gigiotti | Mayernik | Staback |
| Carlson | Gladeck | Melio | Steighner |
| Carn | Gruitza | Merry | Strittmatter |
| Cawley | Hagarty | Michlovic | Tangretti |
| Cessar | Haluska | Micozzie | Taylor, F. |
| Chadwick | Hasay | Mihalich | Thomas |
| Civera | Hayden | Miller | Trello |
| Clark, B. D. | Heckler | Moehlmann | Trich |
| Clark, J. H. | Hughes | Murphy | Van Horne |
| Clymer | Itkin | Nahill | Wambach |
| Cohen | Jackson | Nailor | Wass |
| Colafella | Jadlowiec | O'Brien | Weston |
| Colaizzo | James | Olasz | Williams |
| Cole | Josephs | Oliver | Wilson |
| Cornell | Kaiser | Perzel | Wogan |
| Corrigan | Kasunic | Piccola | Wright, D. R. |
| Cowell | Kenney | Pievsky | Wright, J. L. |
| Daley | Kondrich | Pistella | Wright, R. C. |
| Davies | Kosinski | Raymond | Yandrisevits |
| Dietterick | Kukovich | Reber | |
| Dombrowski | LaGrotta | Reinard | O'Donnell, |
| Donatucci | Laughlin | Richardson | Speaker |

NOT VOTING—2

Bishop Harper

EXCUSED—6

Dininni Morris Ritter Taylor, J.
Maiale Petrarca

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

WELCOMES

The SPEAKER pro tempore. The Chair at this time wishes to welcome the fourth grade class of the Whitfield Elementary School of the Wilson School District. They are the guests of the gentleman from Berks, Mr. Davies. They are in the balcony. Would the students and their teachers please rise to be recognized.

The Chair at this time also wishes to acknowledge the presence in the balcony, and welcome them here, the fourth grade class from the Clearview Elementary School. They are here today as the guests of the gentleman from Lehigh, Mr. McHale. Would the students please rise with their teachers and be recognized.

CONSIDERATION OF HB 941 CONTINUED

On the question recurring,

Will the House agree to the bill on third consideration?

Mr. McNALLY offered the following amendments No. A1824:

Amend Bill, line before line 1, by striking out "A JOINT RESOLUTION" and inserting
AN ACT

Amend Title, page 1, lines 1 through 3, by striking out all of said lines and inserting

Amending the act of June 3, 1937 (P.L.1333, No.320), entitled "An act concerning elections, including general, municipal, special and primary elections, the nomination of candidates, primary and election expenses and election contests; creating and defining membership of county boards of elections; imposing duties upon the Secretary of the Commonwealth,

courts, county boards of elections, county commissioners; imposing penalties for violation of the act, and codifying, revising and consolidating the laws relating thereto; and repealing certain acts and parts of acts relating to elections," providing for information on candidates for judicial offices.

Amend Resolve Clause, page 1, line 5, by striking out "resolves" and inserting
enacts

Amend Bill, page 1, lines 6 through 15; pages 2 through 8, lines 1 through 30; page 9, lines 1 through 7, by striking out all of said lines on said pages and inserting

Section 1. The act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, is amended by adding a section to read:

Section 910.1. Judicial Candidate Information.—(a) Each judicial candidate for any Supreme Court, Superior Court, Commonwealth Court and court of common pleas shall file a judicial candidate information form with the Department of State stating:

1. The candidate's name and residence, with street and number, and post-office address, if any, for the past ten (10) years.

2. Date and place of birth.

3. Complete occupational history.

4. Educational background from high school through post-secondary degrees.

5. Names of all organizations, associations, clubs, church groups and professional societies with which the candidate has been associated.

6. A list of awards and achievements.

7. A list of all elected or appointed public offices held.

8. The candidate's party registration.

9. Information relating to any disciplinary action taken against the candidate for any violation of the Rules of Professional Conduct or the Code of Judicial Conduct.

10. Information relating to any conviction under 18 Pa.C.S. (relating to crimes and offenses).

11. A month prior to the general election, a list of organizations, associations, labor unions, political action committees and other groups that have endorsed or supported the candidacy of the candidate.

(b) The Department of State shall create a standard form and require that the judicial candidate information be published in all newspapers, of a circulation determined by the department at least twice before the primary and general elections and be made available at all State, county, municipal and court office buildings under the jurisdiction of such judicial office.

(c) A fee of two hundred fifty dollars (\$250) shall be required from each candidate for the purpose of administering this section.

(d) For purposes of this section, an additional one dollar (\$1) court fee shall be charged to all criminal and civil cases brought before the courts of this Commonwealth. This fee may be changed if, in the judgment of the Secretary of the Commonwealth, the funding needs of the administration of this section have changed. Any fee charged shall be in increments of ten cents (\$10). Notice of any fee change shall be published in the Pennsylvania Bulletin.

Section 2. This act shall take effect in 60 days.

On the question,

Will the House agree to the amendments?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Allegheny, Mr. McNally.

Mr. McNALLY. Thank you, Mr. Speaker.

The purpose of amendment 1824 is, first of all, to essentially change the nature of HB 941 from an amendment to the Pennsylvania Constitution to an amendment to the Pennsylvania Election Code.

I think that many people in this chamber and across the Commonwealth of Pennsylvania agree that the voters of this State are competent to select the individuals who will serve on the bench of this State. However, it has been pointed out by a number of people that there is a lack of information available to voters, that indeed they could make more well informed decisions when they decide whom to vote for in a judicial election.

This amendment is designed to address that need for information. It simply would require the candidates for the Supreme Court, the Superior Court, the Commonwealth Court, and the court of common pleas to file a judicial candidate information form, and that form would just include several pieces of information, including the name and address and residence of the candidate as well as their occupational and educational background, the organizations and associations that they belong to as well as awards and achievements that they have had. It also would require that they provide information relating to a violation of the rules of professional conduct or the Code of Judicial Conduct or information relating to any criminal conviction that they may have had. That information would then be circulated, provided to the public in newspapers of general circulation, and it would be self-funding. The legislation provides for a candidate's filing fee of \$250, as well as a court cost charged to complaints filed in the courts of this State, and that fund would be used to pay for the publication of this information.

I believe that when you look at the number of studies, and for example, I have a study published in the 1976 Wisconsin Law Review written by David Adamany and Philip DuBois regarding electing State judges. In fact, voters are capable of making intelligent decisions about those people who are running for judicial office. The only problem is a lack of information. If we provide that information, we can make this system of electing judges more efficient and more effective and at the same time protect the rights of our citizens to choose those who govern them. Thank you.

GERMANENESS QUESTIONED

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

Mr. BORTNER. Mr. Speaker, I have several arguments that would go to the merits of this amendment, but preliminarily, it would appear to me that this is an amendment to the Election Code and not to the Constitution, and further, that it takes what is a joint resolution and an amendment to the Constitution and turns it into an act. It would seem to me that there is a question, in fact not just a question but that this is not germane to the bill that we are considering, which would provide for a constitutional amendment, and I would ask that the Chair rule on the question of germaneness.

The SPEAKER pro tempore. The Chair wishes to advise the House that under rule 27, the issue of germaneness is one that the House decides.

The Chair will assume that the gentleman from York is placing before the House the question of germaneness.

On the question,

Will the House sustain the germaneness of the amendments?

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. Does the gentleman from Allegheny wish to be recognized to discuss the matter of germaneness?

Mr. McNALLY. Yes, Mr. Speaker.

Before I make a remark on the issue of germaneness, just a point of clarification.

For those individuals who believe that this amendment is germane to the bill, they ought to vote in which manner?

The SPEAKER pro tempore. Those who believe the amendment to be germane will vote "yes." Those who believe the amendment not to be germane will vote "no."

Mr. McNALLY. Thank you, Mr. Speaker.

I would urge a "yes" vote on amendment 1824. I believe that this is essentially germane to the subject matter contained in HB 941.

HB 941 deals with the selection of judges, the manner in which judges are selected. Amendment 1824 likewise deals with the subject matter of how we select judges. It simply changes the bill from a constitutional amendment to an amendment to the Pennsylvania Election Code and, you know, at the same time accomplishes the same— In fact, what it does is simply address the same policy question of how we ought to select judges. So I would urge a "yes" vote on the motion of germaneness.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair now recognizes the gentleman from York, Mr. Bortner.

Mr. BORTNER. Thank you, Mr. Speaker.

I just want to make one thing clear on the question of germaneness. The reason I believe this is not germane and the reason I think this is different than when we frequently raise the question of germaneness is that the bill in front of us is a joint resolution which is necessary to put an amendment to the Constitution before the voters. The amendment that you see before you converts that joint resolution, that proposed constitutional amendment, to a simple bill, simple legislation, that would change the Election Code. For that reason I think it is not germane.

I would further point out to you, if you were not paying very close attention and for some reason you feel that getting additional information out to the voters is a good idea, that this goes far beyond that. This takes all of the language dealing with merit selection, all of the language which deals with the constitutional amendment, out of the bill and replaces it with what you see underlined in the amendment.

I have not had enough of an opportunity to review at length the language that Representative McNally has offered. I do not know whether I feel it is information that would be relevant or would be good or would make sense if it were offered to another bill. But if you have any interest at all or if you feel that this issue that is before us is important enough to have a vote on, I hope you would vote against the amendment.

I might point out one other fact that I think you should consider for whatever value you believe it has. Under Article V of the Pennsylvania Constitution, section 10 under "Judicial Administration" places with the Supreme Court all the power to prescribe general rules governing practice, procedure, conduct of courts, et cetera, et cetera, et cetera. The Supreme Court has on several occasions used their authority under the unified judiciary to declare unconstitutional other attempts to impose upon the courts the manner that they do their business, including elections. I would suggest to you that they would also find this imposition unconstitutional, and while it may have some appeal to you, I think that your vote on this issue is probably wasted and would be better spent if this information were proposed in another form. Thank you.

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

Mr. PICCOLA. Thank you, Mr. Speaker.

I agree with the gentleman from York, Mr. Bortner, and would ask the House to vote "no" on the issue of germaneness. I would ask this no matter what your view is on merit selection, because clearly this House has over the years developed the precedent that when we are attempting to deal with legislation involving one code or set of laws, we have almost uniformly rejected the attempt to insert an amendment that deals with another code or set of laws. And clearly in this amendment we are dealing with the Election Code, and clearly the resolution, HB 941, a joint resolution, is dealing with the Constitution, a separate and totally distinct body of law.

Back in 1978, for those of you who were here at the time, we were dealing with a proposed United States constitutional amendment which would have treated the District of Columbia as if it were a State, and it required passage by both the House and the Senate at that time in order for Pennsylvania to ratify that amendment to the Constitution. During the course of the debate in this chamber on that resolution, that joint resolution, an amendment was offered which would have converted that joint resolution into merely a resolution memorializing Congress to do something, and the House ruled that that amendment was out of order.

This goes even further than what we did in 1978, and I think for consistency's sake for what we did in 1978, what we have done clearly before that and since that time, we should rule this amendment out of order and not germane to the question at hand.

I urge a "no" vote.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Does the gentleman from Philadelphia, Mr. Cohen, seek recognition at this time?

Mr. COHEN. Mr. Speaker, there are various procedural points that can be raised against this amendment that is offered by Mr. McNally. However, I think despite whatever the procedural problems are of this amendment, it is an extremely meritorious amendment. I would suggest that we vote for this amendment and then, if this amendment passes, we hold up the bill and allow Mr. McNally to consult with others who have procedural objections and have his amendment redrawn procedurally so it fits fully in with the traditions of the House.

This amendment offers the people of Pennsylvania an opportunity to have an improved system of judicial elections. Because it offers the people to have an improved system of judicial elections and is the only amendment here that deals with the underlying issue - that people do not know whom they are voting for - I would strongly urge that we declare this germane.

This amendment does deal with the quality in the selection process for Supreme Court judges. Mr. Bortner's bill deals with the selection process of Supreme Court judges. I think the amendment is important enough, is relevant enough, and offers the public enough of an improvement that it is worthwhile bending our rules, at least temporarily, and supporting a ruling that this motion is germane and that this amendment is worthwhile.

I urge support of the germaneness of this amendment.

The SPEAKER pro tempore. The question recurs, is the McNally amendment germane to the bill? On the question, the Chair recognizes the gentleman from Somerset, Mr. Lloyd.

Mr. LLOYD. Thank you, Mr. Speaker.

Mr. Speaker, I think members ought to vote on this with the recognition of what precedent is going to be set. If it is proper to take a joint resolution and gut it and turn it into a simple bill, then logically it is possible to take a simple bill and gut it and turn it into a constitutional amendment. We should therefore be advised that if you vote and sustain germaneness, that from now on, anybody who wants to amend the Constitution, if he can find a bill on the calendar that deals with somehow a somewhat related subject, he will offer his proposed constitutional amendment by stripping that bill. And there may be many times when folks do not want to face certain issues, but if they vote in the affirmative today, they are going to have to.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from York, Mr. Bortner, for the second time on the question.

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

I would like to follow up what I think is a very, very good point raised by the gentleman from Somerset County, which, I might add parenthetically, is usually the case.

He points out that this is a little different than the ordinary vote that frequently comes before us on the question of germaneness. I think in the past we have generally been fairly generous and fairly broad in interpreting the question of what

is germane and what is not germane and we sort of decide whether or not we really think that the subject is relevant, and sometimes we may not even do that. I would ask the members to look at this particular question a little bit differently and a little bit more carefully. We are dealing with a proposed constitutional amendment, and as Representative Lloyd said, if a constitutional amendment can be turned into a simple bill, why cannot a simple bill be turned into a constitutional amendment?

I think that we are abrogating our responsibility if we decide that this is germane. I think it means that the rules of the House on germaneness are pretty much meaningless, and I would hope that we would take our responsibility seriously in facing up to this issue.

I would ask you to vote "no" and remember that if you believe that this is not germane, that the vote that you want to put up is a "no" vote. Thank you.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Allegheny, Mr. McNally, for the second time.

Mr. McNALLY. Thank you, Mr. Speaker.

Once again I urge a "yes" vote on the motion of germaneness, and let me respond to a number of points that have been made by other speakers. I realize that it is not very often that Mr. Bortner or Mr. Lloyd are mistaken, but I think in this particular instance they are.

For example, while one citation made by the gentleman, Mr. Piccola, indicated that changing a resolution to a joint resolution or vice versa had previously been held out of order, this case that we have before us is clearly distinguishable. A resolution is numbered differently than a bill, and therefore, changing a resolution to a joint resolution which is contained in a House bill presents some very serious problems in terms of renumbering that piece of legislation. Here we have a joint resolution being turned into an act, an amendment to the Pennsylvania Election Code. We have no problems in terms of renumbering HB 941. All we need do is simply have a new printer's number.

Secondly, I think that it is important to examine the Constitution itself as well as the rules of this House, which simply state that an amendment cannot change the subject matter of the legislation. When you look at what the real substance of the subject matter is of HB 941 in its present form, it is to change and add provisions relating to the selection of justices and judges, and that is what this amendment that I propose to the Pennsylvania Election Code in fact accomplishes. It changes and makes some amendments to the way in which we select justices and judges here in the Commonwealth of Pennsylvania.

But I think that, really, when you get to the bottom of it, this is not simply a procedural issue; it is an issue of substance. Do you believe in merit selection or do you believe in the right of people to elect their judges? This amendment, 1824, would simply provide more information to the voters so they can make a more informed choice. Therefore, I urge you to vote "yes" on the motion of germaneness. Thank you.

The SPEAKER pro tempore. The question before the House is whether the McNally amendment to HB 941 is germane. Those who believe that the amendment is germane will vote "yes"; those who believe the amendment not to be germane will vote "no."

On the question recurring,
Will the House sustain the germaneness of the amendments?

The following roll call was recorded:

YEAS—33

| | | | |
|-------------|-----------|-----------|---------------|
| Caltagirone | George | McNally | Robinson |
| Cawley | Gigliotti | Maine | Saloom |
| Cohen | Godshall | Markosek | Staback |
| Colafella | Hasay | Murphy | Stuban |
| DeLuca | Howlett | Olasz | Tigue |
| DeWeese | Kaiser | Petrone | Van Horne |
| Dombrowski | Kosinski | Pressmann | Veon |
| Fee | Lucyk | Preston | Wright, D. R. |
| Gamble | | | |

NAYS—163

| | | | |
|--------------|------------|------------|---------------|
| Acosta | Dietterick | Kukovich | Rieger |
| Adolph | Distler | LaGrotta | Robbins |
| Allen | Donatucci | Langtry | Roebuck |
| Angstadt | Dorr | Lashinger | Rudy |
| Argall | Durham | Laughlin | Ryan |
| Barley | Evans | Lee | Rybak |
| Battisto | Fairchild | Leh | Saurman |
| Belardi | Fargo | Lescovitz | Scheetz |
| Belfanti | Farmer | Levdansky | Schuler |
| Billow | Fleagle | Linton | Scrimenti |
| Birmelin | Flick | Lloyd | Semmel |
| Bishop | Foster | McCall | Serafini |
| Black | Fox | McHale | Smith, B. |
| Blaum | Freeman | McVerry | Smith, S. H. |
| Bortner | Freind | Marsico | Snyder, D. W. |
| Bowley | Gallen | Mayernik | Snyder, G. |
| Boyes | Gannon | Melio | Stairs |
| Brandt | Geist | Merry | Steighner |
| Broujos | Gladeck | Michlovic | Stish |
| Bunt | Gruitza | Micozzie | Strittmatter |
| Burd | Gruppo | Mihalich | Tangretti |
| Burns | Hagarty | Miller | Taylor, E. Z. |
| Bush | Haluska | Moehlmann | Taylor, F. |
| Cappabianca | Harper | Mowery | Telek |
| Carlson | Hayden | Mrkonic | Thomas |
| Carn | Hayes | Nahill | Trello |
| Cessar | Heckler | Nailor | Trich |
| Chadwick | Herman | Noye | Vroon |
| Civera | Hershey | O'Brien | Wambach |
| Clark, B. D. | Hess | Oliver | Wass |
| Clark, D. F. | Hughes | Perzel | Weston |
| Clark, J. H. | Itkin | Pesci | Williams |
| Clymer | Jackson | Phillips | Wilson |
| Colaizzo | Jadlowiec | Piccola | Wogan |
| Cole | James | Pievsky | Wozniak |
| Cornell | Jarolin | Pistella | Wright, J. L. |
| Corrigan | Johnson | Pitts | Wright, R. C. |
| Cowell | Josephs | Raymond | Yandrisevits |
| Coy | Kasunic | Reber | |
| Daley | Kenney | Reinard | O'Donnell, |
| Davies | Kondrich | Richardson | Speaker |
| Dempsey | | | |

NOT VOTING—0

EXCUSED—6

| | | | |
|---------|----------|--------|------------|
| Dininni | Morris | Ritter | Taylor, J. |
| Maiale | Petrarca | | |

Less than the majority having voted in the affirmative, the question was determined in the negative and the amendments were declared not germane.

WELCOME

The SPEAKER pro tempore. The Chair at this time wishes to welcome the William Penn Elementary School fifth grade students and their teacher, Joy Rosati, who are accompanied also by teachers and parents. They are the guests today of the gentlemen, Messrs. Rybak and McHale of Northampton County, and our guests are located in the balcony. Would they please rise and be acknowledged.

CONSIDERATION OF HB 941 CONTINUED

On the question recurring,

Will the House agree to the bill on third consideration?

Mr. TIGUE offered the following amendment No. A1763:

Amend Sec. 1 (Sec. 14), page 6, lines 21 through 24, by striking out “, for an aggregate of ten” in line 21; all of lines 22 and 23; “law-related occupation.” in line 24 and inserting

have served as judge of a court of common pleas in Pennsylvania.

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Luzerne, Mr. Tigue.

Mr. TIGUE. Thank you, Mr. Speaker.

Mr. Speaker, what this amendment does is it changes those persons who would be eligible for appointment under merit selection. It says that the only people who may be considered for appointment under the merit selection system are those who have served as common pleas judges within the Commonwealth.

The idea behind that is to say for those people who are in favor of merit selection, at least this way we will have individuals who will be nominated of whom we can look at their record serving as a judge. This would take away some of the arguments about whether or not a person, after having been elected judge, can perform fairly and efficiently. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from York, Mr. Bortner.

Mr. BORTNER. I would ask members to oppose the amendment offered by the gentleman from Luzerne County for one very simple reason: The whole idea, our whole approach to merit selection is to try to get the best qualified, the most capable candidates in the pool for consideration to the appellate courts.

I would venture to say that in many cases, perhaps most cases, that pool will come from judges who have already had experience either at the common pleas level or perhaps on another appellate court. A candidate for the Supreme Court or somebody selected to be nominated for the Supreme Court may have already served on one of the appellate courts, the

Commonwealth Court or the Superior Court. We have certainly seen this with appointments to the United States Supreme Court.

The problem with making this a requirement, however, is that we are eliminating some very, very qualified people, and I would perhaps just point out some of them. A previous member of our State Supreme Court was our late Speaker's brother, Justice Louis Manderino, who, I believe, was dean of the law school at Duquesne and went from that position to the Supreme Court. Judge Beck, who currently serves on the Superior Court and was the chairman of the Judicial Reform Commission that bears her name, also I do not believe had prior common pleas court experience.

This amendment would eliminate the legal scholars who may be teaching in law schools. It would eliminate the practitioners who may have some very, very good experience in a particular area. I suppose another example that comes to mind in the last election was when now Judge Pellegrini ran who is on the Commonwealth Court; had a great deal of experience in Pittsburgh as a solicitor dealing with the kinds of issues that are going to come before the Commonwealth Court. Paul McHale ran the last time and obviously did not come with common pleas court experience, and I think would have been a fine addition to the Commonwealth Court.

I think we are eliminating qualified candidates, and that runs exactly counter to what we are trying to do with this whole concept of recruiting and attracting the very best people, the very best legal minds to the appellate courts in the Commonwealth of Pennsylvania.

I would urge you to vote “no” on the amendment, understanding that I think in many cases the pool of judges will be from common pleas or other appellate court judges. Thank you.

The SPEAKER pro tempore. The Chair now recognizes the lady from Montgomery, Mrs. Hagarty.

Mrs. HAGARTY. Thank you, Mr. Speaker.

Mr. Speaker, in addition to those remarks that Representative Bortner just made, I suggest to you that the most compelling argument is prior political experience for this amendment. This amendment would exclude the legislature. We have more political experience than anyone, and when I think of Justice Hutchinson, who came from this chamber and whom many of us served with, who was first elected to the Pennsylvania Supreme Court and is now a third circuit judge, he would have been unable, by virtue of this amendment, to have run for or, if we had merit selection, to be a candidate for appointment to the Supreme Court.

I suggest, as Representative Bortner did, that it is ludicrous to suggest that the sole criteria for appellate court service should be common pleas service in that it excludes this body. Certainly we comprise political experience. Thank you.

The SPEAKER. The Chair now recognizes the gentleman from Lehigh, Mr. McHale.

Mr. McHALE. Thank you, Mr. Speaker.

Mr. Speaker, I rise with some reservation in opposition to my good friend, the gentleman, Mr. Tigue.

I simply point out as a matter of historical perspective that if the Tigue amendment had been adopted as Federal law, Oliver Wendell Holmes would have been deemed unqualified for appointment to the United States Supreme Court. William O. Douglas, Louie Brandeis, Hugo Black, Earl Warren, all would have been determined to be unqualified. I think that that conclusion is, to say the least, unwarranted.

I plan to vote "no" on the Tigue amendment.

The SPEAKER. The Chair now recognizes the gentleman from Luzerne for the second time, Mr. Tigue.

Mr. TIGUE. Thank you, Mr. Speaker.

Mr. Speaker, it is very interesting what the arguments were we just heard of the three previous speakers who all favor merit selection. If you read the bill, on page 6 it limits those who can be meritoriously selected as judges. Let me read you what it says. It goes on and on and it says, "Each person recommended to the Governor shall, for an aggregate of ten years, have either practiced law or served as judge of a court or courts of record in Pennsylvania or have been engaged in a law-related occupation." Therefore, if you listen to the arguments of the previous speakers, most of those gentlemen they mentioned, and ladies, would not have been appointed under their so-called merit selection. So once again what we have is a small group who want to say, let us make the choices, not only of who the final choice will be but who is eligible for that choice, without any local input.

I do not favor merit selection. If it were up to me, I would not be offering this amendment; I would vote this bill down. However, if we are going to have merit selection, at least let it be made from people who were elected by local people, who, by the way, should know the candidates, based on another argument against the current system, and who do have a track record of making decisions in the judicial arena.

Therefore, I ask you to support the amendment. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—29

| | | | |
|--------------|------------|------------|-----------|
| Battisto | DeWeese | Lucyk | Staback |
| Belardi | Dombrowski | Michlovic | Tigue |
| Bunt | Godshall | Mihalich | Trello |
| Cappabianca | Hasay | Piccola | Trich |
| Cawley | Kosinski | Richardson | Van Horne |
| Clark, B. D. | LaGrotta | Robinson | Veon |
| Cohen | Lescovitz | Serafini | Wozniak |
| Colafella | | | |

NAYS—166

| | | | |
|----------|-----------|-----------|---------|
| Acosta | Dorr | Kondrich | Reber |
| Adolph | Durham | Kukovich | Reinard |
| Allen | Evans | Langtry | Rieger |
| Angstadt | Fairchild | Lashinger | Robbins |
| Argall | Fargo | Laughlin | Roebuck |
| Barley | Farmer | Lee | Rudy |
| Belfanti | Fee | Leh | Ryan |
| Billow | Fleagle | Levdansky | Rybak |
| Birmelin | Flick | Linton | Saloom |
| Bishop | Foster | Lloyd | Saurman |
| Black | Fox | McCall | Scheetz |
| Blaum | Freeman | McHale | Schuler |

| | | | |
|--------------|-----------|-----------|---------------|
| Bortner | Freind | McNally | Scrimenti |
| Bowley | Gallen | McVerry | Semmel |
| Boyes | Gamble | Maine | Smith, B. |
| Brandt | Gannon | Markosek | Smith, S. H. |
| Broujos | Geist | Marsico | Snyder; D. W. |
| Burd | George | Mayernik | Snyder, G. |
| Burns | Gigliotti | Melio | Stairs |
| Bush | Gladeck | Merry | Steighner |
| Caltagirone | Gruitza | Micozzie | Stish |
| Carlson | Gruppo | Miller | Stritmatter |
| Carn | Hagarty | Moehlmann | Stuban |
| Cessar | Harper | Mowery | Tangretti |
| Chadwick | Hayden | Mrkonic | Taylor, E. Z. |
| Civera | Hayes | Murphy | Taylor, F. |
| Clark, D. F. | Heckler | Nahill | Telek |
| Clark, J. H. | Herman | Nailor | Thomas |
| Clymer | Hershey | Noye | Vroon |
| Colaizzo | Hess | O'Brien | Wambach |
| Cole | Howlett | Olasz | Wass |
| Cornell | Hughes | Oliver | Weston |
| Corrigan | Itkin | Perzel | Williams |
| Cowell | Jackson | Pesci | Wilson |
| Coy | Jadlowiec | Petrone | Wogan |
| DeLuca | James | Phillips | Wright, D. R. |
| Daley | Jarolin | Pievsky | Wright, J. L. |
| Davies | Johnson | Pistella | Wright, R. C. |
| Dempsey | Josephs | Pitts | Yandrisevits |
| Dietterick | Kaiser | Pressmann | |
| Distler | Kasunic | Preston | O'Donnell, |
| Donatucci | Kenney | Raymond | Speaker |

NOT VOTING—1

Haluska

EXCUSED—6

| | | | |
|---------|----------|--------|------------|
| Dininni | Morris | Ritter | Taylor, J. |
| Maiale | Petrarca | | |

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

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

BILL PASSED OVER

The SPEAKER pro tempore. This bill will be passed over for today.

WELCOME

The SPEAKER pro tempore. The Chair at this time wishes to welcome Stan Yukica, Jr., who is a law student at Widener University. He is the guest of Representative Nick Colafella of Beaver County, and our guest is to the left of the Speaker. Will he stand and be recognized.

**BILLS REPORTED FROM COMMITTEE,
CONSIDERED FIRST TIME, AND
RECOMMITTED TO COMMITTEE ON RULES**

HB 1549, PN 3647 (Amended)

By Rep. VAN HORNE

An Act amending the act of April 6, 1951 (P. L. 69, No. 20), known as "The Landlord and Tenant Act of 1951," providing for tenants' access to cable television; and providing for remedies.

BUSINESS AND COMMERCE.**HB 1899, PN 3648 (Amended)**

By Rep. VAN HORNE

An Act amending the act of April 6, 1951 (P. L. 69, No. 20), known as "The Landlord and Tenant Act of 1951," providing for removal of tenants for drug violations.

BUSINESS AND COMMERCE.**CONSUMER AFFAIRS COMMITTEE MEETING**

The SPEAKER pro tempore. The Chair wishes to announce that it has been advised that the Consumer Affairs Committee will be meeting tomorrow at 10 a.m. in room 302B of the South Office Building.

APPROPRIATIONS COMMITTEE MEETING

The SPEAKER pro tempore. The Chair at this time wishes to recognize the vice chairman of the Appropriations Committee, Mr. Cappabianca from Erie, for the purpose of an Appropriations Committee announcement.

Mr. CAPPABIANCA. Thank you, Mr. Speaker.

There will be a meeting of the Appropriations Committee at the rear of the chamber immediately - now.

The SPEAKER pro tempore. For the information of the members, there will be no more roll-call votes. You are free to leave the chamber. We will not be in voting session tomorrow. We will resume debate on HB 941 and its amendments on Monday. The membership is free to leave the chamber at this time, with the exception of the members of the Rules Committee.

FINANCE COMMITTEE MEETING

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

Mr. TRELLO. Mr. Speaker, the Finance Committee meeting for Thursday morning at 10 o'clock has been rescheduled for tomorrow morning at 10 o'clock in room 421, South Office Building.

The SPEAKER pro tempore. The Finance Committee meeting scheduled for Thursday has been changed to tomorrow at 10 a.m. in room 421 of the South Office Building.

The chairman of the Consumer Affairs Committee wishes to reiterate that the Consumer Affairs meeting will be held tomorrow at 10 a.m.

RULES COMMITTEE MEETING

The SPEAKER pro tempore. The majority leader has advised the members of the Rules Committee that there will be a meeting at his desk currently, now, immediately.

VOTE CORRECTION

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Flick. For what purpose does the gentleman rise? Mr. FLICK. To correct a vote, Mr. Speaker.

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

Mr. FLICK. Thank you, Mr. Speaker.

When amendment 1830 to HB 941 was voted, I was recorded in the affirmative. I wish to be recorded in the negative.

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

LABOR RELATIONS COMMITTEE MEETING

The SPEAKER pro tempore. The Chair recognizes the gentleman from Lackawanna, Mr. Belardi.

Mr. BELARDI. Thank you, Mr. Speaker.

Mr. Speaker, a reminder of the Labor Relations Committee meeting tomorrow at 10 o'clock in room 418.

The SPEAKER pro tempore. Labor Relations Committee meeting tomorrow at 10 a.m.

VOTE CORRECTION

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

Mr. HALUSKA. Mr. Speaker, I would like to be recorded in the affirmative on amendment A1763 to HB 941. My switch failed to operate.

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

**BILLS REPORTED FROM COMMITTEE,
CONSIDERED FIRST TIME, AND
RECOMMITTED TO COMMITTEE ON RULES****HB 235, PN 3649 (Amended)**

By Rep. CAPPABIANCA

An Act amending the act of December 8, 1982 (P. L. 848, No. 235), known as the "Highway-Railroad and Highway Bridge Capital Budget Act for 1982-1983," adding local projects in Allegheny County and in Cambria County; and making mathematical corrections.

APPROPRIATIONS.**HB 267, PN 3650 (Amended)**

By Rep. CAPPABIANCA

An Act amending the act of August 24, 1951 (P. L. 1304, No. 315), known as the "Local Health Administration Law," further providing for State grants to county departments of health and to certain municipalities.

APPROPRIATIONS.**HB 2463, PN 3651 (Amended)**

By Rep. CAPPABIANCA

A Supplement to the act of (P. L. , No.), entitled "An act providing for the capital budget for the fiscal year 1990-

1991," itemizing public highway projects to be constructed by the Department of Transportation, together with the estimated financial costs; authorizing the incurring of debt without the approval of the electors for the purpose of financing the projects to be constructed by the Department of Transportation; stating the estimated useful life of the projects; and making appropriations.

APPROPRIATIONS.

HB 2556, PN 3652 (Amended)

By Rep. CAPPABIANCA

A Supplement to the act of (P. L. , No.), entitled "An act providing for the capital budget for the fiscal year 1990-1991," itemizing public improvement projects, furniture and equipment projects, transportation assistance projects, flood control projects and redevelopment assistance projects to be constructed or acquired or assisted by the Department of General Services, the Department of Transportation, the Department of Environmental Resources or the Department of Community Affairs, together with their estimated financial costs; authorizing the incurring of debt without the approval of the electors for the purpose of financing the projects to be constructed or acquired or assisted by the Department of General Services, the Department of Transportation, the Department of Environmental Resources or the Department of Community Affairs; stating the estimated useful life of the projects; making appropriations; and making repeals.

APPROPRIATIONS.

BILLS REREPORTED FROM COMMITTEE

HB 1946, PN 3313 By Rep. CAPPABIANCA

An Act amending the act of April 12, 1951 (P. L. 90, No. 21), known as the "Liquor Code," further providing for the quota on the issuance of distributors licenses and retail licenses; and authorizing the limited exchange of certain hotel licenses for restaurant licenses.

APPROPRIATIONS.

HB 2465, PN 3606 By Rep. CAPPABIANCA

An Act amending the act of July 2, 1984 (P. L. 553, No. 110), known as the "Engineering School Equipment Act," further providing for the coverage of the act, for reallocation of unused funds and for the expiration of the act.

APPROPRIATIONS.

HB 2480, PN 3654 (Amended) By Rep. CAPPABIANCA

An Act authorizing the Department of Aging to license and inspect older adult daily living centers; imposing additional powers and duties on the Department of Aging; and making repeals.

APPROPRIATIONS.

HB 2492, PN 3416 By Rep. CAPPABIANCA

An Act amending the act of July 11, 1985 (P. L. 209, No. 54), entitled "An act authorizing the incurring of debt for the purpose of financing the Federal share of construction of interstate highways," further providing for the power to incur debt.

APPROPRIATIONS.

HB 2617, PN 3595 By Rep. CAPPABIANCA

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, prohibiting the disclosure of confidential tax information by certain persons.

APPROPRIATIONS.

BILLS ON SECOND CONSIDERATION

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

HB 1946, PN 3313; HB 2465, PN 3606; HB 2480, PN 3654; HB 2492, PN 3416; and HB 2617, PN 3595.

BILLS REREPORTED FROM COMMITTEE

HB 235, PN 3649 By Rep. DeWEESE

An Act amending the act of December 8, 1982 (P. L. 848, No. 235), known as the "Highway-Railroad and Highway Bridge Capital Budget Act for 1982-1983," adding local projects in Allegheny County and in Cambria County; and making mathematical corrections.

RULES.

HB 267, PN 3650 By Rep. DeWEESE

An Act amending the act of August 24, 1951 (P. L. 1304, No. 315), known as the "Local Health Administration Law," further providing for State grants to county departments of health and to certain municipalities.

RULES.

HB 2463, PN 3651 By Rep. DeWEESE

A Supplement to the act of (P. L. , No.), entitled "An act providing for the capital budget for the fiscal year 1990-1991," itemizing public highway projects to be constructed by the Department of Transportation, together with the estimated financial costs; authorizing the incurring of debt without the approval of the electors for the purpose of financing the projects to be constructed by the Department of Transportation; stating the estimated useful life of the projects; and making appropriations.

RULES.

HB 2556, PN 3652 By Rep. DeWEESE

A Supplement to the act of (P. L. , No.), entitled "An act providing for the capital budget for the fiscal year 1990-1991," itemizing public improvement projects, furniture and equipment projects, transportation assistance projects, flood control projects and redevelopment assistance projects to be constructed or acquired or assisted by the Department of General Services, the Department of Transportation, the Department of Environmental Resources or the Department of Community Affairs, together with their estimated financial costs; authorizing the incurring of debt without the approval of the electors for the purpose of financing the projects to be constructed or acquired or assisted by the Department of General Services, the Department of Transportation, the Department of Environmental Resources or the Department of Community Affairs; stating the estimated useful life of the projects; making appropriations; and making repeals.

RULES.

RESOLUTIONS REPORTED FROM COMMITTEE**HR 328, PN 3653 (Amended)**

By Rep. DeWEESE

Directing the Health and Welfare Committee to investigate the operation of the Rosalie G. Handler Center, Dauphin County.

RULES.

HR 329, PN 3644

By Rep. DeWEESE

Memorializing Congress to reject the proposed flat rate tax on wine producers and wholesalers.

RULES.

BILLS AND RESOLUTIONS PASSED OVER

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

ADJOURNMENT

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

Mr. ROBINSON. Mr. Speaker, I move that this House do now adjourn until Wednesday, June 6, 1990, at 11 a.m., e.d.t., unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 3:28 p.m., e.d.t., the House adjourned.