

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

TUESDAY, JUNE 12, 1990

SESSION OF 1990 174TH OF THE GENERAL ASSEMBLY

No. 39

HOUSE OF REPRESENTATIVES

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

THE SPEAKER (ROBERT W. O'DONNELL) PRESIDING

PRAYER

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

Let us pray:

Almighty God, You have made us in Your own image and You love all that You made. Enable us to love and respect each other that we might be in the fellowship of the whole human family.

Forbid us that from pride or hardness of heart, we should neglect any of Your people, especially those whom we have been elected to serve. Grant that we never injure them in any way.

May we also seek Your help to walk in Your ways and, by our labors, feed the hungry, clothe the naked, and give new life to those who are dying.

Remember in a very special way the leadership of this House on both sides of the aisle.

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. Without objection, the approval of the Journal of Monday, June 11, 1990, will be postponed until printed. The Chair hears no objection.

HOUSE BILLS INTRODUCED AND REFERRED

No. 2664 By Representatives COLAIZZO, GIGLIOTTI, TANGRETTI, PESCI, KUKOVICH, NOYE, KOSINSKI, DeWEESE, BLAUM, VEON, D. R. WRIGHT, DeLUCA, TIGUE, STABACK, FARGO, REBER, BILLOW,

VROON, ITKIN, DALEY, MORRIS, LAUGHLIN, TRELLO, STISH, MELIO, FREEMAN, JAMES, PETRARCA, D. W. SNYDER and McCALL

An Act amending the act of June 18, 1984 (P. L. 391, No. 82), known as the "Continuing-Care Provider Registration and Disclosure Act," regulating escrow deposits.

Referred to Committee on INSURANCE, June 12, 1990.

No. 2665 By Representatives BELFANTI, DeWEESE, NOYE, TRELLO, D. R. WRIGHT, TIGUE, E. Z. TAYLOR, PISTELLA, BOYES, DALEY, S. H. SMITH, JOHNSON, COLAIZZO, PESCI, BATTISTO, DIETTERICK, LAUGHLIN, MIHALICH, GODSHALL and HALUSKA

An Act amending the act of December 31, 1965 (P. L. 1257, No. 511), known as "The Local Tax Enabling Act," exempting from taxation certain facilities regulated by the Federal Regulatory Commission.

Referred to Committee on LOCAL GOVERNMENT, June 12, 1990.

No. 2666 By Representative McCALL

An Act amending the act of June 13, 1836 (1835 P. L. 551, No. 169), referred to as the "General Road Law," regulating the breadth of roads.

Referred to Committee on TRANSPORTATION, June 12, 1990.

No. 2667 By Representatives LEH, LANGTRY, JOHNSON, E. Z. TAYLOR, GEIST, BUNT, ROBBINS, TRELLO, GODSHALL, ARGALL, FOX, WOGAN, ADOLPH, DIETTERICK, FARMER, SCHULER, HECKLER, D. F. CLARK, S. H. SMITH, BARLEY, VROON, MICOZZIE, MARSICO, DISTLER, FLEAGLE, HESS, HALUSKA, HERSHEY, CORNELL, LINTON, RAYMOND, BURD, CARLSON, FARGO, WASS, FAIRCHILD, JADLOWIEC, NAILOR, TANGRETTI, SAURMAN, DeLUCA, MOWERY, WILSON, NOYE, NAHILL, STABACK, LEE and DEMPSEY

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), known as the "Public School Code of 1949," providing that

mandatory educational programs need not be implemented until funding for the cost of the program is provided for by the General Assembly.

Referred to Committee on EDUCATION, June 12, 1990.

No. 2668 By Representatives MURPHY,
LEVDANSKY, CESSAR, McVERRY,
FARMER and MELIO

An Act amending the act of April 13, 1972 (P. L. 184, No. 62), known as the "Home Rule Charter and Optional Plans Law," providing for an additional county optional plan.

Referred to Committee on LOCAL GOVERNMENT,
June 12, 1990.

No. 2669 By Representatives TIGUE, BLAUM,
HASAY, JAROLIN, STISH, DIETTERICK,
CALTAGIRONE, ARGALL, DISTLER,
NOYE, FARGO, PESCI, DEMPSEY,
PISTELLA, GODSHALL, G. SNYDER,
FAIRCHILD, STABACK, CARLSON,
McHALE, MORRIS, JOHNSON, RYBAK,
TANGRETTI, CAPPABIANCA,
McNALLY, TRELLO, BATTISTO,
CORRIGAN, MELIO, MICHLOVIC,
KOSINSKI, JAMES, ITKIN, KAISER,
J. TAYLOR, McVERRY, BELARDI,
OLASZ, McCALL, D. W. SNYDER and
KASUNIC

An Act amending the act of November 26, 1975 (P. L. 438, No. 124), known as the "Child Protective Services Law," further providing for confidentiality of records.

Referred to Committee on YOUTH AND AGING,
June 12, 1990.

No. 2670 By Representatives TIGUE, BLAUM,
HASAY, JAROLIN, STISH, DIETTERICK,
CALTAGIRONE, ARGALL, DISTLER,
NOYE, FARGO, PESCI, DEMPSEY,
PISTELLA, GODSHALL, G. SNYDER,
FAIRCHILD, STABACK, CARLSON,
McHALE, MORRIS, JOHNSON, RYBAK,
TANGRETTI, CAPPABIANCA,
McNALLY, TRELLO, BATTISTO,
CORRIGAN, MELIO, MICHLOVIC,
KOSINSKI, JAMES, ITKIN, KAISER,
J. TAYLOR, McVERRY, OLASZ,
McCALL, D. W. SNYDER, KASUNIC and
BELARDI

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for dissemination of criminal history record information.

Referred to Committee on JUDICIARY, June 12, 1990.

No. 2671 By Representatives SAURMAN,
D. W. SNYDER, D. R. WRIGHT, VROON,
TIGUE, MAIALE, MERRY, TRELLO,
DEMPSEY, NAHILL, MORRIS,
LASHINGER, J. TAYLOR, HERSHEY,

WOGAN, LAUGHLIN, GODSHALL,
CIVERA, CORNELL, REBER, FOX and
HAGARTY

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, providing for application for learner's permit after five years of suspension of driver's license.

Referred to Committee on TRANSPORTATION,
June 12, 1990.

No. 2672 By Representatives TANGRETTI,
KUKOVICH, VAN HORNE and
MIHALICH

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), known as the "Public School Code of 1949," further providing for regulations and standards for education of exceptional children.

Referred to Committee on EDUCATION, June 12, 1990.

HOUSE RESOLUTIONS INTRODUCED AND REFERRED

No. 330 By Representatives STEIGHNER, WASS,
STABACK, MARKOSEK, GIGLIOTTI,
DISTLER, GRUPPO, GODSHALL, HESS,
CARLSON, VAN HORNE, F. TAYLOR,
JAROLIN, HAYES, RYBAK, STUBAN,
NOYE, SALOOM, MRKONIC, COY,
WAMBACH, BROUJOS, MELIO,
NAILOR, BLAUM, TRICH, VROON,
CLYMER, S. H. SMITH, LASHINGER,
SCHULER, JACKSON, TIGUE, MORRIS,
McVERRY, JOHNSON, DEMPSEY,
FAIRCHILD, LAUGHLIN, DeLUCA,
FARGO, MAINE, BATTISTO,
LEVDANSKY, PISTELLA, BUSH,
HERSHEY, BELARDI, KAISER,
SCRIMENTI, HASAY, GAMBLE, BURD,
B. SMITH, LINTON, McHALE,
TANGRETTI, SAURMAN, TRELLO,
DOMBROWSKI, PESCI, HERMAN,
ROBBINS, WOZNAK, KONDRICH,
STISH, BOWLEY, LESCOVITZ,
PETRARCA, GEIST, E. Z. TAYLOR,
TELEK, COLAFELLA and J. L. WRIGHT

Recognizing the contributions of sportsmen and sportswomen to the preservation and enhancement of Pennsylvania's natural resources.

Referred to Committee on RULES, June 12, 1990.

No. 332 By Representatives LASHINGER,
CORNELL, GLADECK, NAHILL,
HAGARTY, REBER, SAURMAN, BUNT,
GODSHALL, FOX and J. H. CLARK

Requesting the Governor to develop a proposal and present a request for an appropriation utilizing money from the Tax Stabilization Reserve Fund to make payments to school districts for special education costs incurred during the 1989-1990 school year.

Referred to Committee on RULES, June 12, 1990.

SENATE BILLS FOR CONCURRENCE

The clerk of the Senate, being introduced, presented the following bills for concurrence:

SB 189, PN 2245

Referred to Committee on HEALTH AND WELFARE, June 12, 1990.

SB 1539, PN 2041

Referred to Committee on STATE GOVERNMENT, June 12, 1990.

LEAVES OF ABSENCE

The SPEAKER. The Chair recognizes Representative Fee for leaves of absence.

Mr. FEE. Thank you, Mr. Speaker.

The gentleman from Westmoreland, Mr. PETRARCA, for today, and the gentleman from Northampton, Mr. RYBAK, for today.

The SPEAKER. Without objection, the leaves are granted.

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 11, 1990

RESOLVED, (the House of Representatives concurring), That when the Senate adjourns this week it reconvene on Monday, June 18, 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 18, 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.

LEAVES OF ABSENCE

The SPEAKER. The Chair recognizes Representative Hayes for leaves of absence.

Mr. HAYES. I request a leave for the gentleman from Dauphin County, Mr. DININNI, for the day; the gentleman from Lancaster County, Mr. SCHEETZ, for the day; and the gentleman from Chester County, Mr. PITTS, for the day.

The SPEAKER. The Chair thanks the gentleman.

VOTE CORRECTION

The SPEAKER. The Chair recognizes Representative George.

Mr. GEORGE. Thank you, Mr. Speaker.

Mr. Speaker, I am informed on yesterday's session, on HB 941, amendment 1984, that I was recorded as not voting. I ask the Speaker to acknowledge that should I have been recorded, I would have voted in the affirmative.

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

DEMOCRATIC CAUCUS

The SPEAKER. For the information of the members, the House will shortly be in recess until 1:30. A Democratic caucus will convene immediately in the majority caucus room upon the announcement of the recess.

VOTE CORRECTION

The SPEAKER. The Chair recognizes Representative Evans.

Mr. EVANS. Mr. Speaker, I would like to make a correction on my vote yesterday. On HB 539, amendment 1846, I would like to correct that to a "yes" vote. Thank you.

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

REPUBLICAN CAUCUS

The SPEAKER. The Chair recognizes Representative Hayes.

Mr. HAYES. Thank you, Mr. Speaker.

I would also ask all Republican Representatives to report to caucus when we recess. Thank you.

The SPEAKER. The Chair thanks the gentleman.

HOUSE BILL INTRODUCED AND REFERRED

No. 2673 By Representative RIEGER

An Act authorizing and directing the Department of General Services, with the approval of the Governor, the Department of Public Welfare and the Department of Education, to convey to Temple University of the Commonwealth System of Higher Education one tract of land and to lease to Temple University a tract of land with improvements thereon in the City of Philadelphia, Pennsylvania.

Referred to Committee on STATE GOVERNMENT, June 12, 1990.

VOTE CORRECTION

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

Mrs. HARPER. Thank you, Mr. Speaker.

Mr. Speaker, yesterday on HB 941, amendment 1830, I was out of my seat when that amendment ran, and I would like to be recorded in the negative. Thank you.

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

Is there any further business before the House before the recess?

RECESS

The SPEAKER. This House is now recessed until 1:30 this afternoon.

AFTER RECESS

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

**THE SPEAKER PRO TEMPORE
(IVAN ITKIN) PRESIDING**

SENATE MESSAGE

**HOUSE AMENDMENTS
CONCURRED IN BY SENATE**

The clerk of the Senate, being introduced, informed that the Senate has concurred in the amendments made by the House of Representatives to **SB 858, PN 2136**.

SENATE MESSAGE

**HOUSE BILL
CONCURRED IN BY SENATE**

The clerk of the Senate, being introduced, returned **HB 2334, PN 3566**, with information that the Senate has passed the same without amendment.

MASTER ROLL CALL

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

The following roll call was recorded:

PRESENT—197

| | | | |
|----------|------------|-----------|-----------|
| Acosta | Dombrowski | LaGrotta | Rieger |
| Adolph | Donatucci | Langtry | Ritter |
| Allen | Dorr | Lashinger | Robbins |
| Angstadt | Durham | Laughlin | Robinson |
| Argall | Evans | Lee | Roebuck |
| Barley | Fairchild | Leh | Rudy |
| Battisto | Fargo | Lescovitz | Ryan |
| Belardi | Farmer | Levdanský | Saloom |
| Belfanti | Fee | Linton | Saurman |
| Billow | Fleagle | Lloyd | Schuler |
| Birmelin | Flick | Lucyk | Scrimenti |
| Bishop | Foster | McCall | Semmel |

| | | | |
|--------------|-----------|------------|---------------|
| Black | Fox | McHale | Serafini |
| Blaum | Freeman | McNally | Smith, B. |
| Bortner | Freind | McVerry | Smith, S. H. |
| Bowley | Gallen | Maiale | Snyder, D. W. |
| Boyes | Gamble | Maine | Snyder, G. |
| Brandt | Gannon | Markosek | Staback |
| Broujos | Geist | Marsico | Stairs |
| Bunt | George | Mayernik | Steighner |
| Burd | Gigliotti | Melio | Stish |
| Burns | Gladeck | Merry | Strittmatter |
| Bush | Godshall | Michlovic | Stuban |
| Caltagirone | Gruitza | Micozzie | Tangretti |
| Cappabianca | Gruppo | Mihalich | Taylor, E. Z. |
| Carlson | Hagarty | Miller | Taylor, F. |
| Carn | Haluska | Moehlmann | Taylor, J. |
| Cawley | Harper | Morris | Telek |
| Cessar | Hasay | Mowery | Thomas |
| Chadwick | Hayden | Mrkonic | Tigue |
| Civera | Hayes | Murphy | Trello |
| Clark, B. D. | Heckler | Nahill | Trich |
| Clark, D. F. | Herman | Nailor | Van Horne |
| Clark, J. H. | Hershey | Noye | Veon |
| Clymer | Hess | O'Brien | Vroon |
| Cohen | Howlett | Olasz | Wambach |
| Colaella | Hughes | Oliver | Wass |
| Colaizzo | Itkin | Perzel | Weston |
| Cole | Jackson | Pesci | Williams |
| Cornell | Jadlowiec | Petrone | Wilson |
| Corrigan | James | Phillips | Wogan |
| Cowell | Jarolin | Piccola | Wozniak |
| Coy | Johnson | Pievsky | Wright, D. R. |
| DeLuca | Josephs | Pistella | 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 | Pitts | Rybak | Scheetz |
| Petrarca | | | |

**BILLS REPORTED FROM COMMITTEE,
CONSIDERED FIRST TIME, AND TABLED**

SB 1511, PN 1992

By Rep. F. TAYLOR

An Act amending the act of December 14, 1967 (P. L. 746, No. 345), entitled "Savings Association Code of 1967," providing for reciprocal interstate operations; permitting the formation of mutual holding companies; further providing for acquisitions of the stock of a savings association; revising proxy rules; and making repeals.

BUSINESS AND COMMERCE.**SB 1512, PN 2288 (Amended)**

By Rep. F. TAYLOR

An Act amending the act of November 30, 1965 (P. L. 847, No. 356), entitled "Banking Code of 1965," permitting the formation of mutual holding companies; authorizing mergers of savings bank holding companies and their wholly-owned subsidiary savings banks; and providing for reciprocal interstate operations for savings banks.

BUSINESS AND COMMERCE.

RULES SUSPENDED

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

Mr. DeWEESE. Mr. Speaker, I move that rule 30 be suspended for the purpose that when HB 11, PN 3640, comes back from the Senate on concurrence in Senate amendments, that the bill go directly to the calendar without going to the Rules Committee.

On the question,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—196

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

NAYS—0

NOT VOTING—1

Serafini

EXCUSED—5

Dininni
Petrarca

Pitts

Rybak

Scheetz

A majority of the members elected to the House having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

SENATE MESSAGE

AMENDED HOUSE BILL
RETURNED FOR CONCURRENCE

The clerk of the Senate, being introduced, returned **HB 11, PN 3640**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested.

WELCOMES

The SPEAKER pro tempore. The Chair at this time wishes to welcome Father Raymond J. Kulwicki, pastor of Mother of Consolation Church, and R. Michael and Rose Petroski of Mount Carmel, Pennsylvania, who are the guests of Representative Belfanti from Northumberland County. The guests are located to the left of the Speaker.

The Chair at this time now welcomes Vern Martin, president of the Pennsylvania Auctioneer Association, and Will Ketner, the former Republican Caucus personnel director, who is now an auctioneer. They are the guests today of Bob Godshall, Ray Bunt, and Paul Clymer. The guests are located to the left of the Speaker. Will they rise and please be acknowledged.

The Chair also wishes to welcome from the Bucks County Township Supervisor Association, Kathleen Babb, Rosemarie Curran, and Robert Grunmeier, who are the guests of the Bucks County delegation. They are located in the balcony. Will they please rise and be recognized.

The Chair at this time also wishes to welcome Jessica Suter, niece of Kenneth Suter of the House Judiciary Committee staff, who is the guest of Representative Nick Moehlmann, and she is to the left of the Speaker. Would she please rise and be recognized.

The Chair wishes to acknowledge and recognize Dan Reese, Jr., and Brian Yerger, who are serving as guest pages, and they are here as the guests of the majority caucus chairman, the gentleman from Philadelphia, Mr. Cohen. Will his guests please rise and be recognized.

The Chair also wishes to welcome two other guest pages who are the guests of the gentleman from York, Mr. Bortner. They are the niece of Representative Bortner, Amy Bortner, and her friend, Cindy Miller. Both are from York, Pennsylvania. Will they please rise and be acknowledged.

The Chair at this time also wants to extend a hearty welcome to Prof. John Gauger and the class of Lehigh County Community College. I am told that they are in the balcony, and they are the guests of the Lehigh County delegation. Would the ladies and gentlemen please rise and be recognized.

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

HB 2625, PN 3704 (Amended)

By Rep. GEORGE

An Act amending the act of July 7, 1980 (P. L. 380, No. 97), known as the "Solid Waste Management Act," further providing for residual waste.

CONSERVATION.

HB 2641, PN 3705 (Amended)

By Rep. GEORGE

An Act amending the act of July 7, 1980 (P. L. 380, No. 97), known as the "Solid Waste Management Act," further declaring legislative policy; adding definitions; further providing for the powers and duties of the Environmental Hearing Board and for requirements for and actions on permits and licenses; providing for investigations by the Pennsylvania State Police and the department and for application fees; further providing for forfeiture of contraband and for the Solid Waste Abatement Fund; and making repeals.

CONSERVATION.

HB 2642, PN 3658

By Rep. GEORGE

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for motor carrier vehicles and for removal of vehicle by or at direction of police; providing for forfeiture of certain motor carrier vehicles; further providing for unlawful activities, for operation of vehicles without certificate of inspection, for inspection by police or Commonwealth personnel, for weighing and measurement of vehicles, for impoundment of vehicles for nonpayment of fines and disposition of impounded vehicles and loads, for removal of vehicles, for removal of vehicles and spilled cargo from roadway; and providing for penalties.

CONSERVATION.

HB 2643, PN 3659

By Rep. GEORGE

An Act authorizing investigations into fitness to transport municipal waste; authorizing the Department of Environmental Resources and the Department of Transportation to issue orders, including orders restricting or prohibiting the transportation of municipal waste; providing remedies; establishing certain fees; prescribing penalties; and making a repeal.

CONSERVATION.

WELCOMES

The SPEAKER pro tempore. The Chair at this time wishes to welcome Mike Gownley, the brother of Ted Gownley, who is one of our roll-call clerks. Mr. Gownley is the guest of Representative Belfanti, and he is located on the steps to the right of the Speaker. Will he rise and be recognized.

The Chair also wishes to welcome Chris Leshock, who is a guest page, and his mother, Sandi Leshock. They are the guests of Representative Tangretti from Westmoreland County, and they are located, I believe, to the left of the Speaker. Will they please rise and be recognized.

VOTE CORRECTION

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

Mr. ADOLPH. On HB 539, final passage, my switch did not operate. I would like to correct the record and be voted in the affirmative.

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

Mr. ADOLPH. Thank you, Mr. Speaker.

CALENDAR

BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 683, PN 3614**, entitled:

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, establishing trial by jury as a substantive right.

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 683, PN 3614, 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 295, PN 2077**, entitled:

An Act amending the act of August 13, 1963 (P. L. 774, No. 390), entitled "County Jail Prisoner Temporary Release Law," deleting gender specific language; and authorizing the collection of confinement costs in cases relating to prisoners confined only during weekends or short periods of time.

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 295, PN 2077, 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 1516, PN 2005**, entitled:

An Act amending the act of July 1, 1978 (P. L. 584, No. 109), entitled "Milrite Act," extending the expiration date.

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 1516, PN 2005, 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 932, PN 2236**, entitled:

An Act amending the act of February 1, 1966 (1965 P. L. 1656, No. 581), entitled "The Borough Code," authorizing the mayor to employ outside counsel where a legal dispute exists between the mayor and council.

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 932, PN 2236, 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 1307, PN 1637**, entitled:

An Act amending the act of December 18, 1984 (P. L. 1005, No. 205), entitled "Municipal Pension Plan Funding Standard and Recovery Act," further providing for the financial requirements of the pension plan, the minimum obligation of the municipality and the allocation of general municipal pension system State aid.

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 1307, PN 1637, be recommitted to the Appropriations Committee for a fiscal note.

On the question,

Will the House agree to the motion?

Motion was agreed to.

WELCOME

The SPEAKER pro tempore. The Chair wishes to welcome, in the balcony, Larry and Lou Ann Timochenko and their two sons. They are the guests of Representative McHale from Lehigh, and his guests are in the balcony. Would they please rise and be acknowledged.

NATIONAL GEOGRAPHY BEE WINNER PRESENTED

The SPEAKER pro tempore. The Chair at this time is pleased to introduce Susannah Batko-Yovino. She is the 11-year-old National Geography Bee winner. She is here with her parents, Dr. and Mrs. Yovino, and her teacher, Mr. Dennis Bruno.

At this time I would like to recognize the gentleman from Blair, Mr. Geist.

Mr. GEIST. Thank you, Mr. Speaker.

It certainly is a pleasure for me to have with us today the National Geography Bee champion. Over 3 million young folks in the United States competed for this title. Sam Hayes and Ed Johnson and I are very, very pleased to have Susannah here with us today, and I would ask that the House of Representatives give her a rousing round of applause and welcome her to our chamber. Thank you, Mr. Speaker.

WELCOMES

The SPEAKER pro tempore. The Chair wishes to welcome Mark Sophocles, who is the district office intern with Representative Lashinger from Montgomery. Would the gentleman please rise and be recognized.

Finally, the Chair would like to acknowledge the presence of the executive director, Dale Mahle, and other members of the board of the Tri-County Chamber of Commerce. They are the guests of Representatives Reber, Leh, Hershey, Bunt, and Morris. Would these guests please rise and be acknowledged.

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 1806, PN 2988**, entitled:

An Act amending the act of November 26, 1978 (P. L. 1212, No. 286), referred to as the "Inspection of Employment Records Law," further providing for inspection of personnel files and for

the number of inspections allowed annually; and making an editorial change.

On the question,

Will the House agree to the bill on third consideration?

Mr. VEON offered the following amendments No. A2054:

Amend Title, page 1, line 3, by inserting after "employer," further defining "employee";

Amend Title, page 1, line 5, by inserting after "ANNUALLY;"

providing for the maintenance of records of a former employee;

Amend Bill, page 1, lines 9 through 12, by striking out all of said lines and inserting

Section 1. The definition of "employee" in section 1 of the act of November 26, 1978 (P.L. 1212, No. 286), referred to as the Inspection of Employment Records Law, is amended to read:

Section 1. Definitions.

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

"Employee." Any person currently employed, laid off with reemployment rights [or], on leave of absence or who has been employed within the immediately preceding 48 months. The term "employee" shall include designated agents but shall not include applicants for employment, [designated agents,] or any other person.

Section 2. Section 2 of the act is amended to read:

Amend Sec. 1 (Sec. 2), page 2, line 18, by striking out "EMPLOYER" and inserting

employee

Amend Sec. 2, page 3, line 1, by striking out "2" and inserting

3

Amend Sec. 2, page 3, line 1, by striking out "A SECTION" and inserting

sections

Amend Sec. 2, page 3, by inserting between lines 11 and 12

Section 2.2. Maintenance of records of a former employee.

Records of a former employee, except records relating to claims and litigation involving the employee, shall be maintained for a period of four years following the date of termination of the employee. Records relating to claims and litigation involving the employee shall be maintained until the claim or litigation is resolved or for a period of four years following the date of termination of the employee, whichever is longer.

Amend Sec. 3, page 3, line 12, by striking out "3" and inserting

4

Amend Sec. 4, page 3, line 27, by striking out "4" and inserting

5

On the question,

Will the House agree to the amendments?

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

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, this is an amendment that has been graciously agreed to by the gentleman, Mr. Piccola. We passed this bill in committee by unanimous vote. These are some rather technical changes in the definition of "employee," making it someone employed within the immediately preceding 48 months, including designated agents, and also on page 2 of

the amendment, making a provision for the maintenance of records so they could in fact be examined by that designated agent or employee.

I would ask for an affirmative vote.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—197

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

NAYS—0

NOT VOTING—0

EXCUSED—5

| | | | |
|----------|-------|-------|---------|
| Dininni | Pitts | Rybak | Scheetz |
| 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?

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

YEAS—197

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

NAYS—0

NOT VOTING—0

EXCUSED—5

| | | | |
|----------|-------|-------|---------|
| Dininni | Pitts | Rybak | Scheetz |
| 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 895, PN 3609**, entitled:

An Act amending the act of May 29, 1956 (1955 P. L. 1804, No. 600), referred to as the "Municipal Police Pension Law," further providing for credit for military service.

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 Cumberland, Mr. Mowery.

Mr. MOWERY. Thank you, Mr. Speaker.

I would just like to make an observation. The Public Employee Retirement Study Commission reviewed this bill, and even though there are some areas in it that certainly are going to change the direction of buying intervening military service, which is very much a part of our public employee pension plans, this bill states that it does not require the service to be intervening and could be purchased at any time, assuming that you were in service even before you became employed by the municipality. However, the good part of the bill does require that in the event that this service is to be purchased, the requirement is that the amount that is going to buy this past service credit is the employer's as well as the employee's contribution.

So on that basis, there is really no actuarial cost to the plan. Therefore, it can be voted in the affirmative, and I ask for an affirmative vote. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Lackawanna, Mr. Cawley.

Mr. CAWLEY. Thank you, Mr. Speaker.

I would like to interrogate the sponsor, please.

The SPEAKER pro tempore. The gentleman from Allegheny, Mr. Mayernik, consents to be interrogated. The gentleman from Lackawanna may proceed.

Mr. CAWLEY. Thank you, Mr. Speaker.

Mr. Speaker, HB 895, is this for all municipal pensions for all municipalities across the State?

Mr. MAYERNIK. It would be only for police under Act 600.

Mr. CAWLEY. Does that include third-class cities, second class A's, first class, second class?

Mr. MAYERNIK. I think it is boroughs only, Mr. Speaker. I am not sure if they are covered. I do not believe they are.

Mr. CAWLEY. 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—197

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

NAYS—0

NOT VOTING—0

EXCUSED—5

| | | | |
|----------|-------|-------|---------|
| Dininni | Pitts | Rybak | Scheetz |
| 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 **SB 430, PN 2033**, entitled:

An Act amending the act of February 19, 1980 (P. L. 15, No. 9), entitled "Real Estate Licensing and Registration Act," further providing for the broker's disclosures to the buyer, time-shares, campground memberships and prohibited acts.

On the question,

Will the House agree to the bill on third consideration?

Mr. BROUJOS offered the following amendment No. A1317:

Amend Sec. 10 (Sec. 607), page 12, by inserting between lines 16 and 17

(4) A statement that access to a public road may require issuance of a highway occupancy permit from the Department of Transportation.

On the question,

Will the House agree to the amendment?

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

Mr. BROUJOS. Mr. Speaker, this amendment had been previously distributed. It is very brief, and I will explain it.

It requires, in addition to other disclosures in the broker's agreement in section 606, a statement that access to a public road may require issuance of a highway occupancy permit from the Department of Transportation. In spite of our efforts in the past to alert the buyer of the risks of buying property that has an opening or requires an opening onto a public highway, there are still realtors and owners that sell property to a buyer without telling him that in fact a highway occupancy permit is required.

In addition, our previous requirement that the plot plan include a notation that the buyer may be required to have a highway occupancy permit itself is not sufficient. There are situations where the buyer does not receive a plot plan until he walks into a settlement, buys the tract, and later finds he cannot have access to a highway and the land is no good at all.

I would ask support for this, to give notice to the buyer that he may require an occupancy permit to have a road entering onto a highway. Thank you.

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 | Ritter |
| Allen | Dorr | Lashinger | Robbins |
| Angstadt | Durham | Laughlin | Robinson |
| Argall | Evans | Lee | Roebuck |
| Barley | Fairchild | Leh | Rudy |
| Battisto | Fargo | Lescovitz | Ryan |
| Belardi | Farmer | Levdansky | Saloom |
| Belfanti | Fee | Linton | Saurman |
| Billow | Fleagle | Lloyd | Schuler |
| Birmelin | Flick | Lucyk | Scrimenti |

| | | | |
|--------------|-----------|-----------|---------------|
| Bishop | Foster | McCall | Semmel |
| Black | Fox | McHale | Serafini |
| Blaum | Freeman | McNally | Smith, B. |
| Bortner | Freind | McVerry | Smith, S. H. |
| Bowley | Gallen | Maiale | Snyder, D. W. |
| Boyes | Gamble | Maine | Snyder, G. |
| Brandt | Gannon | Markosek | Staback |
| Broujos | Geist | Marsico | Stairs |
| Bunt | George | Mayernik | Steighner |
| Burd | Gigliotti | Melio | Stish |
| Burns | Gladeck | Merry | Strittmatter |
| Bush | Godshall | Michlovic | Suban |
| Caltagirone | Gruitza | Micozzie | Tangretti |
| Cappabianca | Gruppo | Mihalich | Taylor, E. Z. |
| Carlson | Hagarty | Miller | Taylor, F. |
| Carn | Haluska | Moehlmann | Taylor, J. |
| Cawley | Harper | Morris | Telek |
| Cessar | Hasay | Mowery | Thomas |
| Chadwick | Hayden | Mrkonic | Tigue |
| Civera | Hayes | Murphy | Trello |
| Clark, B. D. | Heckler | Nahill | Trich |
| Clark, D. F. | Herman | Nailor | Van Horne |
| Clark, J. H. | Hershey | Noye | Veon |
| Clymer | Hess | O'Brien | Vroon |
| Cohen | Howlett | Olasz | Wambach |
| Colafella | Hughes | Oliver | Wass |
| Colaizzo | Itkin | Perzel | Weston |
| Cole | Jackson | Pesci | Williams |
| Cornell | Jadlowiec | Petrone | Wilson |
| Corrigan | James | Phillips | Wogan |
| Cowell | Jarolin | Piccola | Wozniak |
| Coy | Johnson | Pievsky | Wright, D. R. |
| DeLuca | Josephs | Pistella | 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 | | |

NAYS—0

NOT VOTING—1

Richardson

EXCUSED—5

| | | | |
|----------|-------|-------|---------|
| Dininni | Pitts | Rybak | Scheetz |
| 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?

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—197

| | | | |
|----------|------------|------------|----------|
| Acosta | Dombrowski | LaGrotta | Rieger |
| Adolph | Donatucci | Langtry | Ritter |
| Allen | Dorr | Lashinger | Robbins |
| Angstadt | Durham | Laughlin | Robinson |
| Argall | Evans | Lee | Roebuck |
| Barley | Fairchild | Leh | Rudy |
| Battisto | Fargo | Lescovitz | Ryan |
| Belardi | Farmer | Levdanskyy | Saloom |

| | | | |
|--------------|-----------|------------|---------------|
| Belfanti | Fee | Linton | Saurman |
| Billow | Fleagle | Lloyd | Schuler |
| Birmelin | Flick | Lucyk | Scrimenti |
| Bishop | Foster | McCall | Semmel |
| Black | Fox | McHale | Serafini |
| Blaum | Freeman | McNally | Smith, B. |
| Bortner | Freind | McVerry | Smith, S. H. |
| Bowley | Gallen | Maiale | Snyder, D. W. |
| Boyes | Gamble | Maine | Snyder, G. |
| Brandt | Gannon | Markosek | Staback |
| Broujos | Geist | Marsico | Stairs |
| Bunt | George | Mayernik | Steighner |
| Burd | Gigliotti | Melio | Stish |
| Burns | Gladeck | Merry | Strittmatter |
| Bush | Godshall | Michlovic | Suban |
| Caltagirone | Gruitza | Micozzie | Tangretti |
| Cappabianca | Gruppo | Mihalich | Taylor, E. Z. |
| Carlson | Hagarty | Miller | Taylor, F. |
| Carn | Haluska | Moehlmann | Taylor, J. |
| Cawley | Harper | Morris | Telek |
| Cessar | Hasay | Mowery | Thomas |
| Chadwick | Hayden | Mrkonic | Tigue |
| Civera | Hayes | Murphy | Trello |
| Clark, B. D. | Heckler | Nahill | Trich |
| Clark, D. F. | Herman | Nailor | Van Horne |
| Clark, J. H. | Hershey | Noye | Veon |
| Clymer | Hess | O'Brien | Vroon |
| Cohen | Howlett | Olasz | Wambach |
| Colafella | Hughes | Oliver | Wass |
| Colaizzo | Itkin | Perzel | Weston |
| Cole | Jackson | Pesci | Williams |
| Cornell | Jadlowiec | Petrone | Wilson |
| Corrigan | James | Phillips | Wogan |
| Cowell | Jarolin | Piccola | Wozniak |
| Coy | Johnson | Pievsky | Wright, D. R. |
| DeLuca | Josephs | Pistella | 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 | |

NAYS—0

NOT VOTING—0

EXCUSED—5

| | | | |
|----------|-------|-------|---------|
| Dininni | Pitts | Rybak | Scheetz |
| 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 return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

* * *

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 recurring,

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

Mr. McCALL offered the following amendments No. A2006:

Amend Title, page 1, line 2, by inserting after "Statutes," further providing for exemptions of entities and vehicles from fees;

Amend Bill, page 1, by inserting between lines 5 and 6

Section 1. Section 1901(b) of Title 75 of the Pennsylvania Consolidated Statutes is amended by adding a paragraph to read: § 1901. Exemption of entities and vehicles from fees.

(b) Title and registration fees.—No fee shall be charged for titling or registration of any of the following:

(5) Vehicles on loan or transferred to a nonprofit corporation by the United States Department of Defense or the United States General Services Administration and used exclusively for leasing to political subdivisions and State agencies.

Amend Sec. 1, page 1, line 6, by striking out "1" and inserting

2

Amend Sec. 1, page 1, lines 7 and 8, by striking out "of the Pennsylvania Consolidated Statutes"

Amend Sec. 2, page 2, line 1, by striking out "2" and inserting

3

Amend Sec. 3, page 3, line 10, 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 the gentleman, Mr. McCall.

Mr. McCALL. Thank you, Mr. Speaker.

Mr. Speaker, my amendment amends section 1901 of the Vehicle Code. This amendment adds language for an additional exemption from registration fees.

For a little background information on where this amendment came from, through the leadership of Congressman Paul Kanjorski, in conjunction with Secretary of General Services Dave Jannetta, the Department of Transportation, and the Governor's Office, Congressman Kanjorski formed an equipment bank in northeastern Pennsylvania. With that equipment bank, Congressman Kanjorski acquired equipment from the Department of Defense and the Department of General Services for use by State, local, and county governments. This amendment would allow for the Department of Transportation to issue tags for that equipment bank.

I would ask for an affirmative vote.

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 | Ritter |
| Allen | Dorr | Lashingier | Robbins |
| Angstadt | Durham | Laughlin | Robinson |
| Argall | Evans | Lee | Roebuck |
| Barley | Fairchild | Leh | Rudy |
| Battisto | Fargo | Lescovitz | Ryan |

| | | | |
|--------------|-----------|-----------|---------------|
| Belardi | Farmer | Levdansky | Saloom |
| Belfanti | Fee | Linton | Saurman |
| Billow | Fleagle | Lloyd | Schuler |
| Birmelin | Flick | Lucyk | Scrimenti |
| Bishop | Foster | McCall | Semmel |
| Black | Fox | McHale | Serafini |
| Blaum | Freeman | McNally | Smith, B. |
| Bortner | Freind | McVerry | Smith, S. H. |
| Bowley | Gallen | Maiale | Snyder, D. W. |
| Boyes | Gamble | Maine | Snyder, G. |
| Brandt | Gannon | Markosek | Staback |
| Broujos | Geist | Marsico | Stairs |
| Bunt | George | Mayernik | Steighner |
| Burd | Gigliotti | Melio | Stish |
| Burns | Gladeck | Merry | Strittmatter |
| Bush | Godshall | Michlovic | Stuban |
| Caltagirone | Gruitza | Micozzie | Tangretti |
| Cappabianca | Gruppo | Mihalich | Taylor, E. Z. |
| Carlson | Hagarty | Miller | Taylor, F. |
| Carn | Haluska | Moehlmann | Taylor, J. |
| Cawley | Harper | Morris | Telek |
| Cessar | Hasay | Mowery | Thomas |
| Chadwick | Hayden | Mrkonic | Tigue |
| Civera | Hayes | Murphy | Trello |
| Clark, B. D. | Heckler | Nahill | Trich |
| Clark, D. F. | Herman | Nailor | Van Horne |
| Clark, J. H. | Hershey | Noye | Veon |
| Clymer | Hess | O'Brien | Vroon |
| Cohen | Howlett | Olasz | Wambach |
| Colaella | Hughes | Oliver | Wass |
| Colaizzo | Itkin | Perzel | Weston |
| Cole | Jackson | Pesci | Williams |
| Cornell | Jadlowiec | Petrone | Wilson |
| Corrigan | James | Phillips | Wogan |
| Cowell | Jarolin | Piccola | Wozniak |
| Coy | Johnson | Pievsky | Wright, D. R. |
| DeLuca | Josephs | Pistella | 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 | | |

NAYS—0

NOT VOTING—1

Richardson

EXCUSED—5

Dininni
Petrarca

Pitts

Rybak

Scheetz

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?

Mr. WOZNIAK offered the following amendments No. A2078:

Amend Title, page 1, line 2, by inserting after "Statutes," further providing for the maximum speed limit on the Pennsylvania Turnpike;

Amend Bill, page 1, by inserting between lines 5 and 6

Section 1. Title 75 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:

§ 3369. Pennsylvania Turnpike.

The maximum speed limit on the Pennsylvania Turnpike and all extensions thereof, or any portion of the Pennsylvania Turnpike and its extensions, may be increased to 65 miles per hour at the discretion of the Pennsylvania Turnpike Commission.

Section 2. Section 6110(a) of Title 75 is amended to read:
 § 6110. Regulation of traffic on Pennsylvania Turnpike.

(a) General rule.—The provisions of this title apply upon any turnpike or highway under the supervision and control of the Pennsylvania Turnpike Commission unless specifically modified by rules and regulations promulgated by the commission which shall become effective only upon publication in accordance with law. A copy of the rules and regulations, so long as they are effective, shall be posted at all entrances to the turnpike or highway for the inspection of persons using the turnpike or highway. This section does not authorize the establishment of a maximum speed limit greater than 55 miles per hour on any portion of the Pennsylvania Turnpike unless a speed limit of 65 miles per hour thereon has been authorized by the Pennsylvania Turnpike Commission.

Amend Sec. 1, page 1, line 6, by striking out "1" and inserting

3

Amend Sec. 1, page 1, lines 7 and 8, by striking out "of the Pennsylvania Consolidated Statutes"

Amend Sec. 2, page 2, line 1, by striking out "2" and inserting

4

Amend Sec. 3, page 3, line 10, by striking out "3" and inserting

5

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 is just a small, innocuous amendment that gives the Turnpike Commission the ability to raise the speed limit on the turnpike to 65 miles an hour if in case they deem that as all right. I give the discretion to the Turnpike Commissioners, and they can make a decision based on their facts and figures. I am not mandating anything but allowing them to make that determination. Thank you.

I would appreciate an affirmative vote.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—110

| | | | |
|--------------|-----------|-----------|---------------|
| Acosta | Donatucci | Leh | Richardson |
| Angstadt | Durham | Lescovitz | Rieger |
| Barley | Evans | Levdansky | Robbins |
| Battisto | Farmer | Linton | Robinson |
| Belfanti | Flick | Majale | Roebuck |
| Billow | Foster | Markosek | Ryan |
| Birmelin | Fox | Marsico | Saloom |
| Bishop | Gallen | Mayermik | Scrimenti |
| Boyes | Gannon | Melio | Semmel |
| Brandt | Geist | Merry | Serafini |
| Bunt | Gigliotti | Mihalich | Smith, S. H. |
| Burd | Gladeck | Moehlmann | Snyder, D. W. |
| Burns | Godshall | Morris | Snyder, G. |
| Caltagirone | Gruitza | Mowery | Staback |
| Carn | Harper | Mrkonik | Steighner |
| Chadwick | Hasay | Nahill | Stish |
| Clark, B. D. | Hayden | Nailor | Strittmatter |
| Clark, D. F. | Heckler | Noye | Taylor, F. |
| Cohen | Hershey | Olasz | Thomas |
| Colafella | Howlett | Oliver | Trello |
| Coy | Hughes | Pesci | Trich |

| | | | |
|------------|----------|-----------|---------------|
| DeLuca | Itkin | Petrone | Van Horne |
| DeWeese | James | Phillips | Veon |
| Daley | Jarolin | Pistella | Williams |
| Davies | Josephs | Pressmann | Wozniak |
| Dempsey | Kasunic | Reber | Wright, D. R. |
| Distler | Kondrich | Reinard | Wright, J. L. |
| Dombrowski | Kosinski | | |

NAYS—87

| | | | |
|--------------|-----------|-----------|---------------|
| Adolph | Dorr | Langtry | Rudy |
| Allen | Fairchild | Lashinger | Saurman |
| Argall | Fargo | Laughlin | Schuler |
| Belardi | Fee | Lee | Smith, B. |
| Black | Fleagle | Lloyd | Stairs |
| Blaum | Freeman | Lucyk | Stuban |
| Bortner | Freind | McCall | Tangretti |
| Bowley | Gamble | McHale | Taylor, E. Z. |
| Broujos | George | McNally | Taylor, J. |
| Bush | Gruppo | McVerry | Telek |
| Cappabianca | Hagarty | Maine | Tigue |
| Carlson | Haluska | Michlovic | Vroon |
| Cawley | Hayes | Micozzie | Wambach |
| Cessar | Herman | Miller | Wass |
| Civera | Hess | Murphy | Weston |
| Clark, J. H. | Jackson | O'Brien | Wilson |
| Clymer | Jadlowiec | Perzel | Wogan |
| Colaizzo | Johnson | Piccola | Wright, R. C. |
| Cole | Kaiser | Pievsky | Yandrisevits |
| Cornell | Kenney | Preston | |
| Corrigan | Kukovich | Raymond | O'Donnell, |
| Cowell | LaGrotta | Ritter | Speaker |
| Dietterick | | | |

NOT VOTING—0

EXCUSED—5

| | | | |
|----------|-------|-------|---------|
| Dininni | Pitts | Rybak | Scheetz |
| 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?

The Chair recognizes the gentleman from Warren, Mr. Bowley.

Mr. BOWLEY. Thank you, Mr. Speaker.

Mr. Speaker, at this time, due to a number of reasons, one of which is, in my opinion, that last amendment that was added, but basically for two reasons on the original language of HB 1849, I think the language is wrong and needs to be sent back to the House Transportation Committee for correction.

First of all, Mr. Speaker, the definition of a trail bike, I feel, allows for a motorized off-highway vehicle 60 inches or less in width and having a dry weight of 800 pounds or less. I personally believe this is too high. These two regulations and specifications are in fact higher than a class II all-terrain vehicle, which only has a width of 58 inches and 700 pounds or less, and all the trail bikes that I know of in fact are smaller than an all-terrain vehicle.

And the second reason is that under this legislation, we are now allowing a trail bike to cross a highway and to operate on highways, and in fact they are not registered as are snowmobiles or ATV's.

BILL RECOMMITTED

Mr. BOWLEY. For these two reasons, Mr. Speaker, I would like to make a motion to recommit this legislation to the House Transportation Committee.

The SPEAKER pro tempore. The gentleman from Warren moves that HB 1849, PN 2376, as amended by this House, be recommitted to the Committee on Transportation.

On the question,

Will the House agree to the motion?

The SPEAKER pro tempore. On the question, the Chair recognizes the gentleman from Schuylkill, Mr. Argall.

Mr. ARGALL. Thank you, Mr. Speaker.

I rise to oppose Mr. Bowley's recommendation. This legislation was, I believe, unanimously approved by the House Transportation Committee. I have been working with the Department of Environmental Resources. You may remember that I took this microphone yesterday at the request of the department and the Governor's Office to make some clarifying amendments so that these bikes will not be running willy-nilly all over the State. This allows them to cross the street. That is all.

I believe that the legislation has been carefully drafted. It has already been approved by the committee once, and I do not believe that sending it back to committee will serve any useful purpose at this time.

The SPEAKER pro tempore. On the motion of the gentleman from Warren to recommit to the Committee on Transportation HB 1849, the Chair recognizes the gentleman for a second time, Mr. Bowley.

Mr. BOWLEY. Thank you, Mr. Speaker.

I just want the members of this House of Representatives to be aware that we are now allowing trail bikes to ride on highways in this Commonwealth, and they are not registered as are snowmobiles and ATV's. I think you are opening up a can of worms, and I believe the Department of Transportation probably is opposed to this.

I commend Mr. Argall for addressing some of the concerns that the Department of Environmental Resources had on riding trail bikes in the State parks and State forests. However, I believe this bill needs some additional work and would ask for an affirmative vote.

The SPEAKER pro tempore. Those in favor of recommitting the bill to the Transportation Committee will vote "aye"; those opposed, "no."

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—106

| | | | |
|--------------|------------|-----------|---------------|
| Acosta | Dietterick | Levdansky | Robinson |
| Battisto | Donatucci | Linton | Roebuck |
| Belardi | Dorr | Lloyd | Rudy |
| Belfanti | Evans | McHale | Saurman |
| Bishop | Fargo | McNally | Scrimenti |
| Blaum | Fee | McVerry | Smith, B. |
| Bortner | Fox | Maiale | Staback |
| Bowley | Freeman | Maine | Stairs |
| Broujos | Freind | Markosek | Steighner |
| Burns | Gamble | Mayernik | Suban |
| Bush | Gigliotti | Melio | Tangretti |
| Caltagirone | Haluska | Michlovic | Taylor, F. |
| Cappabianca | Hayden | Mihalich | Thomas |
| Carlson | Howlett | Miller | Tigue |
| Carn | Itkin | Moehlmann | Trello |
| Cawley | Jackson | Morris | Trich |
| Clark, B. D. | James | Mrkonic | Van Horne |
| Cohen | Jarolin | Murphy | Veon |
| Colaella | Johnson | Nahill | Vroon |
| Colaizzo | Josephs | Olasz | Wambach |
| Cole | Kaiser | Oliver | Wass |
| Corrigan | Kosinski | Petrone | Williams |
| Cowell | Kukovich | Pievsyky | Wright, D. R. |
| Coy | LaGrotta | Pistella | Yandrisevits |
| DeLuca | Lashinger | Preston | |
| DeWeese | Laughlin | Reinard | O'Donnell, |
| Daley | Lescovitz | Rieger | Speaker |

NAYS—91

| | | | |
|--------------|-----------|-----------|---------------|
| Adolph | Durham | Jadlowiec | Richardson |
| Allen | Fairchild | Kasunic | Ritter |
| Angstadt | Farmer | Kenney | Robbins |
| Argall | Fleagle | Kondrich | Ryan |
| Barley | Flick | Langtry | Saloom |
| Billow | Foster | Lee | Schuler |
| Birmelin | Gallen | Leh | Semmel |
| Black | Gannon | Lucyk | Serafini |
| Boyes | Geist | McCall | Smith, S. H. |
| Brandt | George | Marsico | Snyder, D. W. |
| Bunt | Gladeck | Merry | Snyder, G. |
| Burd | Godshall | Micozzie | Stish |
| Cessar | Gruitza | Mowery | Strittmatter |
| Chadwick | Gruppo | Nailor | Taylor, E. Z. |
| Civera | Hagarty | Noye | Taylor, J. |
| Clark, D. F. | Harper | O'Brien | Telek |
| Clark, J. H. | Hasay | Perzel | Weston |
| Clymer | Hayes | Pesci | Wilson |
| Cornell | Heckler | Phillips | Wogan |
| Davies | Herman | Piccola | Wozniak |
| Dempsey | Hershey | Pressmann | Wright, J. L. |
| Distler | Hess | Raymond | Wright, R. C. |
| Dombrowski | Hughes | Reber | |

NOT VOTING—0

EXCUSED—5

| | | | |
|----------|-------|-------|---------|
| Dininni | Pitts | Rybak | Scheetz |
| Petrarca | | | |

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

THE SPEAKER (ROBERT W. O'DONNELL) PRESIDING

The SPEAKER. The Chair thanks the gentleman, Mr. Itkin, for presiding.

BILLS ON THIRD CONSIDERATION CONTINUED

The House proceeded to third consideration of **HB 1380**, **PN 3436**, entitled:

An Act amending Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes, adding provisions relating to guardians of incapacitated persons, and making conforming amendments to Titles 13, 18, 23 and 42.

On the question,

Will the House agree to the bill on third consideration?

Mrs. HAGARTY offered the following amendments No. A2026:

Amend Sec. 1 (Sec. 3182), page 9, line 18, by inserting a bracket after "or" where it appears the second time

Amend Sec. 1 (Sec. 3182), page 9, line 19, by striking out "(2)"

Amend Sec. 1 (Sec. 3182), page 9, line 24, by striking out the bracket before "(4)"

Amend Sec. 1 (Sec. 3182), page 9, line 24, by striking out "(3)"

Amend Sec. 1 (Sec. 3182), page 9, line 28, by striking out the bracket before "(5)"

Amend Sec. 1 (Sec. 3182), page 9, line 28, by striking out "(4)"

Amend Sec. 3 (Sec. 5511), page 15, line 4, by striking out "], hearing and" and inserting

,] and hearing and upon the presentation of

Amend Sec. 3 (Sec. 5511), page 16, lines 12 through 14, by striking out "No presumption of incapacity shall be" in line 12, all of line 13 and "institutionalization." in line 14

Amend Sec. 3 (Sec. 5511), page 17, line 5, by striking out "independent"

Amend Sec. 3 (Sec. 5511), page 17, lines 6 through 12, by striking out "If the" in line 6 and all of lines 7 through 12

Amend Sec. 3 (Sec. 5511), page 17, by inserting between lines 28 and 29

(c) Payment of certain costs.—If the alleged incapacitated person is unable to pay for counsel or for the evaluation, or if payment would result in substantial financial hardship, the court shall order the county to pay these costs. These costs shall be reimbursed by the Commonwealth in the following fiscal year.

Amend Sec. 3 (Sec. 5511), page 17, line 29, by striking out "(c)" and inserting

(d)

Amend Sec. 3 (Sec. 5511), page 18, line 5, by striking out "(d)" and inserting

(e)

Amend Sec. 3 (Sec. 5511), page 18, line 18, by striking out "(e)" and inserting

(f)

Amend Sec. 3 (Sec. 5512), page 19, line 8, by inserting after "appointment"

; qualifications

Amend Sec. 4 (Sec. 5512.1), page 21, by inserting between lines 24 and 25

(f) No presumption.—No presumption of incapacity shall be raised from the alleged incapacitated person's institutionalization.

Amend Sec. 4 (Sec. 5512.1), page 21, line 25, by striking out "(f)" and inserting

(g)

Amend Sec. 4 (Sec. 5512.1), page 21, line 29, by striking out "(g)" and inserting

(h)

Amend Sec. 4 (Sec. 5512.2), page 22, lines 19 through 21, by striking out "A petition from the" in line 19 and all of lines 20 and 21

Amend Sec. 4 (Sec. 5512.2), page 23, by inserting between lines 6 and 7

(d) Who may be appointed guardian.—The court may appoint as guardian any qualified individual or corporate fiduciary, nonprofit corporation, county agency or the guardian office at a State facility. The court shall not appoint a person or entity providing residential services for a fee to the incapacitated person or any other person whose interests conflict with those of the incapacitated person except where it is clearly demonstrated that there is no alternative. Any family relationship to such individual shall not, by itself, be considered as an interest adverse to the alleged incapacitated person. If appropriate, the court shall give preference to a nominee of the incapacitated person.

Amend Sec. 7 (Sec. 5521), page 31, line 17, by striking out "health" and inserting

healthy

Amend Sec. 8 (Sec. 5552), page 39, line 17, by striking out "act" and inserting

chapter

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes Representative Hagarty.

Mrs. HAGARTY. Thank you.

Mr. Speaker, this is an agreed-to technical amendment.

The SPEAKER. Is the gentleman, Mr. Kukovich, seeking recognition? The gentleman is recognized.

Mr. KUKOVICH. Thank you, Mr. Speaker.

Representative Hagarty and I have been going over a number of potential changes to this bill, and we have worked out some compromises. This amendment is one of them, and I would ask the members to vote in favor of the amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—191

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

| | | | |
|--------------|-----------|-----------|---------------|
| Cawley | Harper | Moehlmann | Taylor, F. |
| Cessar | Hasay | Morris | Taylor, J. |
| Chadwick | Hayden | Mowery | Telek |
| Civera | Hayes | Mrkonc | Thomas |
| Clark, B. D. | Heckler | Murphy | Tigue |
| Clark, D. F. | Herman | Nahill | Trello |
| Clark, J. H. | Hershey | Nailor | Trich |
| Clymer | Hess | Noye | Van Horne |
| Cohen | Howlett | O'Brien | Veon |
| Colaella | Hughes | Olasz | Vroon |
| Colaizzo | Itkin | Oliver | Wambach |
| Cole | Jackson | Pesci | Wass |
| Cornell | Jadlowiec | Petrone | Wilson |
| Corrigan | James | Phillips | Wogan |
| Cowell | Jarolin | Piccola | Wozniak |
| Coy | Johnson | Pievsky | Wright, D. R. |
| DeLuca | Josephs | Pistella | Wright, J. L. |
| DeWeese | Kaiser | Pressmann | Wright, R. C. |
| Daley | Kasunic | Preston | Yandrisevits |
| Davies | Kondrich | Raymond | |
| Dempsey | Kosinski | Reber | O'Donnell, |
| Dietterick | Kukovich | Reinard | Speaker |
| Distler | | | |

NAYS—0

NOT VOTING—6

| | | | |
|--------|--------|--------|----------|
| Bishop | Kenney | Weston | Williams |
| Fargo | Perzel | | |

EXCUSED—5

| | | | |
|----------|-------|-------|---------|
| Dininni | Pitts | Rybak | Scheetz |
| 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?

Mrs. HAGARTY offered the following amendments No. A2017:

Amend Sec. 4 (Sec. 5512.2), page 22, lines 27 through 30; page 23, lines 1 through 6, by striking out all of said lines on said pages

Amend Sec. 5 (Sec. 5517), page 27, line 14, by striking out all of said line and inserting
§ 5517. Adjudication of [competency] capacity and modification of existing orders.

Amend Sec. 5 (Sec. 5517), page 27, lines 18 through 26, by striking out "Any qualified individual or corporation fiduciary," in line 18, all of lines 19 through 26 and inserting
In addition to the remedies set forth in section 3182 (relating to grounds for removal), the court, after a hearing under section 5512.2 (relating to review hearing), may order that a person previously adjudged incapacitated is no longer incapacitated or the court may find that the incapacitated person has regained or lost capacity in certain areas in which case the court shall modify the existing guardianship order.

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the lady, Mrs. Hagarty.

Mrs. HAGARTY. Thank you.

Mr. Speaker, this is also an agreed-to amendment.

The SPEAKER. In the interests of the record and for the members, will the lady repeat her remarks.

Mrs. HAGARTY. This amendment is agreed to between the prime sponsor of the bill, Representative Kukovich, and myself.

The SPEAKER. The Chair recognizes Mr. Kukovich.

Mr. KUKOVICH. Thank you, Mr. Speaker.

Representative Hagarty is correct. This amendment, I think, does serve to improve the bill somewhat.

I would call to the members' attention, there was a letter that was sent by the Department of Aging and a large coalition of groups that said they preferred the bill as is without amendments. That was before they were privy to some of these technical and clarifying changes. So you can feel free to vote for this amendment without voting in opposition to that letter that was sent around.

So I would ask the members to vote "yes" on the Hagarty amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—191

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

Distler

NAYS—0

NOT VOTING—6

Clark, D. F.
GambleMichlovic
Pressmann

Staback

Wright, D. R.

EXCUSED—5

Dininni
Petrarca

Pitts

Rybak

Scheetz

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?

Mrs. HAGARTY offered the following amendments No. A1995:

Amend Sec. 1 (Sec. 5501), page 13, line 23, by inserting after
““Incompetent””

] “Incapacitated person”

Amend Sec. 1 (Sec. 5501), page 13, lines 23 and 24, by inserting brackets before and after “infirmities of old age,” and inserting immediately thereafter

physical or

Amend Sec. 1 (Sec. 5501), page 13, line 25, by inserting after
“inebriety”

, lacks the ability to receive and evaluate information effectively and communicate decisions in any way and is impaired to such a significant extent that he is partially or totally

Amend Sec. 1 (Sec. 5501), page 13, line 26, by inserting brackets before and after “is” where it appears the first time

Amend Sec. 1 (Sec. 5501), page 13, line 26, by inserting a bracket before “property”

Amend Sec. 1 (Sec. 5501), page 13, line 27, by inserting after
“persons”

] financial resources

Amend Sec. 1 (Sec. 5501), page 13, line 28, by inserting a bracket before “lacks”

Amend Sec. 1 (Sec. 5501), page 13, line 30; page 14, lines 1 through 4, by striking out all of line 30, page 13, all of lines 1 through 3, and “resources or to” in line 4, page 14 and inserting
unable to

On the question,

Will the House agree to the amendments?

The SPEAKER. On that question, the Chair recognizes Mrs. Hagarty.

Mrs. HAGARTY. Thank you.

Mr. Speaker, this amendment is an area on which there is disagreement. While this legislation goes a long way in providing needed areas of improvement in our guardianship law, one area in which it goes too far and creates a costly, expensive litigation procedure in every single guardianship case is in this instance: HB 1380 requires the appointment of counsel to represent the person in every case. Where the person cannot pay or suffers substantial financial hardship, the county must provide counsel, to be reimbursed by the Commonwealth.

This procedure is very important, because it will be financially devastating in many instances of medium-sized estates. What will happen is that the very money that would go for the care of the person is now going to be used up by the counsel payment of fees.

While the amendment provides that counsel will be paid by the county, reimbursed by the Commonwealth, that is only where there is financial hardship. So in a case in which—

Mr. KUKOVICH. Excuse me.

Mr. Speaker, a point of order.

The SPEAKER. For what purpose does the gentleman, Mr. Kukovich, rise?

Mr. KUKOVICH. The amendment on the board is A1995 and it sounds like Representative Hagarty is arguing amendment 2043.

Mrs. HAGARTY. I stand corrected. I am debating the wrong amendment.

If I may strike those remarks and begin again or defer those remarks, I would appreciate it.

The SPEAKER. The remarks of the lady will be incorporated into the record at a relevant point.

Mrs. HAGARTY. Thank you.

Mr. Speaker, if I may begin again.

This amendment changes the definition as it is presently written in the bill.

It is important to understand that the current law defining the definition of “guardianship” has been criticized by many people because it does not require a functional analysis by the court to determine what the alleged incompetent can and cannot actually do. So this bill rightly makes an improvement by providing that the judge must evaluate the ability to receive and evaluate information effectively and communicate decisions in any way and is impaired to such a significant extent.

We believe that that is good, that the judge should make a determination as to that person’s functional ability, but we also believe that it is important to keep in law some of those categorical definitions which case law has evolved under, which everyone knows what they mean and will better actually protect against overly loose findings of guardianship, terms such as “mental illness,” “mental deficiency or retardation,” and “drug addiction.” So we attempt to merge what is the new functional definition to require a finding of the functional definition but also to consider the terms that have designated definitions under the law.

My concern is, if you think about the definition in this bill, the “ability to receive and evaluate information effectively and communicate decisions,” in any number of areas, any one of us could actually be found to be incompetent.

This is too broad and I think does not accomplish what the gentleman, Mr. Kukovich, wants to accomplish. So we suggest merging this definition with some of the established case law categories before a finding of incompetency is reached.

The SPEAKER. The Chair recognizes Mr. Kukovich.

Mr. KUKOVICH. Thank you, Mr. Speaker.

This is a highly technical point, and the maker of the amendment and I are not that far off, but there is a problem. As the maker of the amendment says, and according to all the current studies by psychiatric groups, by the American Bar Association, everybody agrees that a functional definition is the way to go. Representative Hagarty’s amendment main-

tains that functional definition as it is in the bill, but she replaces some categories. She takes out one category which I agree with but she maintains other categories, and the question becomes, why do we need to do it? The functional definition is adequate. All we do by maintaining that categorical list is maintain language that is offensive to people - offensive to certain consumers; offensive to certain advocates. All that language does by leaving it in there is reinforce a prejudice that just because someone has a mental retardation problem, a mental health problem, that they are incapacitated.

What we should be doing in this bill rather than labeling people is have an accurate, functional definition, which the bill contains, so we can decide whether or not they are capable of functioning, whether they are incapacitated, and the judge can make an appropriate decision.

For those reasons I would ask for a negative vote, Mr. Speaker.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—97

| | | | |
|--------------|-----------|-----------|---------------|
| Adolph | Dorr | Jadlowiec | Reber |
| Allen | Durham | Johnson | Reinard |
| Angstadt | Fairchild | Kenney | Robbins |
| Argall | Fargo | Kondrich | Ryan |
| Barley | Farmer | Langtry | Saurman |
| Birmelin | Fleagle | Lashinger | Schuler |
| Black | Flick | Lee | Semmel |
| Boyes | Foster | Leh | Serafini |
| Brandt | Fox | McVerry | Smith, B. |
| Bunt | Freind | Marsico | Smith, S. H. |
| Burd | Gallen | Merry | Snyder, D. W. |
| Burns | Gannon | Micozzie | Snyder, G. |
| Bush | Geist | Miller | Stairs |
| Carlson | Gladeck | Moehlmann | Strittmatter |
| Cessar | Godshall | Mowery | Taylor, E. Z. |
| Chadwick | Gruppo | Nahill | Taylor, J. |
| Civera | Hagarty | Nailor | Telek |
| Clark, D. F. | Hasay | Noye | Vroon |
| Clark, J. H. | Hayes | O'Brien | Wass |
| Clymer | Heckler | Olasz | Weston |
| Cornell | Herman | Perzel | Wilson |
| Davies | Hershey | Phillips | Wogan |
| Dempsey | Hess | Piccola | Wright, J. L. |
| Dietterick | Jackson | Raymond | Wright, R. C. |
| Distler | | | |

NAYS—98

| | | | |
|--------------|-----------|-----------|------------|
| Acosta | Donatucci | Linton | Robinson |
| Battisto | Evans | Lloyd | Roebuck |
| Belardi | Fee | Lucy | Rudy |
| Belfanti | Freeman | McCall | Saloom |
| Billow | Gamble | McHale | Scrimenti |
| Bishop | George | McNally | Staback |
| Blaum | Gigliotti | Maiale | Steighner |
| Bortner | Gruitza | Maine | Stish |
| Bowley | Haluska | Markosek | Suban |
| Broujos | Harper | Mayernik | Tangretti |
| Cappabianca | Hayden | Michlovic | Taylor, F. |
| Carn | Howlett | Mihalich | Thomas |
| Cawley | Hughes | Morris | Tigue |
| Clark, B. D. | Itkin | Mrkonc | Trello |
| Cohen | James | Murphy | Trich |
| Colaella | Jarolin | Oliver | Van Horne |
| Colaizzo | Josephs | Pesci | Veon |
| Cole | Kaiser | Petrone | Wambach |
| Corrigan | Kasunic | Pievsy | Williams |

| | | | |
|------------|-----------|------------|---------------|
| Cowell | Kosinski | Pistella | Wozniak |
| Coy | Kukovich | Pressmann | Wright, D. R. |
| DeLuca | LaGrotta | Preston | Yandrisevits |
| DeWeese | Laughlin | Richardson | |
| Daley | Lescovitz | Rieger | O'Donnell, |
| Dombrowski | Levdansky | Ritter | Speaker |

NOT VOTING—2

| | |
|-------------|-------|
| Caltagirone | Melio |
|-------------|-------|

EXCUSED—5

| | | | |
|----------|-------|-------|---------|
| Dininni | Pitts | Rybak | Scheetz |
| 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 as amended?

Mrs. HAGARTY offered the following amendments No. A2023:

Amend Sec. 4 (Sec. 5512.1), page 21, line 1, by inserting a period after "live"

Amend Sec. 4 (Sec. 5512.1), page 21, lines 1 and 2, by striking out "except as provided in section 5521(c)(4) (relating)" in line 1 and all of line 2

Amend Sec. 7 (Sec. 5521), page 31, lines 24 and 25, by striking out all of said lines

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes Mrs. Hagarty.

Mrs. HAGARTY. Mr. Speaker, the last amendment, as Mr. Kukovich indicated, we were not far apart on. It was a question of which definition would work better. I believe this amendment, though, is very important in terms of the everyday family situation.

This bill prevents a court-appointed plenary guardian of the person from making a decision as to whether or not to admit the incapacitated person to a nursing home. So picture this: Even though the guardian was appointed after an adversarial hearing with counsel for the incapacitated person under this bill, after exhaustive factfinding as to the person's mental and physical condition and need for services and assistance, even though the guardian's duty under law is to act in the best interests of the incapacitated person, you would still need a hearing before admitting, for example, your aging mother to a nursing home. Incredibly enough, what will happen is if the incapacitated person is in the hospital and the recommendation is for removal from the hospital to the nursing home, you would actually not be able to accomplish moving that person from the hospital to the nursing home without a hearing, without a hearing with counsel. This amendment strikes this section from the bill.

Also, the practical effect of this hearing will in many instances be to act against the best interests of the incapacitated person. In a situation where medicare, as I understand it, will cover nursing home admission if the person goes from the hospital to the nursing home, they will not be able to be directly admitted under this bill because of the requirement for a hearing.

It is important that we allow families to continue, after a finding of guardianship has been made to where it is in that person's best interests, and after all of the due process has been provided, to admit a person to a nursing home without a fully litigated hearing with counsel.

I urge adoption of this amendment.

The SPEAKER. The Chair recognizes Mr. Kukovich.

Mr. KUKOVICH. Thank you, Mr. Speaker.

I think the intention of this amendment is fine. However, one of the problems we have with our very archaic guardianship law—and I would remind the members that there are 43 other States that have a limited guardianship and 44 States that have a reporting capacity; we have none of that—that in the work done by the Associated Press in their exhaustive investigative story and in some of the horror stories that we have seen before us, where people have been taken advantage of to the greatest extent is where they have been placed in a nursing home without a judge ever having seen them, without anyone ever having represented them, and I could run through a long laundry list here of cases where individuals have been placed without any kind of due process into a nursing home. Their estates have been taken. They have lost their medicare benefits. They have been put in the most restrictive environment they possibly could be in and not have a chance to do anything about it.

I realize on some of these issues we have to find some balance, but Pennsylvania has become a bit of a laughingstock in this area around the country, and this is one of those areas where we have to make sure that people are not put into a home against their own wishes, even if they are competent or possibly incapacitated. We have to provide that necessary due process. This is one of the key provisions that all the coalitions - the advocates for aging, for the ARC (Association for Retarded Citizens), for the Mental Health Association, et cetera - have supported, and I would ask for a "no" vote, Mr. Speaker.

The SPEAKER. The Chair recognizes Mr. Ryan.

Mr. RYAN. Mr. Speaker, I do not know who "et cetera" was, that last group that thinks this is so important, but I think they are wrong.

My understanding— Would the gentleman, Mr. Kukovich, consent to brief interrogation?

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

Mr. RYAN. My understanding of this bill, Mr. Speaker, is that if a person is deemed incompetent and in need of a guardian and a guardian is appointed while they are living at home, and then at some subsequent date it is determined by that guardian that the person should be put in a nursing home, there would be a requirement for a fresh hearing, fresh lawyers, a fresh adversarial proceeding before the decision to go into the nursing home could be made. Is that accurate?

Mr. KUKOVICH. Sort of, but you use the term "incompetent." Under the bill, and the way Representative Hagarty also prefers, we would move to "incapacitated." If someone would be appointed a limited guardian, then they would have to come back in and the rest of your hypothetical is true.

Mr. RYAN. What about if someone has a guardian appointed because they are incompetent as opposed to incapacitated?

Mr. KUKOVICH. As far as I know, they could be placed in a nursing home, and I do not think this amendment would be necessary to accomplish that.

Mr. RYAN. What advantage is there to doing what you are doing? The person - your mother, your aunt, mine - if they are competent and incapacitated for some physical problem, why can they not get a lawyer from the nursing home if they do not like the nursing home? Why can they not go out?

Mr. KUKOVICH. I am not sure I understand the question. You are saying if the individual is competent?

Mr. RYAN. As opposed to a declaration of being incompetent.

Mr. KUKOVICH. Right.

Mr. RYAN. They are declared incapacitated but not incompetent. Is that not the factual situation of your bill?

That incapacitated but competent person has the right to hire a lawyer, does not she or he? And presumably if they are declared incapacitated as opposed to incompetent, they have sufficient facilities to make judgments as to what their needs are. Is that fair?

Mr. KUKOVICH. That is correct.

Mr. RYAN. Then why does this person have to be dragged into a courthouse or dragged before a hearing, against their will perhaps—and they are not incompetent—where an attorney is hired on their behalf, and they have the right to hire their own, but yet on their behalf someone else hires a lawyer, goes through an adversarial proceeding to do probably what the daughter or the son or whoever the other guardian was wanted done in the first place.

I fail to understand the need for this second hearing where a competent person has the capacity, the mental capacity, to hire their own lawyer if they are put in a nursing home and do not want to be there.

Mr. KUKOVICH. The purpose for the second hearing is that Department of Aging hearings, other surveys, newspaper investigations have shown that unless the judge has before himself or herself the individual, they do not have the factual basis on which to know someone is being placed in a nursing home against his or her will.

Mr. RYAN. I was just told that I am mixing up some of this, and I will wait until I have a guardian appointed.

One of the, not one of the problems; the problem I am having with this and the reason I am going to support the Hagarty amendment is, from what I see and what I hear, because the Department of Aging says sometime, somewhere, someone is abused or put into a nursing home that does not want to be there, we should have a hearing every time.

We have already had one hearing on this case. We have had a hearing where a guardian was appointed. The court has the right of overview. The court has the right to see that this guardian is acting properly. If the guardian is not acting properly, the court has a right to interfere.

This patient, client, relative, whatever the situation may be, they can notify the judge. Why would you go to the expense of another adversarial proceeding? It just bothers me.

Now, I have represented people as a lawyer, a guardian, where the court appointed me just once, and I am guessing that my fee—and it is a pure guess—was about \$1,500 to take care of 30,000 or 40,000 dollars' worth of real estate that was sold. In addition to that, there are all the other usual expenses. Now, that was a little bit different, of course, because it was a competency problem. But I do not understand how you are going to get anything like this done for less than \$1,000 or \$1,500 every time you have one of these hearings, and I just think it is outrageous. I think it is a waste of money.

If there is a wrong, then let the specific wrong be called to the attention of the court. But just to go on a broad brush and bring everybody back into court every time that you are going to make a move I think is ridiculous.

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

Mr. RYAN. No; that was a bold assertion of a true fact.

Mr. KUKOVICH. If I could respond briefly.

The SPEAKER. As a parliamentary matter, bold assertions of fact are not permitted. Questions are.

In response to that interrogation, the gentleman may respond.

Mr. KUKOVICH. Thank you, Mr. Speaker.

The problem is that if you allow it up to the individual, the case history shows that they do not have the ability, once they are stuck in that nursing home, to make their case heard unless they are lucky; unless there is some advocate that stumbles across their plight. It is analogous to what we do with involuntary civil commitments. You cannot just throw someone in a mental institution unless they have the opportunity to make their case before court.

How can we say that because someone is frail or because they are old or because they are incapacitated to some degree, that they do not have that chance to protect themselves. And apparently the cost is not that great, because in many of these cases, the estates can handle that cost. And in those cases where someone does not need protected, it is a simple matter of course for whether it is son or daughter and parent to work this out.

Maybe once this new law goes into effect it will take a while for the judges to know how to deal with this, but this will become a routine matter for those cases where it is routine. But for those cases where someone is vulnerable and can be taken advantage of, this is the only way to try to protect them, and I would ask once again for a negative vote.

The SPEAKER. The Chair recognizes Mr. Stairs.

Mr. STAIRS. Thank you, Mr. Speaker.

I certainly rise to support this amendment. I feel that the person who is the guardian, who would be family or friend that was appointed by the court to look after the interests of this person, should not have to go back to the court again to pay the extra costs of due process. This money, I feel, should be used for the health and welfare of the person, not to be

spent again to go through the court proceedings. Certainly the people who have been selected as guardians are going to look after the best interests and make sure that this person's welfare and health are taken into consideration.

I would hope that we could support this amendment.

The SPEAKER. The Chair recognizes Mr. Saurman.

Mr. SAURMAN. Thank you, Mr. Speaker.

Mr. Speaker, we are considering a matter that takes a great deal of understanding. Perhaps some of us have had that opportunity; perhaps others have not. This bill in certain situations, the bill itself is probably needed and has been lobbied for by advocates. But let us remember that it affects everyone. It affects you and me if we are keeping an older person in our home or in our residency, and that is not easy.

When we talk about abuse of seniors, when we talk about incapacitation, most of us cannot comprehend what that means. You cannot comprehend what it means if someone tells you that they hate you; that they do not recognize you. It is very difficult to understand what incapacitation means when we are talking about senior citizens. And in this instance, where once an individual reaches that point where that individual is so incapacitated that you, as a family member, have to go to court and have yourself declared as that guardian, now this bill would say, without the Hagarty amendment, that not only would you have to do that, but if then as a result of that hospitalization that individual should go into a nursing home, you would have to go back to court, not only with your attorney but with an attorney for your parent, and the two of you fight it out and pay legal battles and endure more suffering and put all of the people who are trying to take care of their parents into an additional situation of harassment and pain.

I would urge that you support the Hagarty amendment and relieve some of that redtape. Thank you.

The SPEAKER. The Chair recognizes Mr. Bortner.

Mr. BORTNER. Mr. Speaker, I would like to interrogate Mr. Kukovich.

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

Mr. BORTNER. And, Mr. Speaker, I believe that this is still within the confines of the amendment. If it is not, please so rule. But a question was raised in my mind during the interrogation of Mr. Kukovich by the minority leader.

At that time you seemed to be drawing a distinction or a distinction seemed to be drawn between a determination or a finding of incompetence and incapacitation under this bill. It is my understanding that if this were to become law, this would become the sole means of making that determination and incompetence would no longer be the available proceeding to adjudicate somebody who can no longer make decisions on their own behalf. Is that correct or incorrect?

Mr. KUKOVICH. Not entirely correct. It would be within the discretion of the judge to have someone declared totally incapacitated.

Mr. BORTNER. I guess my question is, would not the term "incompetent" and "incompetent proceedings" and "peti-

tions to adjudicate someone incompetent” become archaic as a term and as a proceeding if this bill were to become law?

Mr. KUKOVICH. Yes. I think I know what you are driving at, and putting it in context of the question asked by the minority leader, some of the cases he was concerned about were those where someone had no control, was totally incapacitated. Under those cases the order of the judge could be such, and actually in most of those cases a lot of those folks are going to nursing homes by the original order. So this issue would never come up. Where it is the sticking point, where it is difficult is where someone is appointed as a limited guardian because the person is partially incapacitated, and where later that limited guardian might try to put them in a nursing home, then they would have the ability to force a hearing to try to make sure that their rights were protected.

Mr. BORTNER. I guess I just want to make sure there is no confusion on my part.

This bill would then become the sole avenue for going into court and having somebody appointed to manage or to handle the affairs of a person who can no longer handle them for themselves. Is that correct?

Mr. KUKOVICH. That is correct.

Mr. BORTNER. And is it correct, as the maker of this amendment has pointed out, that in every case that a person, unable to make those decisions themselves, would be admitted to a nursing home, it would require the appointment of counsel and would require a hearing to determine whether that is in their best interests?

Mr. KUKOVICH. Yes. I think there would be a review hearing in those cases.

Mr. BORTNER. Would not, of course, affect anybody who was making that decision along with their family and was competent but not incapacitated.

Mr. KUKOVICH. That is correct.

Mr. BORTNER. Thank you very much.

The SPEAKER. The Chair recognizes Mr. Caltagirone.

Mr. CALTAGIRONE. Mr. Speaker, I am a little bit concerned about the bill in its present form.

As I understand it, if a person is incapacitated and has already been declared by the court to be placed in a nursing home and there is an additional adjudication that would occur about that person, the court would appoint an attorney and then the estate could also appoint an attorney, so you would have two attorneys drawing down on the estate.

If any of you have ever had experiences with any elderly family members or friends in that type of position and you have been appointed guardian or had someone close to you that has been appointed guardian by the court, I do not see the necessity to have additional attorneys drawing down on the assets of the estate every time something comes up.

I think that this amendment is a good amendment. I support it, and I would urge your consideration. Thank you.

The SPEAKER. The Chair recognizes Mr. Heckler.

Mr. HECKLER. Thank you, Mr. Speaker. Very briefly.

This is important legislation. This bill as a whole, as Mr. Kukovich has pointed out, is very much needed. An awful lot

of the so-called horror stories or concerns, in terms of studies that the prime sponsor of this bill advances, will be addressed by the many due process provisions that are embodied in the bill with the Hagarty amendment coming in. To compare what has happened in the past with what will happen under the bill with the Hagarty amendment is not accurate.

I would submit that at this point we should be prudent; we should be measured with the extent to which we inflict due process and lawyers upon a process that, for the most part, works very well within the family and close friends of individuals who have the misfortune to become incapacitated. I would suggest that the posture we should be in is, having passed this, if indeed there are abuses, Mr. Kukovich should be back here 2 years, 4 years from now, attempting to enact the particular provisions which the Hagarty amendment would remove, having then demonstrated that even though we have introduced a tremendous amount of due process and accountability to the guardianship process, nevertheless, it is not working.

I would submit that the language of the bill with the Hagarty amendment, with the removal of this particular hearing, will protect the needs of our senior citizens in particular who may be in this unhappy situation, and I would urge the enactment of the Hagarty amendment.

The SPEAKER. The Chair recognizes Mr. McVerry.

Mr. McVERRY. Thank you, Mr. Speaker.

I rise in support of the Hagarty amendment, primarily for the reason that this voluminous piece of legislation goes a long way to assure the protection of incapacitated persons, and it requires that the court go through very detailed hearings and factfindings before it makes a determination that, number one, a guardian is warranted for an incapacitated person, but equally as important, number two, detailed investigation into the qualifications and the competence, as it were, of the guardian must also be determined. Accordingly, the court goes through detailed factfindings to determine whether this guardian is the proper person to undertake the affairs to protect the incapacitated person.

One of the decisions that a guardian must make in due course is whether or not the incapacitated person should go into a nursing home facility. You are taking away the very decisionmaking authority that the court has already gone through determining from the guardian and supplanting it to the court.

In large part, what we are saying, if we do not adopt this amendment, is that we are going to appoint a guardian, and it is okay for you to write checks and it is okay for you to take this person to the grocery store or do things of that sort, but when it becomes something meaningful such as nursing care, that nursing home care that the incapacitated person needs, you have got to come back to the court.

I would suggest to you that the courts will make that determination in the initial hearing when there is a finding that the incapacitated person needs a guardian and that the guardian is the proper person to serve in that capacity. You are putting the guardian into a situation where, with these additional pro-

cedural requirements, no one, irrespective of how close they are to their loved ones, will want to serve as a guardian, because you are giving them the authority and taking away the decisionmaking capability by requiring them to come back to court.

In addition, this legislation requires detailed reporting by the guardian as to the current status of the incapacitated person and that person's financial affairs.

Accordingly, I suggest that we allow the guardian to do the job that the court will make a determination that he or she should do and not require further court hearings. Thank you.

The SPEAKER. The Chair recognizes Mr. Stuban.

Mr. STUBAN. Thank you, Mr. Speaker.

Mr. Speaker, may I interrogate the prime sponsor of the bill?

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

Mr. STUBAN. Mr. Speaker, as one of the cosponsors and the chairman of the Youth and Aging Committee—and I have listened to this process as we have been moving on with guardianship—we possibly brought guardianship a long way in the House to even have the bill debated on the floor. I have listened to both sides of the issue. I have listened to the debate today on the floor here, and I would just like to ask the prime sponsor how crucial this amendment is to the well-being of this bill.

Mr. KUKOVICH. I am glad you asked me that question.

Mr. Speaker, there are a number of amendments coming up that are much more crucial than this one. This is one that I am strongly opposed to. I would suggest that the folks who belong to the coalition who signed the letter that went around would be opposed. But this is not the kind of amendment that, to me, is a life-or-death amendment for this bill.

I would suggest that the members could vote their conscience, and what I would like to do is rather than continue to debate on amendments like this that are of lesser importance, I would ask the members to just vote their own particular conscience, move ahead on this amendment one way or the other, and move on to the more important amendments.

Mr. STUBAN. Thank you, Mr. Speaker.

Mr. Speaker, may I make a statement on it?

The SPEAKER. The gentleman may proceed.

Mr. STUBAN. I am fully convinced that this is not a crucial issue in this piece of legislation, but I personally would like to ask the members to vote in the affirmative on this amendment.

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

Mr. D. W. SNYDER. Thank you, Mr. Speaker.

May I interrogate Mr. Kukovich, please?

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

Mr. KUKOVICH. No, Mr. Speaker. I think Representative Stuban's point was well taken. I do not want to get hung up on this amendment. If the members want to vote "yes," they can vote "yes." I will vote "no." I do not want to stand for interrogation.

The SPEAKER. Will the gentleman suspend.

The Chair is in error. The gentleman has refused to be interrogated.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—161

| | | | |
|--------------|------------|-----------|---------------|
| Adolph | Distler | Kenney | Reinard |
| Allen | Dombrowski | Kondrich | Richardson |
| Angstadt | Donatucci | Kosinski | Rieger |
| Argall | Dorr | LaGrotta | Robbins |
| Barley | Durham | Langtry | Robinson |
| Battisto | Fairchild | Lashinger | Roebuck |
| Belfanti | Fargo | Lee | Rudy |
| Billow | Farmer | Leh | Ryan |
| Birmelin | Fleagle | Linton | Saloom |
| Bishop | Flick | Lloyd | Saurman |
| Black | Foster | McCall | Schuler |
| Bortner | Fox | McHale | Scrimenti |
| Bowley | Freind | McVerry | Semmel |
| Boyes | Gallen | Maiale | Serafini |
| Brandt | Gamble | Marsico | Smith, B. |
| Broujos | Gannon | Mayernik | Smith, S. H. |
| Bunt | Geist | Merry | Snyder, D. W. |
| Burd | George | Michlovic | Snyder, G. |
| Burns | Gigliotti | Micozzie | Stairs |
| Bush | Gladeck | Miller | Stish |
| Caltagirone | Godshall | Moehlmann | Strittmatter |
| Carlson | Gruitza | Morris | Stuban |
| Cawley | Gruppo | Mowery | Taylor, E. Z. |
| Cessar | Hagarty | Mrkonic | Taylor, F. |
| Chadwick | Haluska | Murphy | Taylor, J. |
| Civera | Hasay | Nahill | Telek |
| Clark, B. D. | Hayden | Nailor | Tigue |
| Clark, D. F. | Hayes | Noye | Trello |
| Clark, J. H. | Heckler | O'Brien | Trich |
| Clymer | Herman | Olasz | Van Horne |
| Colafella | Hershey | Oliver | Vroon |
| Colaizzo | Hess | Perzel | Wass |
| Cole | Howlett | Pesci | Weston |
| Cornell | Hughes | Petrone | Williams |
| Corrigan | Jackson | Phillips | Wilson |
| Cowell | Jadlowiec | Piccola | Wogan |
| DeLuca | James | Pressmann | Wozniak |
| Daley | Johnson | Preston | Wright, J. L. |
| Davies | Kaiser | Raymond | Wright, R. C. |
| Dempsey | Kasunic | Reber | Yandrisevits |
| Dietterick | | | |

NAYS—35

| | | | |
|-------------|-----------|----------|---------------|
| Acosta | Freeman | McNally | Steighner |
| Belardi | Itkin | Maine | Tangretti |
| Blaum | Jarolin | Markosek | Thomas |
| Cappabianca | Josephs | Melio | Veon |
| Carn | Kukovich | Mihalich | Wambach |
| Cohen | Laughlin | Pievsky | Wright, D. R. |
| Coy | Lescovitz | Pistella | |
| DeWeese | Levdansky | Ritter | O'Donnell, |
| Evans | Lucyk | Staback | Speaker |
| Fee | | | |

NOT VOTING—1

Harper

EXCUSED—5

| | | | |
|----------|-------|-------|---------|
| Dininni | Pitts | Rybak | Scheetz |
| 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?

Mrs. HAGARTY offered the following amendments No. A2043:

Amend Sec. 3 (Sec. 5511), page 17, lines 3 and 4, by striking out "Counsel, as advocate," and inserting
In an appropriate case, counsel

Amend Sec. 3 (Sec. 5511), page 17, line 5, by striking out "independent"

Amend Sec. 3 (Sec. 5511), page 17, lines 29 and 30; page 18, lines 1 through 4, by striking out all of said lines on said pages

Amend Sec. 3 (Sec. 5511), page 18, line 5, by striking out "(d)" and inserting

(c)

Amend Sec. 3 (Sec. 5511), page 18, line 18, by striking out "(e)" and inserting

(d)

Amend Sec. 7 (Sec. 5521), page 31, lines 12 and 13, by striking out "and with the incapacitated person represented by counsel"

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes Mrs. Hagarty.

Mrs. HAGARTY. Thank you.

Mr. Speaker, this amendment is probably the most important amendment that we will consider today. The legislation as it is currently written requires the appointment of counsel in every instance in every guardianship case before the court. What we suggest is language instead to read, "In an appropriate case, counsel shall be appointed to represent the alleged incapacitated person...."

I think it is important, first of all, to understand the function of the orphan's court. The orphan's court judge sits as a judge in equity, not in an advocacy procedure. He sits there to determine what is in the best interest of that person in the guardianship case. Our judges tell us that most of these cases, some 97 percent of them, are cases involving loving families - a loving family situation in which a son or a daughter, in order to provide for and take care of an older person who has become incapacitated, needs to be appointed a guardian. It does not make sense to require counsel in that case.

This reminds me of what we did in the Mental Health Procedures Act. What we did in the Mental Health Procedures Act in the midseventies is we went so far with the theory of protecting the individual against himself that we have created a situation where people who are badly in need of help are out on the street, where families cannot act in the best interest of a mentally ill person, because an advocacy situation was created with counsel advocating what they determined, not the loving family member, what the lawyer decided was in the best interest of that person.

I think it is important to our families, it is important to our court system, to allow the system to function as it is and not to create an adversarial situation between the lawyer who is supposedly acting on behalf of the alleged incompetent and their very family member.

So I suggest that we should give judges the power to appoint counsel in appropriate cases if they think there is

reason, but in every case to appoint an additional lawyer in the court at additional expense, that is wrong. Thank you.

The SPEAKER. The Chair recognizes Mr. Kukovich.

Mr. KUKOVICH. Thank you, Mr. Speaker.

This is, as Representative Hagarty said, one of the most crucial amendments that will be offered. Without mandatory counsel, I think this bill has very little teeth.

Let me make two points. In Pennsylvania, 78 percent of the substantiated abuse cases are committed by family members. Now, in those instances that the maker of the amendment portrayed about the loving family, that is fine; there is no problem. But in those 78 percent of abuse cases, unfortunately, there may be no one else to speak for that person, unless an attorney is appointed by the court. We have found a number of cases, and let me just name a couple to give you an example of what is happening in this State and why we need this legislation and why we need mandatory counsel.

There has been a case where a stepfather was sexually abusing a retarded young woman, and she was getting some support services from a county MH/MR (mental health/mental retardation) agency, and some caseworkers found some evidence of abuse. Whenever the stepfather got wind of this case, he petitioned the court to become a guardian, and if it was not for the advocate hearing about this, that sexually abused person would then have their abuser as the guardian. We have had cases where people have applied for guardianships where there is already an outstanding protection-from-abuse case filed against them. We have had out in the southwestern part of the State a 103-year-old man, who is probably as mentally aware as most of us in this chamber, who was appointed a guardian because at the time he was interviewed by the psychiatrist—and he had no legal representation—his hearing aid was not on. And I could go on and on for the rest of this afternoon, this evening, and all next week with these cases. These are not isolated incidences, and unless we maintain the concept of mandatory counsel, no matter what else is in the bill, these abuses will still continue.

In terms of the cost, the cost is not going to be that great, because according to the statistics we have, there are not that many great amount of cases, and where there are, in many of the counties - urban and rural - the estate can pay for the cost. According to surveys done by our Department of Aging, most older Pennsylvanians would want to use their funds from their estate to protect themselves from losing their rights.

I think that is basic human decency. I think that due process is necessary, and I would ask for a "no" vote on the amendment.

The SPEAKER. The Chair recognizes Mr. Piccola.

Mr. PICCOLA. Thank you, Mr. Speaker.

I agree with the gentleman, Mr. Kukovich, that this is probably the most important amendment to this bill, although I disagree wholeheartedly with his analysis.

You heard Representative Ryan talk about the fees, the legal fees, that are charged in cases like this, and Mr. Kukovich, in this bill, would have us double the number of lawyers involved in most cases involving incapacity in this

Commonwealth. The question arises, who is going to pay those fees? Well, I know darn well the Commonwealth is not going to pay them. We cannot even pay the obligations that we have today and we are supposed to be paying. I do not think the county is going to pay them, although it may in some cases. The people who are going to have to pay these are the families of the persons for whom they are seeking an adjudication of incapacity, and in 90 percent of these cases, these lawyers' fees are simply unnecessary.

Mr. KUKOVICH, when he has a problem and he sees a problem in a newspaper, his response is to let us throw money at it. Well, we do not have any money to throw at it, so the next best thing is to throw a lawyer at it. Well, a lawyer and money are not going to solve these problems, Mr. Speaker; they are only going to aggravate them, and if this bill passes in its present form, it will be known as the attorneys' employment act of 1990.

I think we should pass this amendment by a resounding vote and get on with the business of the House.

The SPEAKER. The Chair recognizes Mr. Saurman.

Mr. SAURMAN. Thank you, Mr. Speaker.

Mr. Speaker, in addition to the question of who is going to pay the attorney, I would like to ask the question, what gives the attorney the insight into making the decision that is necessary in this case? If you have to refer it to someone, why not refer it to someone in the medical profession who would know what the circumstances are? Why would an attorney know whether or not a person is really incapacitated? In the first place, as has already been said, about 90 percent of these cases involve families and certainly not the abuse that the maker or the prime sponsor of this legislation who is opposing this amendment is talking about. I could cite some cases where there were attorneys on both sides and a judge where a child was returned to a situation where sexual abuse had taken place in the past. So that is not going to stop it.

What we really have to do here is to provide a mechanism, which this legislation will do if properly amended, to allow for those cases where there has to be a limited guardianship in order that something can happen to someone who has no one who cares for them. But for crying out loud, where we have people who are human, who are loving, who are caring, who are trying to take care of their family members, let us not put additional charges on them. Let us not give them the additional burden of these costs, which will fall on their laps.

Let us support again the Hagarty amendment. Thank you.

The SPEAKER. The Chair recognizes Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Speaker.

I would like to respond to the case of the gentleman who is 103 years old and as alert as any of us in this room, who did not know his hearing aid was not turned on. Now, I have worn a hearing aid for about 45 years, and I guarantee you, I know when it is turned on. If he does not know when his hearing aid is not working, he needs some help.

I urge an affirmative vote for the amendment.

The SPEAKER. The Chair recognizes Mr. McVerry.

Mr. McVERRY. Thank you, Mr. Speaker.

In support of the Hagarty amendment, I would simply like to point out to the members of the chamber that the amendment does not say that in no situation does an incapacitated person have the right to counsel or that counsel may not be appointed. It simply substitutes for the mandatory language that is currently in the bill which states that every person who is alleged to be incapacitated will have counsel of his or her own. It simply substitutes for that language that in appropriate cases, the court may appoint counsel for an incapacitated person.

Do not treat the situation as though it is in a vacuum. The judge who is sitting in this case is a qualified individual who is observing the demeanor of the person, who is weighing the facts that are being presented, and who is totally competent to determine whether or not that incapacitated person should have counsel of his or her own.

I suggest that we leave that discretion with the judges, because that is the responsibility that they are there to fulfill, and adopt the Hagarty amendment and allow the judges to appoint counsel for incapacitated persons when it is appropriate.

The SPEAKER. The Chair recognizes Ms. Josephs.

Ms. JOSEPHS. Thank you, Mr. Speaker.

I urge a "no" vote on this amendment, and I would like to respond to a little bit of the conversation, the debate, that has gone before.

Certainly if we are talking about situations in which the family is loving and caring, the advocate for the subject - the older person or the person to be declared incapacitated - will welcome an advocate for their family member, and it will take very little time and very little in the way of fees for the advocate to understand that the family member is being properly the subject of this process.

I also think that it is obvious why this advocate ought to be a lawyer and not a doctor. Judges are used to lawyers. Lawyers are advocates; lawyers are trained to respond to the needs articulated by their clients. The lawyer does not make the decision. The decision is made by the judge.

Why is the judge not competent to make this decision on his or her own? I think again because the court is used to hearing arguments made on either side of an issue, if there is more than one side of that issue, and to make a decision based on those arguments, not based on entirely his or her own observation.

Mr. Speaker, taking away somebody's rights is very serious in our society, where, above all, we value the rights that we have as individuals. Some of the rights that we are taking away from people in these proceedings are just rights of freedom. When we have a criminal proceeding, when we are saying to someone you have done something wrong, therefore we will take away your rights, we insist that an advocate for the criminal be there.

The folks whom we are talking about now have not done anything wrong. They are simply people who may or may not have become incapacitated because of certain things that have

happened in their lives. I think it is unfair, unjust, and unwise public policy to treat those people in a manner less serious, to treat the deprivation of their freedoms and their rights less seriously than we treat the deprivation of rights of people who we think have done something wrong.

Again I ask for a "no" vote on this amendment. This amendment will make the guardianship bill much, much less efficient, effective. It is not what the advocates and the groups that have been asking for this bill want, so I do again urge that we vote "no." Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Mr. Snyder.

Mr. D. W. SNYDER. Thank you, Mr. Speaker.

Mr. Speaker, I do not know if the prime sponsor of this legislation has ever been in the position where he has had to make decisions dealing with an incapacitated family member. Perhaps if he had, he would have different feelings concerning this legislation and his position on some of these amendments.

I had a father who died of multiple sclerosis who was incapacitated. I have a mother who has Alzheimer's disease. I would like the Speaker to know that to have to go through this process is not only hard on the family but would certainly make a bad situation even worse in terms of hiring an attorney to represent a person whom the court is hopefully going to adjudicate as being incapacitated. If the counsel must represent a person with Alzheimer's disease who does not realize that they are incapacitated and exercise those wishes of that person, where does the counsel go? A person with Alzheimer's, for instance, does not realize that they are incapacitated, yet physically they may be in good shape, and physical appearance may indicate to a judge that this person is knowing, but through this law it requires that we have medical opinions and it requires that we go through many procedures in order to have that person adjudicated as incapacitated.

My question, Mr. Speaker, is, whom does that attorney represent in this situation? When you watch someone agonizingly deteriorate over many years, I think what Mrs. Hagarty mentioned about the loving family having the best interest certainly has to take precedence. This amendment does not prohibit the judge from appointing counsel where the facts require it.

Mr. Kukovich has noted many articles that he reads in newspapers and cases that are brought to his attention. Certainly those are worst-case scenarios, Mr. Speaker, and maybe 78 percent of abuse cases may be under those circumstances, but what percent of all the persons in the situation that are incapacitated represent abuse cases? Probably a very, very small percentage. We are asking society as a whole to take care of the ills of a very small minority.

I think we in the legislature have to balance all interests, and I think that the Hagarty amendment keeps that balance intact. Thank you.

The SPEAKER. The Chair recognizes Mr. Ryan.

Mr. RYAN. Mr. Speaker, I, too, would like to join the array of members who are in favor of the Hagarty amendment.

Unless the gentleman, Mr. Kukovich, corrects me, it is my belief that under the present law and under the law of this bill as amended, not only would you have a judge reviewing what is happening but you also would have the testimony - either in person, by video, or by deposition - of a doctor indicating the condition of the client-patient subject of the hearing.

The other part that bothers me is, under the provisions of the act—and I was listening to the gentleman, Mr. Snyder—under the provisions of the act as it presently stands, this person with Alzheimer's, who really can make a convincing argument because in their mind they believe they are right, could indicate to this brand-new court-appointed attorney what they want done. Under this act, the wording of the act says that the role of counsel shall be to advocate the course of action chosen by the client. Now, let us assume for a moment that you have an Alzheimer's patient telling the lawyer the course of action he wants him to follow. The lawyer, regardless of what he believes is right—if one follows the last three lines of page 17 of this bill—he has to go out and advocate what the client wants. Now, it seems strange and inconsistent to me.

The other part that bothers me—you gathered a moment ago that it bothers me that there is, I believe, a waste of money—who chooses, for instance, whether or not to appeal the decision of the court? If the court decides that a guardian is needed and the attorney is told by his Alzheimer client, that is wrong, I want to appeal it, does the attorney, even though he may not think it is in the best interest of his client, does he go ahead and appeal and lay that extra \$2,000, \$3,000, \$4,000, \$5,000 on the estate of the incapacitated person?

I believe that the judges who hear these cases, relying on the testimony of the physicians who are before them - either by way of deposition, in person, or by videotape - can adequately safeguard the rights of the individuals involved. They have the right to review. If they think there is something in question, they can appoint a lawyer for the other side. They can have the case brought back before them in 1 year, 2 years, 3 years. They could even say, and if you are going to put them into a nursing home, we want another hearing. But from the beginning until the end, I do not see the need to have a mandated court-appointed attorney and run that expense. Thank you.

The SPEAKER. The Chair recognizes Mr. Kukovich.

Mr. KUKOVICH. Thank you, Mr. Speaker.

Let me take the opportunity to point out to the minority leader and some of the other speakers where they are missing the boat.

Now, what we are talking about here is not the instance where there is the loving, caring family, and in most of those cases, the intentions are good. Everybody who says, gee, let the judges decide, are assuming that the judges have no sense whatsoever. If the parties come before them and someone is clearly the victim of a chronic dementia and there is an evaluation that that is the case, then the case is over.

But in those cases, and unfortunately in Pennsylvania, because we apparently are the most backward State in the country, too many people who are not totally incapacitated or

have minor incapacities are not even seen by a judge, have no representation whatsoever. The very people we want to protect them from - those abusive family members - are the ones who are taking charge. Even if you have a Solomon as judge, that judge will never know whether this is an appropriate case or not, because there will never be the opportunity to provide the evidence. That is the whole point.

If you want to talk about costs, according to the Supreme Court administrator's office, there are a total statewide of about 2,400 of these cases. About 200 are DPW (Department of Public Welfare) institutional cases where, by Supreme Court rule, there has to be mandatory counsel anyway. Some counties, such as Luzerne County by order of the president of the common pleas court, mandate that there has to be counsel. In Luzerne County they have about 50 of these cases a year. In several other courts, including Allegheny County, most of the funds are covered by the costs of the State; no burden on the county, the State, et cetera. And there is language in here that says that where there might be costs accruing, the State would reimburse the county for that. But besides that, there is evidence to show, based on the Vecchione case, that where there is mandatory counsel, as the court has ordered in institutionalization cases, that is usually a deterrent to bringing these cases, and it cuts down on court costs. So if you factor in that deterrent aspect to those individuals who might want to take advantage of their guardianship, who might want to take advantage of an individual, mandatory counsel has a deterrent effect on those cases. That is the history in those States that have adopted this, and that would be the positive fiscal savings that we would experience down the road in Pennsylvania.

I would ask for a "no" vote on this amendment, Mr. Speaker.

The SPEAKER. The Chair recognizes Mr. Heckler.

Mr. HECKLER. Mr. Speaker, I would ask if the prime sponsor of this legislation, Mr. Kukovich, would stand for interrogation.

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

Mr. HECKLER. Mr. Speaker, you just indicated to the House, I believe, that it would be possible that a judge might never see the individual who would be declared incapacitated and that that is one of the reasons that the Hagarty amendment should be opposed.

Is it not correct that the legislation, even as amended, would provide for direct confrontation and in fact for a fairly detailed series of findings by any judge before an incapacitation would occur?

Mr. KUKOVICH. Under the current law, that is not the case. With the bill enacted, it would be the case, yes.

Mr. HECKLER. Thank you.

May I speak briefly on the bill?

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

Mr. HECKLER. Thank you.

Please be clear once again. What we have right now in Pennsylvania is not satisfactory. This bill, for the most part, is needed. We cannot argue that what has happened in the past is terrible to justify all of the excesses of this bill. One of the excesses is the requirement of mandatory counsel in each and every case.

As the bill stands with the Hagarty amendment in it, no person would be found to be incapacitated unless they had come before a judge in his presence or her presence, unless that judge had made specific findings, and unless that judge had evidence, including professional evidence—and we will talk about that in a later amendment—but had detailed evidence sustaining the heavy burden of finding that person incapacitated.

I would urge, for all of the reasons stated, the adoption of the Hagarty amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—127

| | | | |
|--------------|------------|------------|---------------|
| Adolph | Dietterick | Johnson | Robbins |
| Allen | Distler | Kenney | Roebuck |
| Angstadt | Dorr | Kondrich | Rudy |
| Argall | Durham | Langtry | Ryan |
| Barley | Evans | Lashingner | Saurman |
| Belardi | Fairchild | Lee | Schuler |
| Billow | Fargo | Leh | Scrimenti |
| Birmelin | Farmer | Lloyd | Semmel |
| Black | Fleagle | McCall | Serafini |
| Bortner | Flick | McVerry | Smith, B. |
| Bowley | Foster | Maiale | Smith, S. H. |
| Boyes | Fox | Marsico | Snyder, D. W. |
| Brandt | Freind | Mayernik | Snyder, G. |
| Broujos | Gallen | Merry | Stairs |
| Bunt | Gamble | Micozzie | Strittmatter |
| Burd | Gannon | Miller | Taylor, E. Z. |
| Burns | Geist | Moehlmann | Taylor, J. |
| Bush | Gladeck | Morris | Telek |
| Caltagirone | Godshall | Mowery | Tigue |
| Carlson | Gruitza | Murphy | Trello |
| Cawley | Gruppo | Nahill | Van Horne |
| Cessar | Hagarty | Nailor | Vroon |
| Chadwick | Hasay | Noye | Wambach |
| Civera | Hayden | O'Brien | Wass |
| Clark, B. D. | Hayes | Olasz | Weston |
| Clark, D. F. | Heckler | Oliver | Williams |
| Clark, J. H. | Herman | Perzel | Wilson |
| Clymer | Hershey | Phillips | Wogan |
| Colaizzo | Hess | Piccola | Wozniak |
| Cornell | Howlett | Raymond | Wright, J. L. |
| Davies | Jackson | Reber | Wright, R. C. |
| Dempsey | Jadlowiec | Reinard | |

NAYS—65

| | | | |
|-------------|-----------|-----------|---------------|
| Acosta | Fee | Levdansky | Robinson |
| Battisto | Freeman | Linton | Saloom |
| Belfanti | George | Lucyk | Staback |
| Bishop | Gigliotti | McHale | Steighner |
| Blaum | Haluska | McNally | Stish |
| Cappabianca | Hughes | Maine | Stuban |
| Carn | Itkin | Markosek | Tangretti |
| Cohen | James | Michlovic | Taylor, F. |
| Colafella | Jarolin | Mihalich | Thomas |
| Cole | Josephs | Mrkoncic | Trich |
| Corrigan | Kaiser | Pesci | Veon |
| Cowell | Kasunic | Petrone | Wright, D. R. |
| Coy | Kosinski | Pievskey | Yandrisevits |
| DeLuca | Kukovich | Pistella | |

DeWeese
Daley
Dombrowski

LaGrotta
Laughlin
Lescovitz

Preston
Rieger
Ritter

O'Donnell,
Speaker

NOT VOTING—5

Donatucci
Harper

Melio

Pressmann

Richardson

EXCUSED—5

Dininni
Petrarca

Pitts

Rybak

Scheetz

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?

Mr. PICCOLA offered the following amendments No. A2048:

Amend Sec. 5 (Sec. 5518), page 27, line 28, by inserting a bracket after "of" and inserting immediately thereafter

When the capacity of

Amend Sec. 5 (Sec. 5518), page 27, line 29, by inserting brackets before and after "whose competency"

Amend Sec. 5 (Sec. 5518), page 27, line 29, by inserting after "question"

in any hearing

Amend Sec. 5 (Sec. 5518), page 27, line 30, by inserting a bracket before "superintendent,"

Amend Sec. 5 (Sec. 5518), page 28, line 3, by inserting a bracket after "institution" and inserting immediately thereafter physician, licensed psychologist or other qualified expert

Amend Sec. 5 (Sec. 5518), page 28, line 3, by inserting a bracket before "as"

Amend Sec. 5 (Sec. 5518), page 28, line 5, by inserting after "court"

] unless timely objection is made prior to the deposition or the court, by special order,

Amend Bill, page 28, lines 6 through 27, by striking out "] To establish" in line 6 and all of lines 7 through 27

Amend Sec. 7, page 28, line 28, by striking out "7" and inserting

6

Amend Sec. 8, page 38, line 6, by striking out "8" and inserting

7

Amend Sec. 9, page 41, line 22, by striking out "9" and inserting

8

Amend Sec. 10, page 47, line 8, by striking out "10" and inserting

9

Amend Sec. 11, page 49, line 13, by striking out "11" and inserting

10

Amend Sec. 12, page 50, line 1, by striking out "12" and inserting

11

Amend Sec. 13, page 53, line 3, by striking out "13" and inserting

12

Amend Sec. 14, page 55, line 18, by striking out "14" and inserting

13

Amend Sec. 15, page 56, line 5, by striking out "15" and inserting

14

Amend Sec. 16, page 58, line 13, by striking out "16" and inserting

15

Amend Sec. 17, page 58, line 18, by striking out "17" and inserting

16

Amend Sec. 18, page 58, line 26, by striking out "18" and inserting

17

On the question,

Will the House agree to the amendments?

The SPEAKER. The gentleman, Mr. Piccola, is recognized.

Mr. PICCOLA. Thank you, Mr. Speaker.

The adoption of the prior amendment demonstrated the House's concern about costs to the people involved in having a family member in an incapacity proceeding. This amendment does the same thing. It does not deal, however, with legal costs but the costs associated with retaining an expert for purposes of testimony in the court proceeding.

The bill as presently written changes the current law by requiring the live testimony of the expert in every single case, and it further elaborates as to what that expert has to testify about. It goes into great detail as to what that testimony must involve. It includes the nature and extent of incapacities and disabilities, the mental and emotional and physical condition, the adaptive behavior and social skills, services being utilized to meet essential requirements for physical health and safety or manage financial resources or to develop or regain abilities. Also, he must testify as to his opinion as to the types of assistance required and why no less restrictive alternatives would be appropriate and the probability that the incapacity may lessen or change. Now, you can imagine what kinds of costs will be associated with having such an expert retained to testify live in every case on all of those issues when some of them and many of them may be totally irrelevant to that particular case.

This amendment removes the language that I just cited from the bill, and it provides that the expert testimony may be provided by deposition or sworn statement and that they would be admissible unless a timely objection was made prior to the deposition or the court directed that live testimony be available for it.

This is more closely attuned to what the current law provides. In my estimation, the current law is working just fine in most of these cases, and I think we should adopt this amendment to insure that our constituents and the families of those who are involved in these incapacity hearings are not charged undue amounts of money merely to conform to the requirements of this new law.

I urge that we adopt the amendment.

The SPEAKER. The Chair recognizes Mr. Kukovich.

Mr. KUKOVICH. Mr. Speaker, this is a very bad amendment, and I cannot believe the maker of the amendment said that the current law is just fine.

If we eliminate that language which lays out what the nature of the incapacity is to be established and how the

expert testimony must be adopted, then what we are doing is eliminating the concept of limited guardianship. We will go back to the status quo. A court, for the most part, will have no basis on which to render an opinion. The evidence will be inadequate.

One of the reasons why this language was put in was because of the work that has been done around this State since 1986, where we have seen cases where you have had internists testify. A case in particular where a urologist testified had nothing to do with the concept of incompetence or, in our case, incapacity. I mean, whether someone is incontinent or not has nothing to do with their mental faculties, and those are the kinds of abuses that are taking place. If you strip this language out, then no matter how well intentioned the judge may be, depending on how poor the expert evidence is and the expert witness is—and these things have been accepted time and time again in this State—there will be no granting of limited guardianships.

Again, in most cases this may not be a problem, but we are not talking about most cases. We are talking about a large amount of cases, however, where people are being abused physically, sexually, financially, and unless we have this kind of language in the bill, they cannot be protected.

I think it is very clear that a “no” vote is necessary to preserve the intent of this legislation. I would ask for a “no” vote.

The SPEAKER. The Chair recognizes Mr. Piccola.

Mr. PICCOLA. Thank you, Mr. Speaker.

The gentleman, Mr. Kukovich, is not quite accurate when he says we are stripping this language out of the bill for good. The fact of the matter is, we are stripping it out of this section which applies to proceedings in all cases, and all cases, for the most part, involve the elderly and their families in this Commonwealth. The language that we are taking out in this section is being kept in the section dealing with limited guardianships, beginning on page 20 of the bill. We are not touching that language. We are saying that in all cases, as a general rule, this kind of evidence shall not be required unless the court determines that it shall be required. We are retaining that language on page 20 of the bill dealing with limited guardianships.

So the gentleman is not accurate when he says we are hamstringing the operation of this law. We are providing that language. We are keeping it in the bill when it is appropriate, when it deals with limited guardianships. But in the section dealing with all other cases where this kind of evidence is simply not relevant in most cases, we are taking the requirement that it be made available out. We are not saying the court is not going to require it in some cases. If the court feels that is necessary, the provision will be, according to this amendment, that the court can order that kind of testimony, but we simply do not need it in most cases, and all we are doing is adding additional costs to our constituents who have to go through this very difficult proceeding.

I urge that we adopt the amendment.

The SPEAKER. The Chair recognizes Mr. Kukovich.

Mr. KUKOVICH. Mr. Speaker, the maker of the amendment's argument could have been stronger if mandatory counsel was still in, but if we continue to strip out every piece of this bill that is going to provide the protections and give to the court the information they need to make intelligent decisions, then it becomes a hollow shell.

I would please ask you to vote “no.”

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—97

| | | | |
|--------------|-----------|-----------|---------------|
| Adolph | Dorr | Jadlowiec | Reber |
| Allen | Durham | Johnson | Reinard |
| Angstadt | Fairchild | Kenney | Robbins |
| Argall | Fargo | Kondrich | Ryan |
| Barley | Farmer | Langtry | Saurman |
| Birmelin | Fleagle | Lashinger | Schuler |
| Black | Flick | Lee | Semmel |
| Boyes | Foster | Leh | Serafini |
| Brandt | Fox | McVerry | Smith, B. |
| Bunt | Freind | Maiale | Smith, S. H. |
| Burd | Gallen | Marsico | Snyder, D. W. |
| Burns | Gannon | Merry | Snyder, G. |
| Bush | Geist | Micozzie | Stairs |
| Carlson | Gladeck | Miller | Strittmatter |
| Cessar | Godshall | Moehlmann | Taylor, E. Z. |
| Chadwick | Gruppo | Mowery | Taylor, J. |
| Civera | Hagarty | Nahill | Telek |
| Clark, D. F. | Hasay | Nailor | Vroon |
| Clark, J. H. | Hayes | Noye | Wass |
| Clymer | Heckler | O'Brien | Weston |
| Cornell | Herman | Perzel | Wilson |
| Davies | Hershey | Phillips | Wogan |
| Dempsey | Hess | Piccola | Wright, J. L. |
| Dietterick | Jackson | Raymond | Wright, R. C. |
| Distler | | | |

NAYS—98

| | | | |
|--------------|------------|------------|---------------|
| Acosta | Dombrowski | Linton | Robinson |
| Battisto | Donatucci | Lloyd | Roebuck |
| Belardi | Evans | Lucyk | Rudy |
| Belfanti | Fee | McCall | Saloom |
| Billow | Freeman | McHale | Scrimenti |
| Bishop | Gamble | McNally | Staback |
| Blaum | George | Maine | Steighner |
| Bortner | Gigliotti | Markosek | Stish |
| Bowley | Gruitza | Mayernik | Stuban |
| Broujos | Haluska | Michlovic | Tangretti |
| Caltagirone | Harper | Mihalich | Taylor, F. |
| Cappabianca | Hayden | Morris | Thomas |
| Carn | Hughes | Mrkoncic | Tigue |
| Cawley | Irkin | Murphy | Trello |
| Clark, B. D. | James | Olasz | Trich |
| Cohen | Jarolin | Oliver | Van Horne |
| Colafranca | Josephs | Pesci | Veon |
| Colaizzo | Kaiser | Petrone | Wambach |
| Cole | Kasunic | Pievsky | Williams |
| Corrigan | Kosinski | Pistella | Wozniak |
| Cowell | Kukovich | Pressmann | Wright, D. R. |
| Coy | LaGrotta | Preston | Yandrisevits |
| DeLuca | Laughlin | Richardson | |
| DeWeese | Lescovitz | Rieger | O'Donnell, |
| Daley | Levdansky | Ritter | Speaker |

NOT VOTING—2

| | |
|---------|-------|
| Howlett | Melio |
|---------|-------|

EXCUSED—5

Dininni
Petrarca

Pitts

Rybak

Scheetz

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

WELCOMES

The SPEAKER. The Chair is pleased to welcome to the hall of the House Alma Coles, who is director of Minority Business for Allegheny County, the guest of Representatives Preston and DeLuca.

Also, the Chair welcomes special and gifted students from the M. R. Reiter Elementary School in Bucks County. They are here with their teacher, Margaret Mount. They are the guests of Representative Tom Corrigan. Will the guests please rise.

CONSIDERATION OF HB 1380 CONTINUED

On the question recurring,

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

Mr. PICCOLA offered the following amendments No. A2014:

Amend Sec. 4 (Sec. 5512.1), page 20, lines 4 through 23, by striking out all of lines 4 through 22 and “(b)” in line 23 and inserting

(a)

Amend Sec. 4 (Sec. 5512.1), page 21, line 10, by striking out “(c)” and inserting

(b)

Amend Sec. 4 (Sec. 5512.1), page 21, line 14, by striking out “(d)” and inserting

(c)

Amend Sec. 4 (Sec. 5512.1), page 21, line 21, by striking out “(e)” and inserting

(d)

Amend Sec. 4 (Sec. 5512.1), page 21, line 25, by striking out “(f)” and inserting

(e)

Amend Sec. 4 (Sec. 5512.1), page 21, line 29, by striking out “(g)” and inserting

(f)

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes Mr. Piccola.

Mr. PICCOLA. Thank you, Mr. Speaker.

This amendment also goes to the issue of costs, primarily court costs for our counties, because we are going to have to have judges and their staffs working on these cases, and in this particular instance we have created a section that requires certain findings of fact by the court.

Now, I will say that we do not touch the section dealing with limited guardianships, but we take out the whole section on page 20 that requires the court to make certain findings, very detailed findings, in every case that is brought before it for incapacity. Many of these findings would be irrelevant

and not necessary in most cases, and I think we should leave it to the good sense of the court to determine what findings of fact they should make in each case as is appropriate.

We are simply adding, by keeping this section in the bill, to the costs associated with this legislation, which are great. I would urge that we adopt the amendment.

The SPEAKER. The Chair recognizes Mr. Kukovich.

Mr. KUKOVICH. I would ask for a “no” vote, Mr. Speaker.

First of all, in a previous amendment I went through the numbers based on the amount of cases and what the cost factors would be. I do not feel that the cost factors would be all that high. As a matter of fact, even with mandatory counsel taken out, I still think that there are some deterrents to some of the exorbitant costs that are currently going on in the area.

Here is the key point: In order to make the system work, this is a crucial section, because it deals with the findings, the findings of fact in the court case. They are reasonable; they are not extensive. Virtually every other State has this type of finding section. The key is, and what the ABA (American Bar Association) studies and the Department of Aging studies have found out, is that unless you create a preference for limited guardianship—and that is really what this section does, is create a preference within the judicial system by the nature of this law for limited guardianship—if it is not built in, for the most part the studies have shown that judges will not do it, or it will take many, many years for them to become accustomed to it and do it.

It brought to mind one of the cases that I had read about a 70-year-old man who had all his faculties, had an operation, was taken into a hospital in one of the suburban counties outside Pittsburgh, and while he was under morphine—There were about three different operations they had to give him. For a period of 5 weeks, roughly, he had to be drugged for the pain. During the time he was in the hospital under morphine, a guardian was appointed, began to liquidate his estate, froze his Social Security checks, and he almost lost his insurance because a payment was not made that should have come out of Social Security. Whenever he came out from under the operation and the morphine, at that point he was able to get some assistance, and he found a judge who was able to overturn that. But he was very lucky. Unless we build these kinds of mechanisms into the law, then those abuses are going to continue.

Again, on a term of balancing, it is not unduly burdensome to the routine cases, but for those individuals who have no one to stand up for them or protect their rights, this is absolutely crucial. I would ask for a “no” vote.

The SPEAKER. The Chair recognizes Mr. Lloyd.

Mr. LLOYD. Thank you, Mr. Speaker.

Mr. Speaker, I would like to interrogate Mr. Piccola.

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

Mr. LLOYD. Mr. Speaker, I am having a hard time following a lot of these technical points. We got amendments that

are striking and putting in, and it is a little difficult to understand exactly what is being done here, but as I understand your amendment, you are taking out certain findings and putting nothing back into the bill. Is that correct?

Mr. PICCOLA. We are taking out the requirement that the court make findings in those areas, in all cases.

Mr. LLOYD. All right. Well, does that mean that under current law, if someone wants to have a guardianship declared, that there is no requirement on the court to make findings, at least in general, along these same lines?

Mr. PICCOLA. Mr. Speaker, the current law in a separate section, not the section that we are dealing with here, already has the evidentiary standards that are required for incapacity, and the court in those cases will make findings along those lines.

Mr. LLOYD. Well, Mr. Speaker, I wondered, you know, Mr. Kukovich suggested to me in a sidebar that it goes back to case law. You suggest that there is something already in the law. If Mr. Kukovich has not bracketed that out of current law, then I suggest that what we have is two different provisions of the bill - one in the bill, one current law - that are going to be in conflict, and Mr. Kukovich ought to have an amendment, or else you are incorrect and you ought to be putting something back into the law.

The SPEAKER. Is the gentleman's question, should Mr. Piccola be putting something back into law?

Mr. LLOYD. Yes. I mean, he says that there is a provision of law, Mr. Speaker, that covers this. I would like to know what that provision of law is.

The SPEAKER. The gentleman's response was that there is an evidentiary standard in the bill. The gentleman's question was, is the court required to make findings along these general lines? The gentleman's answer was, the court is bound by evidentiary standards found somewhere else in the bill and generally makes findings.

The gentleman's next question is what?

Mr. LLOYD. Let me ask you, Mr. Speaker, under this particular language that you want to take out, the first thing that the court has to find is what is wrong with the person. Where in the bill is there a requirement; if it is not on page 20, lines 4 through 23, where in the bill is that obligation imposed on the court?

Mr. PICCOLA. Mr. Speaker, in every case under this law, the court makes findings of fact necessary to meet the standards required for incapacity.

Mr. LLOYD. All I am asking is—

Mr. PICCOLA. This section of the law that we are trying to take out requires additional findings mandatory in every case, whether or not they are relevant or not.

Mr. LLOYD. I might like to agree with you, Mr. Speaker, if you could show me on what page and on what line the standards that will apply if your amendment passes are.

Mr. PICCOLA. Well, for example, Mr. Speaker, on the very same page under "Limited guardian of the person," "Upon a finding that the person is partially incapacitated...." That is a finding of the court.

Mr. LLOYD. That is a limited guardianship, and I assume that they are talking about two different things here. You can have a guardianship which is not limited. In a guardianship which is not limited, if your amendment passes, where is the evidentiary standard to which you made reference?

Mr. PICCOLA. Throughout the legislation there is another one, the plenary guardian. On page 21, "A court may appoint a plenary guardian of the estate only upon a finding that the person is totally incapacitated...." There are requirements throughout the law for findings by the court.

Mr. LLOYD. In other words, it says "totally incapacitated" but it does not give any indication what that means and how the court is supposed to go about determining what is total incapacity other than the discretion of the court.

Mr. PICCOLA. There is a definition section as to what "incapacity" means. Obviously, the court has to make findings to support the finding of incapacity.

Mr. LLOYD. All right.

Mr. Speaker, on the amendment.

The SPEAKER. The gentleman may proceed.

Mr. LLOYD. Mr. Speaker, the gentleman says that there are things here which are duplicative, and maybe there are, although I frankly will confess that I have the same problem Mr. Ryan had earlier this afternoon trying to understand where it all is. But I looked down through these five things that he wants to strike and I cannot understand why any of those things are objectionable.

The first one is, you cannot declare somebody in need of a guardian unless you determine what is wrong with him. Number two, you cannot declare a guardianship unless you determine how bad his condition is. Number three, you have to determine, is there some other alternative to having a guardianship. Number four, you have to say, should there be some kind of limitations placed on this guardianship. And number five, you have to decide, is this perpetual or is this something to be reviewed periodically.

I do not understand what is wrong with any of those things. Those seem to me to be basic elemental due process rights, and I do not understand why we ought to take that language out of the bill in the absence of some standards someplace else which spell those out.

I think we ought to vote "no."

The SPEAKER. The Chair recognizes Mr. Piccola.

Mr. PICCOLA. Thank you, Mr. Speaker.

What is wrong with them, and perhaps I was negligent in not indicating what I think is wrong with them, is that in order for the court to make those findings— And they must make the findings. The way the bill is written, it says the court must make the findings. What is wrong with it is it requires the court to elicit testimony in great detail in order to make those findings, and that is going to require exhaustive investigation by the expert witnesses, which is going to add to the costs to the county and to the families involved. If that particular finding is not relevant to that case, why should we mandate it?

I think we should leave it to the court to make the appropriate findings in each case as is appropriate and not require the

court to make these findings where they are not appropriate. That is the simple fact of the matter. Do not mandate these things, because a mandate means additional costs.

The SPEAKER. The Chair recognizes Mr. Lloyd.

Mr. LLOYD. Mr. Speaker, Mr. Piccola says what is objectionable is that the court is going to have to get evidence. Is it not terrible that we are going to have to have some proof before we can have a guardianship declared? I mean, should we not just be able to go into court with a piece of paper?

There are lots of people we might like to have declared in need of a guardianship, and why should we have to prove anything, and why should it be necessary to bring in any witnesses? Gee, the petitioner must be honest and must be accurate or he would not be filing a petition. I mean, I think that is just not the way we ought to be doing business.

I supported the other side on a number of these amendments this afternoon, and may on a couple others yet to come, where I felt that there already had been a valid court determination. But here we are talking about that initial determination about whether or not a guardian should be appointed. Here we are talking about that 75-year-old grandmother whose children, for whatever reason, want to have a guardianship declared, and she says, I can take care of myself, and Mr. Piccola says, we should not elicit that testimony about that; we should not run up the costs. My answer to that is that his notion of public policy and protecting due process rights and the integrity of the individual and mine are not the same.

I am going to vote "no."

The SPEAKER. The Chair recognizes Mr. Stuban.

Mr. STUBAN. Thank you, Mr. Speaker.

Mr. Speaker, I rise to oppose this amendment. What shocks me here is to see all these attorneys stand up here today. These same attorneys would be out there defending a murderer or a thief or anybody else and wanting all this due process of law, all this proof that we are asking here for somebody just to protect themselves. I just do not see where it is right.

I ask for a negative vote here.

The SPEAKER. The Chair recognizes Mr. Saurman.

Mr. SAURMAN. Thank you, Mr. Speaker.

May I interrogate the maker of the amendment, please?

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

Mr. SAURMAN. Mr. Speaker, if I understand your purpose, it would be to remove the requirements for gathering every piece of evidence that is found on page 20. Is that correct?

Mr. PICCOLA. Page 20 between lines 4 and 22.

Mr. SAURMAN. All right.

Mr. PICCOLA. Only with respect to those requirements in every case. If you will look further, there are requirements for findings in limited guardianships. We are not touching those at all.

Mr. SAURMAN. On page 18, Mr. Speaker, the definition of "petition contents" indicates what must be included in the petition which is presented to the court. There is all of the evidence that I think people are asking about, perhaps not in a

form that can be accepted as factual but at least presented in that petition.

Mr. Speaker, I guess my question is this: Suppose that there is a warrant brought for someone's arrest for murder. Do we in any way indicate to the court what specific evidence they must have in order to find the finding of guilty?

Mr. PICCOLA. In a murder case?

Mr. SAURMAN. In a murder case. Do we not allow the court to determine whether there is guilt or innocence based upon the evidence that is presented before them, and we do not specify that it has to be a time, a place, but actually the preponderance of the evidence is the thing upon which the decision is made. Is that correct? I am not a lawyer.

Mr. PICCOLA. Beyond a reasonable doubt, but it is evidence that the elements of the crime, whatever it would be - murder or whatever - were met.

Mr. SAURMAN. In my attempt to understand then what is happening, and correct me if I am wrong, what you are saying is that the petition will be presented, the court will have the objective before them, and what you want to do is allow the court to proceed in whatever manner it deems proper to determine whether or not that petitioner is accurate. Is that correct?

Mr. PICCOLA. That is exactly right. Most of these points will be raised pro forma in the petition.

Mr. SAURMAN. May I make a statement, Mr. Speaker, very briefly?

The SPEAKER. The gentleman may proceed.

Mr. SAURMAN. Mr. Speaker, it just seems to me to be very logical that we have a court that functions normally without our direction. I would think that the most important thing is that the court does in fact look at the evidence, whatever evidence it needs, in order to come to the conclusion it needs and that we not be setting forth specific things that the court should look at. We might even omit something in our wisdom.

I think we should let that determination to the courts, and that is what I think this amendment asks to have done. I would ask for its support.

The SPEAKER. The Chair recognizes Mr. Kukovich.

Mr. KUKOVICH. Mr. Speaker, I appreciate what Representatives Stuban and Lloyd said. And one quick answer to what Representative Piccola said about why do we need this list of specific findings. I guess he did not listen to my anecdote about the 70-year-old man. If you do not look to the duration, for example, I guess he could have had his rights taken away forever while he was in the hospital. I suppose while he was sedated and in the emergency room, yes, he was not competent, but in 5 weeks he would be. Is it going to cost too much to just find out if somebody is in the hospital before they take away their rights to control their own lives? I think not.

That is an example why this is a bad amendment and why all the States around us require specific findings, why most of the States in the country require those specific findings.

Let us defeat this amendment and move ahead and try to bring Pennsylvania into the 20th century before we reach the 21st century. I would ask for a "no" vote.

The SPEAKER. The Chair recognizes Mr. Ryan.

Mr. RYAN. Mr. Speaker, if the gentleman, Mr. Lloyd, is still with us, turn to page 28; I finally found it. If you look on page 28 from lines 6 through 27, it is pretty well set out the various things that must be brought before the court prior to the determination of incapacity, and it addresses some of the very problems the gentleman, Mr. Kukovich, was making reference to a moment ago, not the least of which is the one that says "an opinion regarding the probability that the extent of the...incapacitated person's incapacities may significantly lessen or change." So many of these things are addressed.

I guess all I can say about the amendment is it seems to be doing away with surplusage language - language that really is not needed, that is somewhat confusing, perhaps, when read in conjunction with the language on page 28, which sets forth everything that must be brought before the court.

Under those circumstances I think we should go along with the Piccola amendment.

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

The following roll call was recorded:

YEAS—92

| | | | |
|--------------|------------|-----------|---------------|
| Adolph | Dietterick | Hess | Raymond |
| Allen | Distler | Jackson | Reber |
| Argall | Durham | Jadlowiec | Reinard |
| Barley | Fairchild | Johnson | Robbins |
| Battisto | Fargo | Kenney | Ryan |
| Birmelin | Farmer | Kondrich | Saurman |
| Black | Fleagle | Langtry | Schuler |
| Brandt | Flick | Lashinger | Semmel |
| Bunt | Foster | Lee | Serafini |
| Burd | Fox | Leh | Smith, B. |
| Burns | Freind | Marsico | Smith, S. H. |
| Bush | Gallen | Merry | Snyder, D. W. |
| Carlson | Gannon | Micozzie | Stairs |
| Cessar | Geist | Miller | Strittmatter |
| Chadwick | Gladdeck | Moehlmann | Taylor, E. Z. |
| Civera | Godshall | Mowery | Taylor, J. |
| Clark, D. F. | Gruppo | Nahill | Telek |
| Clark, J. H. | Hagarty | Nailor | Vroon |
| Clymer | Hasay | Noye | Weston |
| Cole | Hayes | O'Brien | Wilson |
| Cornell | Heckler | Perzel | Wogan |
| Davies | Herman | Phillips | Wright, J. L. |
| Dempsey | Hershey | Piccola | Wright, R. C. |

NAYS—102

| | | | |
|--------------|-----------|-----------|------------|
| Acosta | Donatucci | Lloyd | Roebuck |
| Angstadt | Dorr | Lucyk | Rudy |
| Belardi | Evans | McCall | Saloom |
| Belfanti | Fee | McHale | Scrimenti |
| Billow | Freeman | McNally | Snyder, G. |
| Bishop | Gamble | McVerry | Staback |
| Blaum | George | Maiale | Steighner |
| Bortner | Gigliotti | Maine | Stish |
| Bowley | Gruitza | Markosek | Stuban |
| Boyes | Haluska | Mayernik | Tangretti |
| Broujos | Harper | Michlovic | Taylor, F. |
| Caltagirone | Hayden | Morris | Thomas |
| Cappabianca | Howlett | Mrkoncic | Tigue |
| Carn | Hughes | Murphy | Trello |
| Cawley | Itkin | Olasz | Trich |
| Clark, B. D. | Jarolin | Oliver | Van Horne |

| | | | |
|------------|-----------|------------|---------------|
| Cohen | Josephs | Pesci | Veon |
| Colaella | Kaiser | Petrone | Wambach |
| Colaizzo | Kasunic | Pievsky | Wass |
| Corrigan | Kosinski | Pistella | Williams |
| Cowell | Kukovich | Pressmann | Wozniak |
| Coy | LaGrotta | Preston | Wright, D. R. |
| DeLuca | Laughlin | Richardson | Yandrisevits |
| DeWeese | Lescovitz | Rieger | |
| Daley | Levdansky | Ritter | O'Donnell, |
| Dombrowski | Linton | Robinson | Speaker |

NOT VOTING—3

| | | |
|-------|-------|-----------|
| James | Melio | Mihalich |
| | | EXCUSED—5 |

| | | | |
|----------|-------|-------|---------|
| Dininni | Pitts | Rybak | Scheetz |
| 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 as amended?

Mr. McVERRY offered the following amendments No. A2001:

Amend Sec. 3 (Sec. 5511), page 15, lines 11 through 13, by striking out "in incapacitated" in line 11, all of line 12 and "sufficient facts to proceed. Written notice" in line 13

Amend Sec. 3 (Sec. 5511), page 15, line 14, by inserting a bracket after "given"

Amend Sec. 3 (Sec. 5511), page 15, lines 14 and 15, by striking out "in large type and in simple language to the alleged"

Amend Sec. 3 (Sec. 5511), page 15, lines 15 through 28, by striking out "The notice shall indicate the" in line 15, all of lines 16 through 27 and "the hearing." in line 28 and inserting The Supreme Court shall provide by general rule that notice of the petition and hearing shall be by personal service, in large type and simple language, and shall indicate the legal rights in the proceedings and those which can be lost by the alleged incapacitated person as a result of the proceeding.

Amend Sec. 3 (Sec. 5511), page 16, line 3, by striking out "person or"

Amend Sec. 3 (Sec. 5511), page 18, lines 18 through 30; page 19, lines 1 through 7, by striking out all of said lines on said pages

Amend Bill, page 58, by inserting between lines 12 and 13

Section 16. The Supreme Court shall, by general rule, promulgate a revised form for the content of petitions filed under 20 Pa.C.S. § 5511 (relating to petition and hearing; examination by court-appointed physician), which shall reflect the amendments made by this act.

Amend Sec. 16, page 58, line 13, by striking out "16" and inserting

17

Amend Sec. 17, page 58, line 18, by striking out "17" and inserting

18

Amend Sec. 18, page 58, line 26, by striking out "18" and inserting

19

On the question,

Will the House agree to the amendments?

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

Mr. McVERRY. Thank you, Mr. Speaker.

Mr. Speaker, I believe that amendment A2001 is an amendment which has been agreed to by the prime sponsor of the bill. However, I will tell you that HB 1380 places in great detail the specific contents of the notice of the hearing and the petition for guardianship. Those are set forth on pages 15 and 18 of the bill.

The Pennsylvania Supreme Court routinely strikes provisions of statutes that they determine are procedural by relying on their constitutional authority to govern the procedural aspects of litigation. In my opinion, it is virtually guaranteed that these two sections of the bill would be in serious jeopardy when reviewed by the Supreme Court insofar as it is their general tack to determine through rules what the contents of petitions and notices should be in litigation matters.

This amendment purports to strike the detailed language of HB 1380, but it also provides general direction to the court, suggesting new rules are appropriate and that they should reflect the significant nature of a guardianship proceeding and the new changes in the law.

I urge your favorable consideration of this amendment.

The SPEAKER: The Chair recognizes Mr. Kukovich.

Mr. KUKOVICH. Thank you, Mr. Speaker.

Originally I had agreed to this. Although the language in the bill is stronger, I did not have that much of a problem with the McVerry amendment. However, without the mandatory counsel, then we have got a major problem, because with what is being removed on the bottom of page 18 and the first seven lines of page 19, the way I read this, it is going to no longer deal with, as part of the contents of the petition, whether there is an adverse interest or a conflict of interest between the proposed guardian and the function they will be performing with the person who will be found to be incapacitated or have a limited capacity. It is something that could have been protected if there were counsel. With that not in, I think I am afraid I have to ask for a "no" vote on this amendment, because it cuts into the protections for those individuals who have no other recourse.

I would ask for a "no" vote.

The SPEAKER: The Chair recognizes Mr. McVerry.

Mr. McVERRY. Mr. Speaker, with all due respect, I do not believe that the issue of mandatory counsel has a thing to do with this issue. What I am saying to you is that routinely, in hundreds of cases where the General Assembly has set forth the contents of petitions and notices that are normally within the province of the court, the Supreme Court strikes the statutes. I have examples of hundreds of statutes where that has occurred in the course of the history of the Commonwealth.

I am suggesting to you that it is highly likely that the Supreme Court will strike those two sections, and rather than bring sections of the bill to final enactment that would place the legislation in jeopardy when reviewed by the Supreme Court, I am suggesting that they be deleted with an admonition to the court or a suggestion to the court in the bill that it provide the necessary rules and notice provisions by rule that would certainly assure all parties to the litigation of adequate notice of what the entire matter is about.

I urge your favorable adoption.

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

The following roll call was recorded:

YEAS—96

| | | | |
|--------------|-----------|-----------|---------------|
| Adolph | Distler | Jackson | Reber |
| Allen | Dorr | Jadlowiec | Reinard |
| Angstadt | Durham | Johnson | Robbins |
| Argall | Fairchild | Kenney | Ryan |
| Barley | Fargo | Kondrich | Saurman |
| Birmelin | Farmer | Langtry | Schuler |
| Black | Fleagle | Lashinger | Semmel |
| Boyes | Flick | Lee | Serafini |
| Brandt | Foster | Leh | Smith, B. |
| Bunt | Fox | McVerry | Smith, S. H. |
| Burd | Freind | Marsico | Snyder, D. W. |
| Burns | Gallen | Merry | Snyder, G. |
| Bush | Gannon | Micozzie | Stairs |
| Carlson | Geist | Miller | Strittmatter |
| Cessar | Gladeck | Moehlmann | Taylor, E. Z. |
| Chadwick | Godshall | Mowery | Taylor, J. |
| Civera | Gruppo | Nahill | Telek |
| Clark, D. F. | Hagarty | Nailor | Vroon |
| Clark, J. H. | Hasay | Noye | Wass |
| Clymer | Hayes | O'Brien | Weston |
| Cornell | Heckler | Perzel | Wilson |
| Davies | Herman | Phillips | Wogan |
| Dempsey | Hershey | Piccola | Wright, J. L. |
| Dietterick | Hess | Raymond | Wright, R. C. |

NAYS—100

| | | | |
|--------------|-----------|------------|---------------|
| Acosta | Donatucci | Lloyd | Robinson |
| Battisto | Evans | Lucyk | Roebuck |
| Belardi | Fee | McCall | Rudy |
| Belfanti | Freeman | McHale | Saloom |
| Billow | Gamble | McNally | Scrimenti |
| Bishop | George | Maiale | Staback |
| Blaum | Gigliotti | Maine | Steighner |
| Bortner | Gruitza | Markosek | Stish |
| Bowley | Haluska | Mayernik | Stuban |
| Broujos | Harper | Michlovic | Tangretti |
| Caltagirone | Hayden | Mihalich | Taylor, F. |
| Cappabianca | Howlett | Morris | Thomas |
| Carn | Hughes | Mrkonic | Tigue |
| Cawley | Itkin | Murphy | Trello |
| Clark, B. D. | James | Olasz | Trich |
| Cohen | Jarolin | Oliver | Van Horne |
| Colaella | Josephs | Pesci | Veon |
| Colaizzo | Kaiser | Petrone | Wambach |
| Cole | Kasunic | Pievsky | Williams |
| Corrigan | Kosinski | Pistella | Wozniak |
| Cowell | Kukovich | Pressmann | Wright, D. R. |
| Coy | LaGrotta | Preston | Yandrisevits |
| DeLuca | Laughlin | Richardson | |
| DeWeese | Lescovitz | Rieger | O'Donnell, |
| Daley | Levdansky | Ritter | Speaker |
| Dombrowski | Linton | | |

NOT VOTING—1

Melio

EXCUSED—5

| | | | |
|----------|-------|-------|---------|
| Dininni | Pitts | Rybak | Scheetz |
| 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 as amended?

Mr. McVERRY offered the following amendments No. A2047:

Amend Sec. 4 (Sec. 5512.3), page 23, lines 7 through 30; page 24, lines 1 through 21, by striking out all of said lines on said pages

Amend Sec. 4 (Sec. 5512.4), page 24, line 22, by striking out “5512.4” and inserting

5512.3

Amend Sec. 7 (Sec. 5521), page 31, by inserting between lines 8 and 9

(c) Reports.—

(1) Each guardian of an incapacitated person shall file with the court appointing him a certification, at least once within the first 12 months of his appointment and at least annually thereafter, attesting to the following:

(i) Guardian of the estate:

(A) current principal and how it is invested;

(B) current income;

(C) expenditures of principal and income since the last report; and

(D) needs of the incapacitated person for which the guardian has provided since the last report.

(ii) Guardian of the person:

(A) current address and type of placement of the incapacitated person;

(B) major medical or mental problems of the incapacitated person;

(C) a brief description of the incapacitated person's living arrangements and the social, medical, psychological and other support services he is receiving;

(D) the opinion of the guardian as to whether the guardianship should continue or be terminated or modified, and the reasons therefor; and

(E) number and length of times the guardian visited the incapacitated person in the past year.

(2) The court shall require the filing of a final report within 60 days of the death or restoration of capacity of the incapacitated person.

Amend Sec. 7 (Sec. 5521), page 31, line 9, by striking out “(c)” and inserting

(d)

Amend Sec. 7 (Sec. 5521), page 31, line 26, by striking out “(d)” and inserting

(e)

Amend Sec. 7 (Sec. 5521), page 32, line 3, by striking out “(e)” and inserting

(f)

Amend Sec. 7 (Sec. 5521), page 32, line 11, by striking out “(F)” and inserting

(g)

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes Mr. McVerry.

Mr. McVERRY. Thank you, Mr. Speaker.

As written, the bill sets forth a rather detailed and cumbersome reporting procedure which requires the detailed report to be filed within 6 months of the entry of a guardianship order and annually thereafter. In addition, it requires guardians of the estate to not only file financial information with the court but also information regarding the personal

affairs of the incapacitated person, generally a subject to which the guardian of the estate has no duty and, consequently, no knowledge.

This amendment recognizes the importance of requiring accountability of personal and financial guardians by requiring them to file annual reports with the court. Personal guardians must file the report indicating the current placement of the person, major medical and mental problems, services being provided to the person, and the opinion of the guardian as to whether the guardianship should be continued or modified. The guardian of the estate must provide information regarding the estate, how the principal is invested, its current income, expenditures during the past year, and the needs of the person.

Again, this reflects the reform suggested by the Kukovich bill and has also been embraced by the judges and bar association. I urge your favorable approval of this amendment.

The SPEAKER. The Chair recognizes Mr. Kukovich.

Mr. KUKOVICH. Thank you, Mr. Speaker.

I will agree to this amendment. I think the reporting language in the McVerry amendment is fine. If that will in his mind alleviate some of what he might consider to be burdensome, I will agree to that, and 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—195

| | | | |
|--------------|------------|-----------|---------------|
| Acosta | Dombrowski | LaGrotta | Rieger |
| Adolph | Donatucci | Langtry | Ritter |
| Allen | Dorr | Lashinger | Robbins |
| Angstadt | Durham | Laughlin | Robinson |
| Argall | Evans | Lee | Roebuck |
| Barley | Fairchild | Leh | Rudy |
| Battisto | Fargo | Lescovitz | Ryan |
| Belardi | Farmer | Levdansky | Saloom |
| Belfanti | Fee | Linton | Saurman |
| Billow | Fleagle | Lloyd | Schuler |
| Birmelin | Flick | Lucyk | Scrimenti |
| Bishop | Foster | McCall | Semmel |
| Black | Fox | McHale | Serafini |
| Blaum | Freeman | McNally | Smith, B. |
| Bortner | Freind | McVerry | Smith, S. H. |
| Bowley | Gallen | Maiale | Snyder, D. W. |
| Boyes | Gamble | Maine | Snyder, G. |
| Brandt | Gannon | Markosek | Staback |
| Broujos | Geist | Marsico | Stairs |
| Bunt | George | Mayernik | Steighner |
| Burd | Gigliotti | Merry | Stish |
| Burns | Gladeck | Michlovic | Strittmatter |
| Bush | Godshall | Micozzie | Stuban |
| Caltagirone | Gruitza | Mihalich | Tangretti |
| Cappabianca | Gruppo | Miller | Taylor, E. Z. |
| Carlson | Hagarty | Moehlmann | Taylor, F. |
| Carn | Haluska | Morris | Taylor, J. |
| 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 |
| Colafella | 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 | Kaiser | Pressmann | Wright, J. L. |
| DeWeese | Kasunic | Preston | Wright, R. C. |
| Daley | Kenney | Raymond | Yandrisevits |
| Davies | Kondrich | Reber | |
| Dempsey | Kosinski | Reinard | O'Donnell, |
| Dietterick | Kukovich | Richardson | Speaker |
| Distler | | | |

NAYS—1

Josephs

NOT VOTING—1

Melio

EXCUSED—5

| | | | |
|----------|-------|-------|---------|
| Dininni | Pitts | Rybak | Scheetz |
| 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?

Mr. McVERRY offered the following amendments No. A1998:

Amend Sec. 3 (Sec. 5511), page 16, line 21, by striking out the bracket before “; or”

Amend Sec. 3 (Sec. 5511), page 16, lines 21 through 23, by striking out “] and the court finds that an” in line 21, and all of lines 22 and 23

Amend Sec. 3 (Sec. 5511), page 16, line 28, by striking out the bracket before “.]”

Amend Sec. 3 (Sec. 5511), page 16, lines 28 through 30, by striking out “]; or” in line 28, and all of lines 29 and 30

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes Mr. McVerry.

Mr. McVERRY. Thank you, Mr. Speaker.

HB 1380 as it is currently drafted proposes a major change to the existing law regarding the presence of an alleged incapacitated person at a hearing.

Currently, the status of the law is that the person does not have to be present if a physician avers that because of the person's physical or mental condition, his welfare would not be promoted by his presence. The bill rightly strikes this standard from the law and requires that a doctor or a licensed psychologist testify that the person's physical or mental condition would be harmed by his presence, and if such testimony were afforded, then the person would not have to be present. This is a significant change from the existing standard and one which will undoubtedly result in more alleged incapacitated persons being required to attend such hearings.

I agree that the standard should be changed and that this is an appropriate standard to encourage the presence of more incapacitated persons at hearings. However, the bill goes further to require the court to find that conducting the hearing at the residence of the person rather than in the court-

room would not alleviate the harm. This, I believe, is a very impractical, cumbersome, and costly proposal. In essence, it would require the transporting of judges, lawyers, clerks, stenographic equipment, in some counties very long distances and for lengthy periods of time to the residence of the incapacitated person, which should not be placed as a mandate upon the court.

I believe that the language that should be included is reflected in this amendment, that the hearing may be held at the residence of the alleged incapacitated person and not a mandate as such, and the court will make that determination in the appropriate hearing.

I urge your support of the amendment.

The SPEAKER. The Chair recognizes Mr. Kukovich.

Mr. KUKOVICH. Thank you, Mr. Speaker.

As opposed to the other amendment which I could not support because mandatory counsel was taken out, I did not like this amendment originally, but now that mandatory counsel is out, in order to, I think, keep this part of the bill to conform to the other part, I will agree to this amendment.

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 | Ritter |
| Allen | Dorr | Lashinger | Robbins |
| Angstadt | Durham | Laughlin | Robinson |
| Argall | Evans | Lee | Roebuck |
| Barley | Fairchild | Leh | Rudy |
| Battisto | Fargo | Lescovitz | Ryan |
| Belardi | Farmer | Levdansky | Saloom |
| Belfanti | Fee | Linton | Saurman |
| Billow | Fleagle | Lloyd | Schuler |
| Birmelin | Flick | Lucyk | Scrimenti |
| Bishop | Foster | McCall | Semmel |
| Black | Fox | McHale | Serafini |
| Blaum | Freeman | McNally | Smith, B. |
| Bortner | Freind | McVerry | Smith, S. H. |
| Bowley | Gallen | Maiale | Snyder, D. W. |
| Boyes | Gamble | Maine | Snyder, G. |
| Brandt | Gannon | Markosek | Staback |
| Broujos | Geist | Marsico | Stairs |
| Bunt | George | Mayernik | Steighner |
| Burd | Gigliotti | Merry | Stish |
| Burns | Gladeck | Michlovic | Strittmatter |
| Bush | Godshall | Micozzie | Suban |
| Caltagirone | Gruitza | Mihalich | Tangretti |
| Cappabianca | Gruppo | Miller | Taylor, E. Z. |
| Carlson | Hagarty | Moehlmann | Taylor, F. |
| Carn | Haluska | Morris | Taylor, J. |
| 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 |
| Colaella | 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 | 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—1

Melio

EXCUSED—5

| | | | |
|----------|-------|-------|---------|
| Dininni | Pitts | Rybak | Scheetz |
| 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?

Mr. HECKLER offered the following amendment No. A2019: .

Amend Sec. 7 (Sec. 5521), page 29, lines 1 through 13, by striking out all of said lines and inserting

(a) Duty of guardian of the person.—A plenary guardian of the person shall act in the best interest of the person and be charged with the responsibility of making informed and responsible decisions with regard to the care and maintenance of the person of the incapacitated person. The plenary guardian of the person shall use his best efforts to ascertain the intent of the incapacitated person prior to his incapacity with respect to such care and maintenance and to implement such intent. In addition, where appropriate, the limited guardian of the person shall participate in the development of a plan of supportive services to meet the person's needs. The guardian shall encourage the incapacitated person, wherever possible, to develop or regain his capacity to manage his personal affairs.

On the question,

Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Mr. Heckler.

Mr. HECKLER. Thank you, Mr. Speaker.

I would submit that what we are dealing with here is some common sense and some housekeeping rather than some of the more sweeping issues that we have dealt with earlier in debate.

The bill proposes two different kinds of guardians: limited guardians, which is one of the revolutionary concepts in this bill and a very valuable and important concept; and plenary guardians. A plenary guardian is an overall guardian - a guardian who, according to the language of the bill, is only to be appointed where the person is found by the court to be totally incapacitated and in need of plenary services.

My amendment strikes language on page 29 of the bill that would require both kinds of guardians - both the limited guardian and the plenary guardian - to make a series of findings and to encourage the incapacitated person to participate to the maximum extent of his abilities in all decisions which affect him; other language which is absolutely appropriate in connection with limited guardians which is not appropriate in connection with plenary guardians.

The language of the amendment I am offering simply makes it clear that plenary guardians are to use their best judgment in acting in the interest of the incapacitated person whereas limited guardians are to behave exactly as the bill would otherwise require.

I would urge the adoption of the amendment.

The SPEAKER. The Chair recognizes Mr. Kukovich.

Mr. KUKOVICH. Thank you, Mr. Speaker.

I am not sure if this was intended in the drafting, and I think I know what the maker of the amendment is driving at, but there is an element of illogic here that I do not quite understand. The maker of the amendment in his language dealing with the plenary guardian of the person, you have the plenary guardian, who is a guardian who deals with someone who is totally incapacitated, using his best efforts to ascertain the intent of the incapacitated person prior to the incapacity, but you do not have that duty for the limited guardian to act in the best interests of the person. That seems to be contradictory, and I think there is a problem with that language. Could you try to explain that.

The SPEAKER. The gentleman, Mr. Kukovich, seeks to interrogate Mr. Heckler, who agrees. The gentleman may respond.

Mr. HECKLER. Thank you, Mr. Speaker.

I would call your attention to the sentence which begins the reference to the duties of a limited guardianship. That sentence begins "In addition, where appropriate." So the intention then, I believe, the plain language of the amendment is, first we set forth the duties of the plenary guardian, which are more limited; then we say, in addition to all of those duties, the limited guardian has those additional duties, which are intended to involve the incapacitated person in the decisionmaking process.

Mr. KUKOVICH. If I could continue to interrogate the maker of the amendment.

The language on page 29 of the bill addresses the guardian only needing to follow the preferences of the incapacitated person to the greatest possible extent. That language being considered, why do you think it is necessary to change that section in your amendment? I mean, in your explanation of the amendment, you seemed to make the argument that that was unduly burdensome. Could you explain why that is unduly burdensome?

Mr. HECKLER. I presume, Mr. Speaker, that every person who is appointed a guardian under this bill—and I suspect to see a substantial increase in the number of persons so appointed—is going to take very seriously their responsibilities, and specifically, the mandates of this legislation. I would suggest that where we know it is inappropriate, where the court, after a due process hearing, has determined that it is inappropriate that a person is in need of plenary guardianship, that they are totally incapacitated, that it is inappropriate to suggest to the guardian that nevertheless, they are to evaluate the appropriateness of this whole range of conduct. It may well be that it will be next envisioned that they are going to have to render a report to the court at some juncture,

specifically sort of checklisting - yes; I considered this; it is not appropriate because of these circumstances. It just seems logical to me that where we are talking about a plenary guardianship, we are talking about somebody for whom these criteria are not relevant; otherwise, they certainly are.

Mr. KUKOVICH. Thank you, Mr. Speaker.

I apologize to the House. We are getting into a convoluted legal argument now. Quite frankly, I would like to agree with Mr. Heckler, but the language that he wants to strike came into being because of a coalition of groups who agonized over almost every word, and although I would like to agree with Mr. Heckler, I am still too confused by this language. I would suggest that maybe after this bill passes the House, we could take a look at cleaning it up in the Senate.

At this point, unfortunately I think I would have to ask for a "no" vote. I do not find this particularly damaging, but it could be confusing to this bill whenever it goes over to the Senate, and I would request a "no."

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—96

| | | | |
|--------------|-----------|-----------|---------------|
| Adolph | Distler | Jackson | Reber |
| Allen | Dorr | Jadlowiec | Reinard |
| Angstadt | Durham | Johnson | Robbins |
| Argall | Fairchild | Kenney | Ryan |
| Barley | Fargo | Kondrich | Saurman |
| Birmelin | Farmer | Langtry | Schuler |
| Black | Fleagle | Lashinger | Semmel |
| Boyes | Flick | Lee | Serafini |
| Brandt | Foster | Leh | Smith, B. |
| Bunt | Fox | McVerry | Smith, S. H. |
| Burd | Freind | Marsico | Snyder, D. W. |
| Burns | Gallen | Merry | Snyder, G. |
| Bush | Gannon | Micozzie | Stairs |
| Carlson | Geist | Miller | Strittmatter |
| Cessar | Gladeck | Moehlmann | Taylor, E. Z. |
| Chadwick | Godshall | Mowery | Taylor, J. |
| Civera | Gruppo | Nahill | Telek |
| Clark, D. F. | Hagarty | Nailor | Vroon |
| Clark, J. H. | Hasay | Noye | Wass |
| Clymer | Hayes | O'Brien | Weston |
| Cornell | Heckler | Perzel | Wilson |
| Davies | Herman | Phillips | Wogan |
| Dempsey | Hershey | Piccola | Wright, J. L. |
| Dietterick | Hess | Raymond | Wright, R. C. |

NAYS—100

| | | | |
|--------------|-----------|-----------|------------|
| Acosta | Donatucci | Lloyd | Robinson |
| Battisto | Evans | Lucyk | Roebuck |
| Belardi | Fee | McCall | Rudy |
| Belfanti | Freeman | McHale | Saloom |
| Billow | Gamble | McNally | Scrimenti |
| Bishop | George | Maiale | Staback |
| Blaum | Gigliotti | Maine | Steighner |
| Bortner | Gruitza | Markosek | Stish |
| Bowley | Haluska | Mayernik | Stuban |
| Broujos | Harper | Michlovic | Tangretti |
| Caltagirone | Hayden | Mihalich | Taylor, F. |
| Cappabianca | Howlett | Morris | Thomas |
| Carn | Hughes | Mrkoncic | Tigue |
| Cawley | Itkin | Murphy | Trello |
| Clark, B. D. | James | Olasz | Trich |
| Cohen | Jarolin | Oliver | Van Horne |
| Colafrella | Josephs | Pesci | Veon |
| Colaizzo | Kaiser | Petrone | Wambach |
| Cole | Kasunic | Pievsky | Williams |

| | | | |
|------------|-----------|------------|---------------|
| Corrigan | Kosinski | Pistella | Wozniak |
| Cowell | Kukovich | Pressmann | Wright, D. R. |
| Coy | LaGrotta | Preston | Yandrisevits |
| DeLuca | Laughlin | Richardson | |
| DeWeese | Lescovitz | Rieger | O'Donnell, |
| Daley | Levdansky | Ritter | Speaker |
| Dombrowski | Linton | | |

NOT VOTING—1

Melio

EXCUSED—5

| | | | |
|----------|-------|-------|---------|
| Dininni | Pitts | Rybak | Scheetz |
| 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 as amended?

Mr. RYAN offered the following amendments No. A1697:

Amend Title, page 1, line 3, by striking out " , and" and inserting a semicolon

Amend Title, page 1, line 4, by removing the period after "42" and inserting

; and making repeals related to taxation of transfers of property involving husband or wife.

Amend Bill, page 58, by inserting between lines 17 and 18

Section 17. The provisions of 72 Pa.C.S. Ch. 17 (relating to inheritance and estate taxes), including, but not limited to, §§ 1707 (relating to transfers subject to tax), 1708 (relating to joint tenancy), 1711 (relating to transfers not subject to tax) and 1716 (relating to inheritance tax) are repealed insofar as they:

(1) require taxation of transfers of property passing to or for the use of a husband or wife at a rate in excess of 5% for estates of decedents dying on or after January 1, 1991, and before January 1, 1992;

(2) require taxation of transfers of property passing to or for the use of a husband or wife at a rate in excess of 4% for estates of decedents dying on or after January 1, 1992, and before January 1, 1993;

(3) require taxation of transfers of property passing to or for the use of a husband or wife at a rate in excess of 3% for estates of decedents dying on or after January 1, 1993, and before January 1, 1994;

(4) require taxation of transfers of property passing to or for the use of a husband or wife at a rate in excess of 2% for estates of decedents dying on or after January 1, 1994, and before January 1, 1995;

(5) require taxation of transfers of property passing to or for the use of a husband or wife at a rate in excess of 1% for estates of decedents dying on or after January 1, 1995, and before January 1, 1996; and

(6) require any taxation of transfers of property passing to or for the use of a husband or wife for estates of decedents dying on or after January 1, 1996.

Amend Sec. 17, page 58, line 18, by striking out "17" and inserting

18

Amend Sec. 18, page 58, line 26, by striking out "18" and inserting

19

On the question,

Will the House agree to the amendments?

The SPEAKER. The Chair recognizes the minority leader.

Mr. RYAN. Thank you, Mr. Speaker.

Mr. Speaker, let me begin by acknowledging that the gentleman, Mr. Gruitza, first introduced a bill—the number slips my mind right now—covering the subject that is my amendment. What my amendment does is bring Pennsylvania into the 20th century, and hopefully the 21st, so that it will be the same as 47 other States and the District of Columbia with respect to the taxation of an estate where one spouse is leaving their property to another spouse. The Federal Government recognizes this and does not tax it; 47 other States do not tax a transfer between a husband and a wife; and I am told by 1992, we will be the only State in the United States that taxes transfers between a husband and a wife at the death of one or the other of them.

A fiscal note was obtained from the Appropriations Committee, and it indicates that in the next fiscal year the cost would be \$7.9 million, and then it goes on— You all have a copy of the fiscal note on your desks. It goes on up into 1997, where the total cost is \$56 million.

Now, what we are talking about here is the family farm. We are talking about the family business. We are talking about the situation where a husband perhaps has inherited property or a wife has inherited property, has never gotten around to transferring it into joint names. We are talking about the personal property of one of the two spouses being in their name alone, and today we tax it.

This bill, I think, is something that is long overdue. I am sure Mr. Gruitza agrees with that, would be happy to endorse it. I have already confessed publicly that it was his bill that formed the basis for this amendment.

At this time, Mr. Speaker, I would ask for the support of the amendment.

Incidentally, I have a collection of editorials that I have picked up since the idea was first brought to light by the gentleman, Mr. Gruitza, and there are headlines on these editorials such as, the Scranton Times, "Abolish Widow's Tax"; the Pittsburgh Post-Gazette, "The cruelty of the 'widow's tax'"—Senator Pecora and Mr. Gruitza did a letter to the editor, "Death then taxes tough for a spouse" says the York Daily Record; Harrisburg Patriot, "'Widow's tax,' Time for state to give relief on transfer levy"; the Pittsburgh Press, "'Widow tax' on inheritance debated"; the Shamokin News, "Widow's tax should be repealed"; the Scranton Tribune, "End it now"; the Lewisburg Daily, "Widow's tax," and then an editorial against the tax and in favor of the bill; criticism from the Butler Eagle, "Pa. Clings to Widow's Tax"; Pittsburgh Press again saying we should do something about it; the Somerset Daily American, "Abolish 'widow's tax'"; Philadelphia Inquirer, "Why does the state tax widows?"; the Reading Eagle, "State widow's tax should be revoked"; the York Daily Record quoting the Grange, "Eliminate portion of inheritance tax law"; Delaware County Daily Times, "Kill state's death tax"—they always have cute headlines—the Lehigh Times News, "Widow tax, Lawmakers considering its demise," and editorializing in favor of it.

I think it is time, Mr. Speaker, that we give our senior citizens a real break like the rest of the other States are giving them.

GERMANENESS QUESTIONED

The SPEAKER. The Chair recognizes Mr. Kukovich.

Mr. KUKOVICH. Thank you, Mr. Speaker.

I understand the popular efficacy of this amendment. However, I would call to the members' attention that this amendment would affect the inheritance tax law, which is Title 72. This is Title 20.

I would like to make a motion that this amendment is non-germane, because it not only amends a totally different title but the subject matter is also totally different. If ever there has been a nongermane amendment, this is it.

After about 10 years of trying to reform the guardianship law in this State—and this is the first real chance we have had—to try to have this sabotaged—and let us face it; that is what would happen by creating another budgetary hole—we are going to destroy the chance to protect those older Pennsylvanians, those Pennsylvanians with some mental incapacities who need the help, who are having their rights trampled on every day.

I would ask the members to vote clearly on the parliamentary motion that it is nongermane and move ahead with the bill.

The SPEAKER. The gentleman is in order. The matter that is therefore now before the House is a motion that this amendment is nongermane. That is an issue to be decided by the House under rule 27. It is a debatable issue.

On the question,

Will the House sustain the germaneness of the amendments?

The SPEAKER. The Chair recognizes the minority leader.

Mr. RYAN. Mr. Speaker, Title 20 deals with the Decedents, Estates and Fiduciaries Act. This is a tax on a decedent's estate. We are changing the tax on it.

I think this is a ploy to get around addressing this issue. The \$6.7 million or \$9 million we are talking about is just a drop in the bucket compared to what we are going through in this Commonwealth now. The senior citizens of this State deserve that drop in the bucket, not to avoid it with some parliamentary maneuver such as what we are doing here now.

If you have courage, vote that it is germane.

I might add further, Mr. Speaker, that the Joint State Government Commission apparently thinks it is germane, or at least they suggest it is germane, because in their report—and that is where this first originated from—it all came out of the Probate, Estates and Fiduciaries Code. So I do not know why it would be germane for Joint State Government and not germane for us.

The SPEAKER. The Chair recognizes Mr. Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, this is an issue here about the germaneness of tax changes that really dwarfs the significance of this particu-

lar vote. If Mr. Ryan is successful in convincing us that the taxes are germane to something like this, tax votes are going to be germane to a lot of other things as well. And while on this bill it may be very nice to be able to vote to cut taxes, on other bills we may be stuck with votes to increase taxes. I think tax votes ought to remain separate. That is consistent with the rules and traditions of the House of Representatives.

I would very strongly urge that this amendment not being germane pass and that we avoid dealing with this irrelevant motion to amend this bill at this time.

The SPEAKER. The Chair recognizes Mr. Dorr.

Mr. DORR. Thank you, Mr. Speaker.

Mr. Speaker, as the minority leader has pointed out, the subject matter is germane. This is a tax on a decedent's estate. That is the code we are dealing with.

Mr. Speaker, the ability of the senior citizens and the independent businesspeople of Pennsylvania to discern the political maneuverings that occur on the floor of the House of Representatives has grown greatly in recent times, and they are going to understand, if we vote against the germaneness of this issue, that that is exactly what it was, a political maneuver. There can be no vote more important to the independent businesses, and therefore to job-building in Pennsylvania, than the vote we are about to cast. That is, the key vote on this issue will be on this motion, and I suggest that those people who are out there in Pennsylvania that fall into those categories of senior citizens and independent businesses are going to understand exactly what happens on this vote.

I would urge the members to vote in favor of the germaneness of this issue.

The SPEAKER. The Chair recognizes Mr. Gruitza.

Mr. GRUITZA. Thank you, Mr. Speaker.

Mr. Speaker, what Mr. Ryan says is the truth, and I cannot argue with him at all on the substance of this proposal.

I had the privilege, I guess, of serving on the decedents' estates task force with a number of other members, all of whom cosponsored HB 921 that cleared the Finance Committee unanimously and is now in the Appropriations Committee because of the fiscal implications that the bill entails.

I stand with mixed emotions in asking for a vote against germaneness, because I have been advised by the Department of Aging and other representatives of AARP (American Association of Retired Persons) that their interest in Mr. Kukovich's bill outweighs their interest at this point in time in HB 921. I would very much like to see the provisions of HB 921 become law; however, I am afraid that if inserted into this bill, neither of the provisions will become law and the bill will be destined to either a veto or— It will not become law.

So I am going to ask—as much as I hate to—my colleagues to vote “no” on germaneness, even though this is an issue that is very dear to me and it is certainly something that I think this House is going to have to deal with in the near future, and I am hopeful that we will be able to do that. I just think that in the interest of this very important piece of legislation that Mr. Kukovich has been working on for a long time, that we need to keep this provision out at this time, and

I guess my pledge to the House will be to continue to work to try to get HB 921 enacted into law, hopefully before the end of this session, if that is possible.

I mean, this is a tough vote for me. I guess I am asking my colleagues on this side, in the interest of this legislation, to vote “no” and try to keep this out of this bill, and hopefully we will be able to pick it up later and enact a measure when we can work out the fiscal ramifications. Thank you.

The SPEAKER. The Chair recognizes Mr. Pressmann.

Mr. PRESSMANN. Thank you, Mr. Speaker.

Mr. Speaker, I think we all recognize what this is. This is another political ploy by my good friend, the minority leader, to give us an issue for the election. I think it is very interesting that the minority leader and the distinguished minority chairman on Health and Welfare are now so very interested in the dollars of our senior citizens. It was not too very long on this House floor those two gentlemen led the fight against the MOM (medicare overcharge measure) bill, that the dollars that they would save our senior citizens from the MOM bill makes this look like pennies.

Mr. Speaker, I think this is obvious. They are looking for a vote; something that they can put in the mail in October. Let us keep this bill clean. Let us send a good bill over to the Senate. Thank you.

The SPEAKER. The Chair recognizes Mr. Ryan.

Mr. RYAN. Thank you.

Apparently, speaking of germane, it does not matter what we are debating here at the moment. If you want to debate politics with me, I would be very happy to do it. And maybe you have given us an idea; maybe we will take a close look at this vote.

The fact remains, the fact remains, that if you check with Mr. Gruitza, months and months and months ago we were trying to move this bill out. I mean, somewhere along the line, politics comes into it, but not last year when he and I were trying to move this bill. And yes, I believe this is an important bill and so does he, and he is on the spot. Maybe it is politics that will make this bill move; maybe that is what it needed, because it certainly has not come out of your Appropriations Committee this year, and if this goes down, you are going to vote it anyway because I will put a discharge resolution in.

The SPEAKER. For the information of the members, the Chair has been willing to let the members wander as long as they have been brief. So a lack of germaneness, I think, is tolerable to the House as long as it is brief.

The Chair recognizes the majority leader.

Mr. DeWEESE. I just would anticipate that the gentleman from Media be as exorcised and as enthusiastic, regardless of the outcome of this measure, as the months and years go by—because I hope I have the privilege of serving with him for months and years—when the day comes for us to raise additional revenue to pay for these multitudinous programs that you so unequivocally support in these waning weeks of this fiscal year. I think it is incumbent upon all of us to remember that there will come a time when we will have to be much more involved in raising the revenue to pay for these additional programs, like the one we are discussing this afternoon.

Mr. RYAN. Mr. Speaker, on that question—

The SPEAKER. The gentleman is recognized and may proceed.

Mr. RYAN. On the question of taxes, it is my understanding that you have never voted for a tax, and I sincerely suspect that you are going to have to lead that charge one of these days because we have got some real problems facing this Commonwealth right now. I mean, we are going to have to do something pretty fancy, and this \$7 million that is involved right here is not going to affect the outcome of this year's budget or next year's budget, but it may very well affect the outcome of any number of small business people and small estates. I daresay, in answer to one of the remarks of I believe it was the gentleman, Mr. Pressmann—I am not sure of that—that the Association of Retired Persons is far more interested in getting a break on their taxes than they are on this bill, but this way they get both for the price of one.

The SPEAKER. The Chair recognizes the majority leader and advises the members that the current debate is taking place under unanimous consent, that we will return to the issue of germaneness shortly, and that this debate is further limited to the leadership.

Mr. DeWEESE. I was one of a corporal's guard who voted for one of the revenue-raising measures under the Thornburgh administration for highways and bridges, so I would like to correct that misapprehension on the gentleman's part.

I also would like to say that the \$7-million price tag that we are debating today will eventually escalate into a price tag of approximately \$60 million, according to our fiscal analysts.

I would also finally like to say that as has been the case since the days of Penn, the disparate sides will come together and we will solve our problems, and since you are used to voting for taxes and I want to vote for some in the next year or two or three, I am sure we will be able to work together.

The SPEAKER. Returning to the issue of germaneness, the Chair recognizes Mr. Gannon.

Mr. GANNON. Thank you, Mr. Speaker.

Mr. Speaker, I think one of the other speakers earlier on kind of clouded this issue, and I think we have to make perfectly clear that this House votes on the germaneness of this issue to the bill before us and not to be concerned about what is going to happen next week or next year or next month or whatever.

The other thing, too, is, Mr. Kukovich in his comments pointed out that AARP and some other organizations were supporting this and that was the reason why we should vote against germaneness. Well, let me say this, Mr. Speaker, to put this into focus: Not everyone is going to be incompetent, either totally or partially, but everyone is going to die, and this deals with a death tax that many, many, in fact I think every person in this room should be concerned about at some point in time.

It is germane to this issue. We should vote "yes" and then get to the bill.

The SPEAKER. The Chair recognizes Mr. Kukovich.

Mr. KUKOVICH. Thank you, Mr. Speaker.

For the edification of the members, I just received a message that the State director of the State AARP said that this bill is so important to them that they would like the bill to pass without this amendment and deal with the issue of the inheritance tax later.

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

On the question recurring,

Will the House sustain the germaneness of the amendments?

The following roll call was recorded:

YEAS—100

| | | | |
|--------------|-----------|-----------|---------------|
| Adolph | Distler | Jadlowiec | Reber |
| Allen | Dorr | Johnson | Reinard |
| Angstadt | Durham | Kenney | Robbins |
| Argall | Fairchild | Kondrich | Ryan |
| Barley | Fargo | Langtry | Saurman |
| Birmelin | Farmer | Lashinger | Schuler |
| Black | Fleagle | Lee | Semmel |
| Bortner | Flick | Leh | Serafini |
| Boyes | Foster | McCall | Smith, B. |
| Brandt | Fox | McVerry | Smith, S. H. |
| Bunt | Freind | Marsico | Snyder, D. W. |
| Burd | Gallen | Merry | Snyder, G. |
| Burns | Gannon | Micozzie | Stairs |
| Bush | Geist | Miller | Strittmatter |
| Carlson | Gladeck | Moehlmann | Taylor, E. Z. |
| Cessar | Godshall | Morris | Taylor, J. |
| Chadwick | Gruppo | Mowery | Telek |
| Civera | Hagarty | Nahill | Vroon |
| Clark, D. F. | Hasay | Nailor | Wass |
| Clark, J. H. | Hayes | Noye | Weston |
| Clymer | Heckler | O'Brien | Wilson |
| Cornell | Herman | Perzel | Wogan |
| Davies | Hershey | Phillips | Wright, J. L. |
| Dempsey | Hess | Piccola | Wright, R. C. |
| Dietterick | Jackson | Raymond | Yandrisevits |

NAYS—96

| | | | |
|--------------|-----------|------------|---------------|
| Acosta | Donatucci | Linton | Robinson |
| Battisto | Evans | Lloyd | Roebuck |
| Belardi | Fee | Lucyk | Rudy |
| Belfanti | Freeman | McHale | Saloom |
| Billow | Gamble | McNally | Scriminti |
| Bishop | George | Maiale | Staback |
| Blaum | Gigliotti | Maine | Steighner |
| Bowley | Gruitza | Markosek | Stish |
| Broujos | Haluska | Mayernik | Stuban |
| Caltagirone | Harper | Michlovic | Tangretti |
| Cappabianca | Hayden | Mihalich | Taylor, F. |
| Carn | Howlett | Mrkonc | Thomas |
| Cawley | Hughes | Murphy | Tigue |
| Clark, B. D. | Itkin | Olasz | Trello |
| Cohen | James | Oliver | Trich |
| Colaella | Jarolin | Pesci | Van Horne |
| Colaizzo | Josephs | Petrone | Veon |
| Cole | Kaiser | Pievsky | Wambach |
| Corrigan | Kasunic | Pistella | Williams |
| Cowell | Kosinski | Pressmann | Wozniak |
| Coy | Kukovich | Preston | Wright, D. R. |
| DeLuca | LaGrotta | Richardson | |
| DeWeese | Laughlin | Rieger | O'Donnell, |
| Daley | Lescovitz | Ritter | Speaker |
| Dombrowski | Levdansky | | |

NOT VOTING—1

Melio

EXCUSED—5

Dininni
Petrarca

Pitts

Rybak

Scheetz

The majority having voted in the affirmative, the question was determined in the affirmative and the amendments were declared germane.

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

BILL PLACED ON THIRD CONSIDERATION POSTPONED CALENDAR

The SPEAKER. The Chair recognizes Mr. Kukovich.

Mr. KUKOVICH. Mr. Speaker, I move that we hold this bill over temporarily.

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

The SPEAKER. The Chair recognizes the minority leader.

Mr. RYAN. Mr. Speaker, this bill has been the subject of an afternoon's debate. It has been the subject of some dozen amendments fully debated; some defeated, some agreed to. It is very, very obvious to me that what the gentleman is attempting to do now is deprive the senior citizens of Pennsylvania out of 7 million dollars' worth of tax benefits, and I oppose it.

The SPEAKER. I think the failure to curtail the debate earlier has led to this. The only issue at hand is the reasons for or against holding this bill over.

The gentleman, Mr. Kukovich, is recognized.

Mr. KUKOVICH. Thank you, Mr. Speaker.

I do not find this to be funny. I think we should hold the bill over, because we had a chance to do something very meaningful for a lot of Pennsylvanians, and because of this political gobbledygook, we are going to kill this bill.

I think we have to be responsible at some point, and I think the responsible action at this point in time is to hold this over until we can deal with this problem adequately. I ask that you support that motion.

The SPEAKER. For the information of the members, the matter before the House is a motion to postpone. The Chair understands the gentleman to be making that motion.

The Chair recognizes the minority leader.

Mr. RYAN. Mr. Speaker, my remarks of a moment ago, I would like you to consider reiterated. I agree that this is an important bill now, and I think we should pass it now. The \$7 million is not going to make or break this Commonwealth next year, and it could make or break an awful lot of individual families next year, and I think we would be remiss in our duties if we buried this bill now until somebody can get enough votes to pull that amendment out. I would like to run the bill. I would like to first run the amendment.

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

(Members proceeded to vote.)

The SPEAKER. For what purpose does the gentleman, Mr. Ryan, rise?

Mr. RYAN. Mr. Speaker, only members in their seats should be voting on this measure, and the board has been cleared. I cannot challenge at the moment. I wonder if you would rerun that roll call.

The SPEAKER. The vote was recorded in error by the clerk. That vote will be stricken from the record, and the matter will recur. The matter before the House is a motion to postpone.

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

(Members proceeded to vote.)

VOTES CHALLENGED

The SPEAKER. For what purpose does the gentleman, Mr. Ryan, rise?

Mr. RYAN. The gentleman, Mr. Donatucci? The gentleman, Mr. Carn? The gentleman, Mr. Coy?

The SPEAKER. The Chair requests that until the gentleman, Mr. Coy, returns, his vote be stricken from the board.

Mr. RYAN. The gentleman, Mr. Hughes? I am sorry. The gentleman, Mr. DeLuca?

Mr. Speaker, the gentleman, Mr. Coy's name still is being voted.

The gentleman, Mr. Richardson?

The SPEAKER. The gentleman, Mr. Richardson, is not recorded.

Mr. RYAN. The gentleman, Mr. Belardi?

The SPEAKER. The Chair notes the presence of Representative Carn in the hall of the House. The gentleman, Mr. Belardi's presence is noted in the hall of the House.

Mr. RYAN. The gentleman, Mr. Taylor, Fred Taylor? The gentleman, Mr. Kasunic?

The SPEAKER. Until the gentleman returns, I would request that his vote be stricken.

Mr. RYAN. The gentleman, Mr. Robinson? The gentleman, Dr. Haluska? The gentleman, Mr. Petrone? The gentleman, Mr. Trello?

The SPEAKER. The Chair notes the presence of Representative Trello in the hall of the House.

Mr. RYAN. The gentleman, Mr. Pistella?

The SPEAKER. For the record, the gentleman, Mr. Pistella, is here. The Chair notes the presence of Representative Richardson in the hall of the House.

Mr. RYAN. So I do not disappoint the gentleman, Mr. Rieger? Mr. Rieger?

The SPEAKER. He is not presently recorded, but we could require his presence and have him return.

For what purpose does the gentleman, Mr. DeWeese, rise?

Mr. DeWEESE. The gentleman, Mr. Brandt, is he in the hall of the House?

Record the vote, please.

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

The following roll call was recorded:

YEAS—86

| | | | |
|--------------|------------|------------|---------------|
| Acosta | Daley | Lucy | Rudy |
| Battisto | Dombrowski | McCall | Saloom |
| Belardi | Evans | McHale | Scrimenti |
| Belfanti | Fee | McNally | Staback |
| Billow | Freeman | Maiale | Steighner |
| Bishop | Gamble | Maine | Stish |
| Blaum | George | Markosek | Suban |
| Bortner | Gigliotti | Mayernik | Tangretti |
| Bowley | Gruitza | Michlovic | Thomas |
| Broujos | Hayden | Mihalich | Tigue |
| Caltagirone | Itkin | Mrkoncic | Trello |
| Cappabianca | Jarolin | Murphy | Trich |
| Carn | Josephs | Olasz | Van Horne |
| Cawley | Kaiser | Oliver | Veon |
| Clark, B. D. | Kosinski | Pesci | Wambach |
| Cohen | Kukovich | Pievsky | Williams |
| Colaella | LaGrotta | Pistella | Wozniak |
| Colaizzo | Laughlin | Pressmann | Wright, D. R. |
| Cole | Lescovitz | Preston | Yandrisevits |
| Corrigan | Levdansky | Richardson | |
| Cowell | Linton | Ritter | O'Donnell, |
| DeWeese | Lloyd | Roebuck | Speaker |

NAYS—84

| | | | |
|--------------|-----------|-----------|---------------|
| Adolph | Dorr | Jadlowiec | Robbins |
| Allen | Durham | Johnson | Ryan |
| Angstadt | Fairchild | Kondrich | Saurman |
| Argall | Fargo | Langtry | Schuler |
| Barley | Farmer | Lee | Semmel |
| Birmelin | Feagle | Leh | Serafini |
| Black | Foster | McVerry | Smith, B. |
| Boyes | Fox | Marsico | Smith, S. H. |
| Burd | Freind | Merry | Snyder, D. W. |
| Bush | Gallen | Micozzie | Snyder, G. |
| Carlson | Gannon | Miller | Stairs |
| Cessar | Geist | Moehlmann | Strittmatter |
| Chadwick | Gruppo | Morris | Taylor, E. Z. |
| Civera | Hagarty | Mowery | Telek |
| Clark, D. F. | Hasay | Nailor | Vroon |
| Clark, J. H. | Hayes | Noye | Wass |
| Clymer | Heckler | O'Brien | Weston |
| Davies | Herman | Perzel | Wilson |
| Dempsey | Hershey | Phillips | Wogan |
| Dietterick | Hess | Piccola | Wright, J. L. |
| Distler | Jackson | Raymond | Wright, R. C. |

NOT VOTING—27

| | | | |
|-----------|----------|-----------|------------|
| Brandt | Flick | James | Reber |
| Bunt | Gladeck | Kasunic | Reinard |
| Burns | Godshall | Kenney | Rieger |
| Cornell | Haluska | Lashinger | Robinson |
| Coy | Harper | Melio | Taylor, F. |
| DeLuca | Howlett | Nahill | Taylor, J. |
| Donatucci | Hughes | Petrone | |

EXCUSED—5

| | | | |
|----------|-------|-------|---------|
| Dininni | Pitts | Rybak | Scheetz |
| Petrarca | | | |

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

APPROPRIATIONS COMMITTEE MEETING

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

Mr. PIEVSKY. Mr. Speaker, I would like to call a meeting of the House Appropriations Committee immediately at the rear of the chamber before the members leave. Thank you, Mr. Speaker.

The SPEAKER. There are a number of announcements. The attention of the members is requested for just a few more minutes.

STATEMENT BY MR. DALEY

The SPEAKER. The Chair recognizes the gentleman, Mr. Daley, under unanimous consent.

Mr. DALEY. Thank you, Mr. Speaker.

Yesterday the Speaker signed a bill, HB 2247, that some of us thought should be noted on the floor of the House. HB 2247 was cosponsored by all the members here, and it names and designates the Mon-Fayette Expressway after the late Speaker James J. Manderino. We all know what Jim has done for all of us, and I think what this simply does— And I know that Herman Mihalich, who has now taken Jim's place here on the floor of the House, would like to say something. But as we venture through 24 years as Jim has here in the House, we hope that when we walk through our lives and the things we do, it is not like in sand. We believe that with Jim's name being on this road, it is going to be in concrete and it is going to symbolize what Jim really meant to the people of the Mon Valley.

Mr. Speaker, I am sure that Representative Mihalich would like to say something.

STATEMENT BY MR. MIHALICH

The SPEAKER. The Chair recognizes Representative Mihalich.

Mr. MIHALICH. That Jim deserves this honor goes without question, but that is not the purpose of my addressing the body this afternoon. One other point should be made.

You know, I had spent a lot of time with Jim. We had our first job together back in the middle 1940's in the steel mills, played football together, fished together, raised horses together, worked together, lived together, traveled together, and after all of these years, sort of developed a telepathy. We could communicate without the means of telephone, letters, not even sign language; we sort of knew what we were talking about, and that brings me to the point of my remarks this afternoon.

Sometime in the near future there will be additional enabling or tax votes perhaps, or maybe just an appropriation vote, to extend the Mon Valley Expressway. At that time I am sure, if the votes do not go the right way, that telepathy is going to be working, and I would like to convey, if possible, at that time Jim's thoughts about any negative votes that might be on the floor that day. Thank you very much.

YOUTH AND AGING COMMITTEE MEETING

The SPEAKER. The Chair recognizes Mr. Stuban.

Mr. STUBAN. Thank you, Mr. Speaker.

Mr. Speaker, the Youth and Aging Committee meeting that was scheduled for tomorrow morning at 10 o'clock will be called at the first recess of the House tomorrow or at adjournment.

VOTE CORRECTIONS

The SPEAKER. The Chair recognizes the lady, Ms. Bishop.

Ms. BISHOP. Thank you, Mr. Speaker.

I wish to correct the record for yesterday's voting, June 11. On amendment No. 1617 to HB 941, I inadvertently voted in the affirmative. I wished to vote in the negative. Also, on HB 539, amendment 1846, I voted in the affirmative. I wish to be recorded in the negative.

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

REPUBLICAN CAUCUS

The SPEAKER. For the information of the members, there are announcements of caucus interests.

The Chair recognizes Representative Noye.

Mr. NOYE. Thank you, Mr. Speaker.

For the Republicans that are still here, the Republicans will caucus tomorrow morning at 9:30. It is essential, it is essential that you be present at the caucus. Thank you.

DEMOCRATIC CAUCUS

The SPEAKER. The Chair recognizes Representative Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, the Democratic caucus is also essential for members to attend. The Democratic caucus will be held at 10:15 tomorrow morning. I urge every single Democratic member to attend this caucus.

COMMITTEE MEETING

The SPEAKER. The Chair announces a meeting of the select committee on domestic violence and rape crisis. They will meet tomorrow after session.

SUBCOMMITTEE MEETING

The SPEAKER. Also, there will be a meeting of the Subcommittee on Counties of the Local Government Committee on Wednesday at 9:30 a.m. in room 8E-A, East Wing.

The Chair recognizes Representative Gamble.

Mr. GAMBLE. I believe, Mr. Speaker, that you just read the notice of the subcommittee meeting of the Local Government Committee at 9:30 tomorrow. The room is 8E-A. Thank you.

The SPEAKER. The Chair thanks the gentleman.

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

HB 2645, PN 3661

By Rep. SALOOM

An Act amending the act of April 12, 1951 (P. L. 90, No. 21), known as the "Liquor Code," further providing for bonded warehouse licenses; and providing for winery licenses.

LIQUOR CONTROL.

RULES SUSPENDED

The SPEAKER. The Chair recognizes the majority leader.

Mr. DeWEESE. Mr. Speaker, I move that House rule 22 be suspended to permit HB 2579 and HB 2618 to go on the table rather than to the Rules Committee.

On the question,

Will the House agree to the motion?

Motion was agreed to.

**BILLS REPORTED FROM COMMITTEE,
CONSIDERED FIRST TIME, AND TABLED**

HB 2579, PN 3554

By Rep. PIEVSKY

An Act amending the act of December 17, 1988 (P. L. 2242, No. 69A), entitled "An act appropriating money from the Sunny Day Fund to the Department of Commerce for various projects throughout this Commonwealth for fiscal year 1988-1989," further providing for the award of funds for certain projects.

APPROPRIATIONS.

HB 2618, PN 3596

By Rep. PIEVSKY

An Act amending the act of June 2, 1915 (P. L. 762, No. 340), referred to as the "State Workmen's Insurance Fund Law," providing for the transfer of money from the State Workmen's Insurance Fund to the General Fund, the Sunny Day Fund and the Tax Stabilization Reserve Fund; establishing an Advisory Council to the State Workmen's Insurance Board; requiring the State Workmen's Insurance Fund to undergo an independent actuarial study annually; and making repeals.

APPROPRIATIONS.

BILLS REREPORTED FROM COMMITTEE

HB 255, PN 3710 (Amended)

By Rep. PIEVSKY

An Act providing for the issuance and sale of certain bonds; and providing for further duties of the Pennsylvania Higher Education Assistance Agency.

APPROPRIATIONS.

HB 1396, PN 3711 (Amended)

By Rep. PIEVSKY

An Act providing for the accreditation of persons engaged in occupations relating to asbestos; providing for certification standards and procedures; providing for additional duties of the Department of Labor and Industry; establishing the Asbestos Control Advisory Committee and providing for its powers and duties; and providing for enforcement and penalties.

APPROPRIATIONS.

HB 1882, PN 3615

By Rep. PIEVSKY

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

APPROPRIATIONS.

HB 2284, PN 3069

By Rep. PIEVSKY

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing redress for civil rights violations.

APPROPRIATIONS.

HB 2361, PN 3712 (Amended)

By Rep. PIEVSKY

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), known as "The Administrative Code of 1929," further providing for crime victims' compensation and assistance.

APPROPRIATIONS.

SB 539, PN 1913

By Rep. PIEVSKY

An Act requiring institutions of higher education to evaluate their faculties for fluency in the English language; providing for certifications as to that fluency; imposing penalties; and conferring powers and duties upon the State Board of Education.

APPROPRIATIONS.

SB 1516, PN 2005

By Rep. PIEVSKY

An Act amending the act of July 1, 1978 (P. L. 584, No. 109), entitled "Milrite Act," extending the expiration date.

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 255, PN 3710; HB 1396, PN 3711; HB 1882, PN 3615; HB 2284, PN 3069; HB 2361, PN 3712; SB 539, PN 1913; and SB 1516, PN 2005.

BILLS REMOVED FROM TABLE

The SPEAKER. The Chair recognizes the majority leader.

Mr. DeWEESE. Mr. Speaker, I move that HB 2579 and HB 2618 be removed from the table and placed upon the active calendar.

On the question,

Will the House agree to the motion?

Motion was agreed to.

VOTE CORRECTIONS

The SPEAKER. The Chair recognizes the lady, Ms. Josephs.

Ms. JOSEPHS. Thank you. To correct the record, Mr. Speaker.

On amendment 2047 to HB 1380, I was recorded in the negative. My switch failed to function. I would like to be recorded in the positive. Thank you, Mr. Speaker.

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

The Chair recognizes Representative Thomas.

Mr. THOMAS. Mr. Speaker, I would like the record to be corrected with respect to amendment 1846 to HB 539. There is no record of my having voted. I would like for the record to reflect a negative vote.

Also, I would like for a negative vote to be reflected with respect to amendment 1617 to HB 941.

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

Mr. THOMAS. Thank you.

The SPEAKER. The Chair would like to record for the record an affirmative vote by Representative David Wright on amendment 2017 to HB 1380.

The Chair recognizes Representative Hayden.

Mr. HAYDEN. Thank you, Mr. Speaker.

Mr. Speaker, I rise to correct the record.

With respect to amendment 2078 to HB 1849, I would like to be recorded in the negative.

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

BILLS SIGNED BY SPEAKER

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

HB 2334, PN 3566

An Act amending the act of June 30, 1981 (P. L. 128, No. 43), known as the "Agricultural Area Security Law," further providing for agricultural conservation easements; further defining the term "agricultural conservation easement"; and further providing for the allocations of State moneys.

SB 858, PN 2136

An Act amending the act of May 2, 1945 (P. L. 382, No. 164), entitled "Municipality Authorities Act of 1945," further defining "project"; defining "local government unit" and "provide financing for insurance reserves"; and providing for financing of insurance reserves.

WELCOME

The SPEAKER. The Chair announces for the record the presence in the House today of the winners of the Pennsylvania Citizens for Better Libraries 1990 Essay Contest, who are the guests of Representative Fred Belardi. The winners are, for primary first place, Jennifer Randazzo; elementary first place, Amanda Graynor; secondary first place, David Fischer; primary second place, Frederick Williams; elementary second place, Jenny Kim; and secondary second place, Heidi Hauser.

VOTE CORRECTIONS

The SPEAKER. The Chair recognizes Representative Staback.

Mr. STABACK. To correct the record, Mr. Speaker.

On HB 1380, amendment No. 2017, my switch failed to record. I would like my vote to be recorded in the affirmative.

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

The Chair recognizes Representative Linton.

Mr. LINTON. Thank you, Mr. Speaker.

On HB 1849, amendment A2078, I was recorded in the affirmative. I would like to be recorded in the negative.

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

The Chair recognizes Representative Clark.

Mr. B. D. CLARK. Thank you, Mr. Speaker.

On HB 539, amendment 1969, I was not recorded. I would like my vote to be recorded in the negative.

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

Is there any further business from the minority? From the majority?

BILLS AND RESOLUTIONS PASSED OVER

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

ADJOURNMENT

The SPEAKER. The Chair recognizes Mrs. Telek.

Mrs. TELEK. Mr. Speaker, I move that this House do now adjourn until Wednesday, June 13, 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 5:11 p.m., e.d.t., the House adjourned.