

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

TUESDAY, JUNE 10, 1997

SESSION OF 1997

181ST OF THE GENERAL ASSEMBLY

No. 40

HOUSE OF REPRESENTATIVES

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

**THE SPEAKER (MATTHEW J. RYAN)
PRESIDING**

PRAYER

REV. KENNETH R. ARTHUR, Chaplain of the House of Representatives and executive director of the United Methodist Home for Children, Mechanicsburg, Pennsylvania, offered the following prayer:

Let us pray:

Almighty God, we pray this day for guidance to know and fulfill Your will as it benefits the good people of the Commonwealth of Pennsylvania.

Enable us, this day, to speak with eloquence, debate with brevity, and to accomplish much with great satisfaction. Help us to remember that it is not the length of a session that determines our success; rather, it is the quality of our decisions and the decisiveness with which we have made them.

May our moments together this day be spent knowingly in the presence of our creator, and may those moments count for all that is good and beneficial to Pennsylvania's people. 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 9, 1997, will be postponed until printed. The Chair hears no objection.

HOUSE BILLS INTRODUCED AND REFERRED

No. 1616 By Representatives WOJNAROSKI, BELARDI, CURRY, ROONEY, TIGUE, WAUGH, HORSEY, GORDNER, GIGLIOTTI, SHA NER, BOYES, CASORIO, WALKO, PESCI, HALUSKA, McCALL, COLAIZZO, TRAVAGLIO, PETRARCA,

STABACK, FAIRCHILD, JOSEPHS, TRELLO, STEELMAN, VAN HORNE, MELIO, BROWNE, C. WILLIAMS, SAINATO, HUTCHINSON, YOUNGBLOOD and BOSCOLA

An Act making an appropriation to the Department of Education for the purchase of machinery and equipment for technical work force development and job training programs in area vocational and technical schools and community colleges.

Referred to Committee on APPROPRIATIONS, June 10, 1997.

No. 1617 By Representatives JADLOWIEC, SURRA, SEYFERT, BAKER, GEIST, BELARDI, HENNESSEY, FARGO, COY, SATHER, HALUSKA, MANDERINO, BELFANTI, TRELLO, KENNEY, COLAFELLA, CIVERA, BROWN, E. Z. TAYLOR, CLARK, LYNCH, McNAUGHTON, PISTELLA and ROSS

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for mandatory fingerprinting.

Referred to Committee on JUDICIARY, June 10, 1997.

No. 1618 By Representatives L. I. COHEN, BELARDI, FICHTER, MELIO, HORSEY, PETTIT, RUBLEY, LAUGHLIN, SATHER, E. Z. TAYLOR, PRESTON, MAITLAND, BARD, JAMES, TIGUE, ROBINSON, CURRY, BEBKO-JONES, WAUGH, TRICH, PISTELLA, ORIE, CORRIGAN, CIVERA, C. WILLIAMS, McILHATTAN, ROSS, SEYFERT, BOSCOLA, MILLER and CORPORA

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, increasing the tax on cigarettes; and establishing the Breast Cancer Fund.

Referred to Committee on FINANCE, June 10, 1997.

No. 1619 By Representatives L. I. COHEN, FICHTER, BELARDI, CLARK, MELIO, RUBLEY, PISTELLA, MASLAND, TRELLO, PRESTON, STEELMAN, WOGAN, D. W. SNYDER, C. WILLIAMS, ROEBUCK, CIVERA, EGOLF, YOUNGBLOOD and SCRIMENTI

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, defining "public service recipient"; and further providing for dissemination of criminal record information.

Referred to Committee on JUDICIARY, June 10, 1997.

No. 1620 By Representatives L. I. COHEN, FARGO, BELARDI, TRELLO, PRESTON, WAUGH, ROEBUCK, CIVERA, EGOLF, C. WILLIAMS and YOUNGBLOOD

An Act amending the act of April 27, 1927 (P.L.450, No.291), referred to as the State Fire Marshal Law, providing for emergency controls at attended self-service gasoline stations; and rescinding a regulation.

Referred to Committee on VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS, June 10, 1997.

No. 1621 By Representatives STURLA, E. Z. TAYLOR, FLICK, BATTISTO, BROWNE, ROBINSON, RUBLEY, McNAUGHTON, BELARDI, SCHRODER, SAYLOR, MELIO, WALKO, TIGUE, HERMAN, NAILOR, SANTONI, READSHAW, SHANER, EGOLF, BOSCOLA, ROONEY, BARD, GEIST, EACHUS, MILLER, DeLUCA, RAMOS, SEMMEL, STEELMAN, DENT, SERAFINI, C. WILLIAMS, CAPPABIANCA, HORSEY, BAKER, BENNINGHOFF, SAINATO, CORPORA, GORDNER, GODSHALL, HALUSKA, ADOLPH, CLARK, FARGO, PLATTS, FAIRCHILD, WAUGH, YOUNGBLOOD, GEORGE, COY, PETTIT and ROSS

An Act amending the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, providing for the suspension or nonissuance of certain professional or occupational licenses for nonpayment of student loans.

Referred to Committee on PROFESSIONAL LICENSURE, June 10, 1997.

No. 1622 By Representatives EGOLF, VANCE, LAUGHLIN, LYNCH, COWELL, E. Z. TAYLOR, STEELMAN, HENNESSEY, STERN, MAITLAND, TRUE, WOGAN, JAMES, TRELLO and BENNINGHOFF

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for release or delivery of a child taken into custody and for the place of detention of a child alleged to be delinquent.

Referred to Committee on JUDICIARY, June 10, 1997.

No. 1623 By Representatives MARKOSEK, MAYERNIK, KAISER, READSHAW, BOSCOLA, WALKO, WOJNAROSKI, SHANER, SAINATO, PETRARCA, BOYES, ORIE and PIPPY

An Act amending the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, providing for failure to pay medical education loans.

Referred to Committee on PROFESSIONAL LICENSURE, June 10, 1997.

No. 1624 By Representatives READSHAW, MAYERNIK, MARKOSEK, KAISER, WALKO, WOJNAROSKI, GIGLIOTTI, BOSCOLA, HALUSKA, VAN HORNE, SAINATO, HABAY and PIPPY

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for the definition of the offense

of assault by prisoner; providing for consecutive sentences in certain aggravated assault cases and in cases involving assaults by prisoners and for aggravated harassment by prisoner; and further providing for assault by life prisoner.

Referred to Committee on JUDICIARY, June 10, 1997.

No. 1625 By Representatives KAISER, MARKOSEK, MAYERNIK, READSHAW, BOSCOLA, KELLER, A. H. WILLIAMS, YOUNGBLOOD, LEDERER, McGEEHAN and BUTKOVITZ

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, providing for certain immunity for persons appointed to represent the interests of a minor child.

Referred to Committee on JUDICIARY, June 10, 1997.

No. 1626 By Representatives GODSHALL, LYNCH, KENNEY, CLARK, HERSHEY, ROSS, HENNESSEY, CIVERA and YOUNGBLOOD

An Act amending the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, further providing for approval of policies and contracts.

Referred to Committee on INSURANCE, June 10, 1997.

No. 1627 By Representatives BELFANTI, ITKIN, M. COHEN, McCALL, OLASZ, TRELLO, PESCI, PISTELLA, PRESTON, RAMOS, ROONEY, CURRY, PETRARCA, DALEY, ROBERTS, GORDNER, BELARDI, ALLEN, FLICK, JAMES, YOUNGBLOOD and CASORIO

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 length of service and age requirements for pension eligibility.

Referred to Committee on LOCAL GOVERNMENT, June 10, 1997.

No. 1628 By Representatives LUCYK, STRITTMATTER, NICKOL, McCALL, HENNESSEY, FARGO, ITKIN, OLASZ, COY, CLARK, GEIST, MUNDY, BELARDI, SATHER, TRELLO, CAPPABIANCA, YOUNGBLOOD and BOSCOLA

An Act amending the act of March 30, 1811 (P.L.145, No.99), entitled "An act to amend and consolidate the several acts relating to the settlement of the public accounts and the payment of the public monies, and for other purpose," further providing for deferred compensation plans of the Commonwealth and political subdivisions; and making editorial changes.

Referred to Committee on STATE GOVERNMENT, June 10, 1997.

No. 1629 By Representatives PETRONE, ARGALL, BATTISTO, WOGAN, TIGUE, FARGO, JAROLIN, SATHER, FICHTER, READSHAW, EACHUS, HALUSKA, SAYLOR, McGEEHAN, SEYFERT, B. SMITH, LUCYK, EGOLF, RAMOS, McNAUGHTON, BENNINGHOFF and STABACK

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for prisoner litigation, for limitation on remedies, for prospective relief, for time limits on settlements and for payment of damages.

Referred to Committee on JUDICIARY, June 10, 1997.

No. 1630 By Representatives PIPPY, GIGLIOTTI, DENT, READSHAW, ROSS, TRELLO, McNAUGHTON, ORIE, STEVENSON and HABAY

An Act amending the act of May 16, 1923 (P.L.207, No.153), referred to as the Municipal Claim and Tax Lien Law, further providing for filing tax claims and for attorney fees.

Referred to Committee on LOCAL GOVERNMENT, June 10, 1997.

HOUSE RESOLUTIONS INTRODUCED AND REFERRED

No. 202 By Representatives L. I. COHEN, DeLUCA, GIGLIOTTI, SHANER, PHILLIPS, BAKER, DEMPSEY, BELARDI, MAITLAND, WALKO, ROSS, HALUSKA, SATHER, HENNESSEY, DIGIROLAMO, CAPPABIANCA, STABACK, COLAIZZO, READSHAW, B. SMITH, PESCI, JOSEPHS, MELIO, PETTIT, RUBLEY, TRELLO, BARD, BATTISTO, HARHART, McNAUGHTON, ORIE, CORRIGAN, CIVERA and YOUNGBLOOD

A Resolution commending Attorney General Michael Fisher for filing a lawsuit on behalf of the citizens of this Commonwealth against tobacco companies.

Referred to Committee on RULES, June 10, 1997.

No. 203 By Representatives McGILL, ADOLPH, ARMSTRONG, BARRAR, BELARDI, BROWN, BUNT, CIVERA, CLYMER, CORNELL, CORRIGAN, DALEY, DONATUCCI, DRUCE, FEESE, FICHTER, FLICK, GANNON, GODSHALL, HALUSKA, HARHART, HERSHEY, LEH, MILLER, ORIE, PESCI, PETRARCA, RAYMOND, READSHAW, SCHRODER, SCHULER, SEMMEL, STAIRS, E. Z. TAYLOR, THOMAS, TRELLO, WOGAN, M. N. WRIGHT, ZIMMERMAN, STERN and McNAUGHTON

A Resolution memorializing the Congress of the United States to suspend implementation of the vehicle emissions provisions of the Clean Air Act Amendments of 1990 and subsequent regulations promulgated by the Environmental Protection Agency.

Referred to Committee on INTERGOVERNMENTAL AFFAIRS, June 10, 1997.

No. 204 By Representatives McGILL, BARD, BATTISTO, BELFANTI, BROWN, CAPPABIANCA, CIVERA, CORNELL, DONATUCCI, FICHTER, GEIST, HENNESSEY, HERSHEY, HUTCHINSON, ITKIN, JAMES, JAROLIN, JOSEPHS, LYNCH, McNAUGHTON, MELIO, PESCI,

PISTELLA, READSHAW, ROONEY, ROSS, RUBLEY, SATHER, SERAFINI, STEELMAN, STERN, TRELLO, TRUE, WALKO, C. WILLIAMS, YOUNGBLOOD, BELARDI and L. I. COHEN

A Concurrent Resolution urging Amtrak to maintain its Reservation Sales Call Center in Pennsylvania.

Referred to Committee on RULES, June 10, 1997.

No. 206 By Representatives BISHOP, ROEBUCK, BAKER, FICHTER, CORRIGAN, THOMAS, BUXTON, READSHAW, STABACK, DeLUCA, CAPPABIANCA, RUBLEY, TIGUE, PESCI, BELARDI, EGOLF, HERSHEY, GODSHALL, LEDERER, SATHER, CARN, OLASZ, BEBKO-JONES, GIGLIOTTI, LAUGHLIN, MELIO, TRELLO, HALUSKA, JAROLIN, C. WILLIAMS, BUTKOVITZ, YOUNGBLOOD, McGEEHAN and OLIVER

A Concurrent Resolution memorializing the Congress of the United States to take steps to control violence on television.

Referred to Committee on INTERGOVERNMENTAL AFFAIRS, June 10, 1997.

No. 207 By Representatives O'BRIEN, OLIVER, MICOZZIE and COLAFELLA

A Resolution calling for the Legislative Budget and Finance Committee to conduct an immediate study of the physical health component of the HealthChoices program administered by the Department of Public Welfare in order to evaluate the adequacy of rates for managed care organizations under HealthChoices.

Referred to Committee on RULES, June 10, 1997.

SENATE MESSAGE

AMENDED SENATE BILL RETURNED
FOR CONCURRENCE AND
REFERRED TO COMMITTEE ON RULES

The clerk of the Senate, being introduced, informed that the Senate has concurred in the amendments made by the House of Representatives by amending said amendments to **SB 870, PN 1157**.

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

SENATE MESSAGE

AMENDED HOUSE BILL RETURNED
FOR CONCURRENCE AND
REFERRED TO COMMITTEE ON RULES

The clerk of the Senate, being introduced, returned **HB 849, PN 1978**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested.

BILLS REMOVED FROM TABLE

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

Mr. **PERZEL**. Mr. Speaker, I move that **HB 96** and **HB 1143** be removed from the table.

On the question,

Will the House agree to the motion?

Motion was agreed to.

BILLS RECOMMITTED

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

Mr. **PERZEL**. Mr. Speaker, I move that **HB 96** and **HB 1143** be recommitted to the Committee on Appropriations.

On the question,

Will the House agree to the motion?

Motion was agreed to.

GUESTS INTRODUCED

The **SPEAKER**. The Chair is pleased to welcome to the hall of the House today, as guest pages, Jerry and Stephanie Bushong of Newtown Square, here as the guest pages of the Speaker.

Naomi Viola is the guest page of Representative Leh. She is here together with her mother, Helene Viola, who is seated in the balcony.

And Jessica O'Shea and Megan Cordingly, here as guest pages of Representative Conti.

Would these folks please rise.

As the guests of Representative Lescovitz, in the gallery is the Junior Girl Scout Troop 3516, together with their leader, Mrs. Hargett. Would these young ladies please rise. They are from the Burgettstown Elementary School in Burgettstown and the Fort Cherry Elementary School in Fort Cherry and the Mercy Baptist Academy in Weirton and Our Lady of Lourdes School in Burgettstown. Would these folks please rise.

Dan Fowler of Douglassville, Pennsylvania, is a summer intern for Representative Leh. He is here today, a student at the University of Pittsburgh, seated to the left of the Speaker. Dan, would you please rise.

Representative Stevenson has two guests today from his district, seated in the gallery — his summer intern, Matthew Logue, and Chris Erskine. Would these two guests please rise.

And as the guests of Representative Phyllis Mundy, Kim, Erica, and Jen Michelstein. Would these guests please rise.

The Chair is pleased to welcome two additional guest pages: one, the guest page of Representative Pat Vance, Zachary Seidel, a student at the Good Shepherd School; and the other, the guest page of Representative Nick Colafella, who is seated to the front of the Speaker — that is Brad Thompson. Would these two guests please rise.

The Chair is pleased to acknowledge certain visitors that are seated in the rear of the chamber. It is a group of young men who,

as I glance quickly at these notes, appear to make up the wrestling future of Pennsylvania. They are Rob Rohn — and I am going to apologize if I mispronounce some of the names, because whoever printed these up did not do a very good job; they are going to have to go back to school — Rob Rohn and Andy Cote from Nazareth Area High School and their coach, Ray Nunamaker, who is retiring after 34 years of service and the second winningest coach in PIAA history, here as the guests of Craig Dally and Representative Leonard Gruppo. Would these guests please rise.

Representatives Gruppo and Corpora have the balance of the wrestling teams, I believe, in Bryan Klass, a senior at Wilson Area High School, who won the PIAA Class AA State wrestling championship in the 130-pound weight class. We will ask him to stand up. Hold the applause for a minute, because for the second year in a row, the Easton Area High School wrestling team, as the 1997 PIAA State wrestling champions, is with us. And from the Easton Area High School, the individual State wrestling champions Chris Kelly, Jamarr Billman, and Bryan Snyder are with us, joined by their coaches, including Steven Powell, who is recognized as the NCAA Wrestling Coaches Association "National High School Coach of the Year." Would all of these folks please rise to be acknowledged.

The Chair is pleased to welcome to the hall of the House Adam Tracey from Central York High School, the guest page of Representative Saylor.

And Elizabeth Pika and Colin Heinle, the guests of Representative Sturla. The guests are seated in the balcony. Would they please rise.

LEAVES OF ABSENCE

The **SPEAKER**. The Chair recognizes the gentleman, Mr. Snyder, who advises the Chair that there is no request for leaves of absence from the Republican side.

The Chair recognizes the gentleman, Mr. Itkin, who requests leave of absence for the lady from Philadelphia, Ms. WASHINGTON, and the gentleman from Delaware, Mr. KIRKLAND, for today's session. Without objection, leaves are granted. The Chair hears none.

GUEST INTRODUCED

The **SPEAKER**. The Chair welcomes Ken Burd, a summer intern of Representative Tulli in his district office. He is seated to the left of the Speaker. Ken, would you please rise.

MASTER ROLL CALL

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

The following roll call was recorded:

PRESENT—200

Adolph	DiGirolamo	Maitland	Saylor
Allen	Donatucci	Major	Schroder
Argall	Druce	Manderino	Schuler
Armstrong	Eachus	Markosek	Scrimenti

Baker	Egolf	Marsico	Semmel
Bard	Evans	Masland	Serafini
Barley	Fairchild	Mayernik	Seyfert
Barrar	Fargo	McCall	Shaner
Battisto	Feese	McGeehan	Smith, B.
Bebko-Jones	Fichter	McGill	Smith, S. H.
Belardi	Fleagle	McIlhattan	Snyder, D. W.
Belfanti	Flick	McNaughton	Staback
Benninghoff	Gannon	Melio	Stairs
Birmelin	Geist	Michlovic	Steelman
Bishop	George	Micozzie	Steil
Blaum	Gigliotti	Mihalich	Stern
Boscola	Gladeck	Miller	Stetler
Boyes	Godshall	Mundy	Stevenson
Brown	Gordner	Myers	Strittmatter
Browne	Gruitza	Nailor	Sturla
Bunt	Gruppo	Nickol	Surra
Butkovitz	Habay	O'Brien	Tangretti
Buxton	Haluska	Olasz	Taylor, E. Z.
Caltagirone	Hanna	Oliver	Taylor, J.
Cappabianca	Harhart	Orie	Thomas
Carn	Hasay	Perzel	Tiguc
Carone	Hennessey	Pesci	Travaglio
Casorio	Herman	Petrarca	Trello
Cawley	Hershey	Petrone	Trich
Chadwick	Hess	Phillips	True
Civera	Horsey	Pippy	Tulli
Clark	Hutchinson	Pistella	Vance
Clymer	Itkin	Platts	Van Horne
Cohen, L. I.	Jadlowiec	Preston	Veon
Cohen, M.	James	Ramos	Vitali
Colafella	Jarolin	Raymond	Walko
Colaizzo	Josephs	Readshaw	Waugh
Conti	Kaiser	Reber	Williams, A. H.
Cornell	Keller	Reinard	Williams, C.
Corpora	Kenney	Rieger	Wilt
Corrigan	Krebs	Roberts	Wogan
Cowell	LaGrotta	Robinson	Wojnaroski
Coy	Laughlin	Roebuck	Wright, M. N.
Curry	Lawless	Rohrer	Yewcic
Daley	Lederer	Rooney	Youngblood
Dally	Leh	Ross	Zimmerman
DeLuca	Lescovitz	Rubley	Zug
Dempsey	Levdansky	Sainato	
Dent	Lloyd	Santoni	Ryan,
Dermody	Lucyk	Sather	Speaker
DeWeese	Lynch		

ADDITIONS-0

NOT VOTING-0

EXCUSED-2

Kirkland Washington

LEAVES ADDED-1

Lawless

MEMORIAL SERVICE FOR THE HONORABLE ALBERT W. PETTIT

The SPEAKER. I am certain that all of you were as deeply saddened as I was upon learning of the passing of Representative Al Pettit. As is our custom, we will now take a few moments for a memorial service to reflect upon the public service of a good friend and colleague.

CONDOLENCE RESOLUTION

The SPEAKER. We shall now consider the condolence resolution for Representative Pettit.
The Sergeant at Arms will close the doors of the House.
The clerk will read the resolution.

The following resolution was read:

**COMMONWEALTH OF PENNSYLVANIA
THE HOUSE OF REPRESENTATIVES**

RESOLUTION

WHEREAS, The Honorable Albert W. Pettit, member of the Pennsylvania State Legislature, passed away June 5, 1997 at the age of sixty-six; and

WHEREAS, Representative Pettit was elected to the House of Representatives on November 3, 1992 after retiring as the director of corporate human resources for Westinghouse Electric Corporation. A United States Army veteran of the Korean War, he graduated from The Pennsylvania State University and received his doctor of law degree from the University of Virginia Law School. He was a member of the House Labor Relations Committee and swiftly became a leader in the caucus on labor and human resource issues. He also served as the chairman of the Subcommittee on Townships, Local Government Committee; and

WHEREAS, Representative Pettit was a sterling example of the highest level of competence, leadership, integrity and fairness. With his heart and roots in the community and his mind well-tuned to the dictates and precepts of our modern society, he was able to function as an effective agent on behalf of his constituents from the 40th Legislative District and he carried out his responsibilities with compassion, a public-spirited focus and a broad commitment to the public good; now therefore be it

RESOLVED, That the House of Representatives of the Commonwealth of Pennsylvania note with great sadness the passing of the Honorable Albert W. Pettit, beloved family member and esteemed governmental leader, whose noble actions manifested the highest traditions of public service; extend heartfelt condolences to his wife, Joann C. Claycomb Pettit; son, Albert W. Pettit IV; daughters, Sara Pettit Skorupan and Katherine Pettit Remney; parents, Albert W. and Sara Wakefield Pettit; and ten grandchildren; and be it further

RESOLVED, That a copy of this resolution, sponsored by Representatives Matthew Ryan, John M. Perzel and H. William DeWeese, be transmitted to Mrs. Joann C. Claycomb Pettit.

Matthew Ryan
Speaker of the House
ATTEST:
Ted Mazia
Chief Clerk of the House

On the question,
Will the House adopt the resolution ?

The SPEAKER. Those in favor of the resolution will rise as a mark of respect for Representative Pettit. Guests will also please rise.

(Whereupon, the members of the House and all visitors stood in a moment of silence in solemn respect to the memory of the Honorable Albert W. Pettit.)

The SPEAKER. The resolution has been unanimously adopted. Members and guests may be seated.

REMARKS BY SPEAKER

The SPEAKER. At a time like this, it is strange the things we remember about people.

For instance, did you ever notice that when some people smile, the smile never seems to reach their eyes?

That was not so with Al Pettit. You think for a moment about your various encounters with him during his time with us, and you will quickly realize that when Al Pettit smiled, it was a real smile; when he laughed, it was a real laugh, a hearty laugh; when he made a friendly gesture, we knew it was not an empty gesture, but rather, it was the real thing.

He was a lifelong optimist, and it showed. It was an optimism that he maintained during his hard but brief battle with cancer; an optimism that showed in everything he did as a State Representative from the 40th District. He did not make any secret of the fact that he really liked this job; so much so that a local paper, the Pittsburgh Tribune, noted in a story about his death: "State Representative Albert Pettit never attended a legislative session that he didn't like" — that is more than most of us can say — "and he attended them all for four straight years."

That is right; he never missed a session in the 4 years he was with us — 4-plus years he was with us. And that is something that very few of us can say.

I valued and respected Al Pettit because of the wealth and caliber of the people skills, negotiating skills, and legal skills that he brought to this House.

We were fortunate to benefit from his association with Westinghouse, particularly those years he spent as its corporate director for human resources and labor relations.

He was a master of the art of compromise and teamwork. He was a man of justice and reason; a man who valued ethics and teamwork; a man of integrity, but always teamwork.

He was a man who came to this House to make a difference, and he did make a difference, just as he made a difference to all the lives he touched — his beloved family, here with us; his community; his constituents; and his colleagues, those of us in this House.

Husband, father, grandfather — he was a man with solid values who did what he thought was right. He was a friend — a friend of this House, a friend of the people of Pennsylvania; a friend who will be greatly missed by all of us, but most of all by the family for whom he cared very deeply.

It is to them — as we gather to remember the life and death of our colleague and friend, Al Pettit — that we now extend our heartfelt condolences from the Pennsylvania House of Representatives. We thank you for sharing him with us. Thank you.

REMARKS BY MAJORITY LEADER

The SPEAKER. The Chair at this time recognizes the majority leader, Mr. Perzel.

Mr. PERZEL. Thank you, Mr. Speaker.

It is with great sadness — personal and professional, Mr. Speaker — that I rise today to pay tribute to Representative Albert W. Pettit.

Representative Pettit was one of those truly special people you were glad to have met and privileged to have worked with, Mr. Speaker. He was here too short a time, as we all know.

Whenever I was with him — in my office working on rules reforms, here on the floor of the House sharing a joke, or talking to him on the phone as he dealt with this terrible illness over the last few months — I could feel the strength of his personality and the depth of his character.

After completing a long and very successful career in corporate human services, as you mentioned earlier, as a labor negotiator with Westinghouse Corporation, Mr. Pettit ventured into politics. He was elected to the House in 1992; reelected in 1994 and 1996.

Mr. Pettit represented the residents of the 40th District in Allegheny and Washington Counties with a gentle firmness and dignity and thoroughness that reflected his approach to life.

When he learned of his illness last year, Al rose to the challenge. Even as he was undergoing treatments for his illness, he would come to the Capitol, attending committee meetings, participating in caucus, voting on the floor, and handling constituent problems in his office. He was always concerned about the job he was doing, and not for himself.

With his quiet courage and never-give-up attitude, Al Pettit was an inspiration to us all. He was my friend, and I will miss him, and this institution will miss him, Mr. Speaker.

He was truly a friend, Mr. Speaker. And when you look back, there are a lot of people that stand out in the General Assembly — I think you all know that — and some of them stand out just a little bit more than others. And whenever you mention names, you miss people. But I always remember — and I think of him fondly, even though he was a foe — Jim Manderino, and Dave Richardson, and one of those people that in my heart and mind I will miss and will always remember fondly is Albert Pettit.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

REMARKS BY DEMOCRATIC LEADER

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

Mr. DeWEESE. "With malice toward none."

Mr. Speaker, Joann and family, members of the House, those words were offered by Lincoln again and again, "with malice toward none," and they encapsulate Al Pettit.

During the late 1920's and early 1930's, there was a transition in power in Washington, D.C. Speaker Nicholas Longworth and his rule gave in, by rule of the majority of the American voters, to John Nance Garner of Texas. The Speakership was handed over. The Republicans had been prevailed upon by the Democrats.

According to letters exchanged by John Nance Garner and Nicholas Longworth and according to other memoirs of the day, they were indeed good friends. They duked it out on the floor, but there was something overarching about the warm, decent, fraternal relationship that they shared — Longworth and Garner. In this comparatively acrimonious and fratricidal modern political world, there are not too many Garners and Longworths. But as Representative Gladeck and Representative Trich have said in recently published remarks about Al, this guy was warm and decent and fraternal and his spirit pervaded amongst the 203.

I thought it was a coincidence of some measure that the quiet, strong, gentle soldier of the century, George Marshall, was honored

the same week that Al Pettit was gathered to the bosom of Abraham. I thought it was something that as an Army lieutenant in the infantry in Korea, at the beginning of the decade in which I was born, when George Marshall was Secretary of State, that these two fellows reminded me a lot of each other. Al Pettit, like Marshall, was cerebral and familial and rock solid, smart, kind; as the floor leader said and as the Speaker said, a man who would pursue compromise.

When I first became Speaker of the House and Al Pettit first became a member of the House — and they happened on the same day — we started a good acquaintanceship. And Joann and Al and myself and others at the Duquesne Club in Pittsburgh for dinner, and I do not remember whether Jess Stairs was there that night; I think Rick Cessar was. When I was Speaker, I had dinner with over half of the Republican rank and file, and every time that Al Pettit was in that group, whether it would be at the Maverick or in some rarefied setting in Pittsburgh, his warmth and his joviality punctuated the fraternity that we share. No one, no one among this group — and I think in this setting, which is known for hyperbole, I do not think anyone can gainsay the accuracy of this comment — nobody in this group was more fraternal than Al Pettit.

I think the imprimatur of his career and for a politician — and he gives the word “politician” an essentially wonderful ring — but for a man who was involved in the public arena, nothing, in my view, can be said that more epitomizes his work, his dedication to his family, and his experience with us more than the words of Abraham Lincoln, “with malice toward none.”

The SPEAKER. The Chair thanks the gentleman.

REMARKS BY MRS. COHEN

The SPEAKER. The Chair recognizes the lady from Montgomery County, Mrs. Cohen.

Mrs. COHEN. Thank you, Mr. Speaker.

Joann, Betsy, Albert, Kathy:

Al Pettit was such a phenomenal human being that my words here today really cannot do him justice.

I met Al 5 years ago when we were all freshmen here as Representatives. I saw immediately that he was someone to look up to and certainly to emulate. We teased each other, as did our families, and we called each other roommates. And he was a wonderful roommate, because Al Pettit was the quintessential gentleman — dignified, respected by us all here, and respectful.

In talking to my fellow Representatives, one word appeared — and it is just a four-letter word, but everybody used it with great affection — and they said that Al was just such a nice, nice man.

He is the perfect example of someone in a second career. He did not have to do this job. He could have packed it in and gone to a South Sea island and enjoyed life, but he realized that he had a responsibility as a citizen.

He was not motivated by power; he was not motivated by money. He was motivated by a desire to serve, to reform the system, and to make all of our lives better. He was thoroughly devoted to his job, even when he was sick. And Lisa and I saw him. He would come to the House floor, and as the majority leader said, he went to committee meetings and went everywhere. And no one knew, but we saw when he would get back to the office the pain, the agony, but he would never admit it in public. He was totally devoted.

As a lawyer, I admired his legal abilities. I would watch him. He would stay late in the office, writing everything. So many of us just get up on the floor and speak off the cuff, but not Al Pettit. He drafted and he wrote and he rewrote. His words were always gems, even his good-mornings, but he was careful in what he said and what he wrote.

As roommates, we shared lots of laughs, lots of ideas about law and the House and what our responsibilities were as Representatives. And even when he was very sick, he never failed to bring me chocolate; he always remembered.

I think one of the most impressive things about Al Pettit was the love affair, this passionate love affair that he was engaged in, and this love affair lasted more than four decades. It was Al and Joann, Joann and Al — one word. Sometimes Joann would come to Harrisburg, and when she would walk in the office and open the door, his eyes lit up, or when we would be walking down the hall and he would see Joann a block away, his whole face just burst into a smile. He was always so happy to see her.

We all were happy to see Al. Nobody here in Harrisburg just liked Al Pettit; we just loved Al Pettit. He was quiet but had an incredibly strong presence, and Al Pettit certainly was a touch of class to this Pennsylvania House of Representatives.

In May he wrote about the job, and I just quickly wanted to tell you what Al thought of the job, because this really embodied what Al Pettit was: “Dedication to Republican principles; political experience and contacts in the district; name recognition and respect in the district; understanding of the wide range of issues; stamina to meet the demands of the job; emotional stability and political sensitivity; ability to communicate with the voters; ability to make wise decisions; ability to win against the Democrats.” And he said, “During the past four years I have dedicated myself to representing you with a high standard of competence, diligence and political sensitivity. I was honored when Speaker Ryan appointed me Chairman of his special House Rules Task Force. Similarly I was honored this session to be moved to the Appropriations Committee. The flood of letters from Democrat colleagues has also been heartening as an indicator of my skills as a legislator.”

Albert, you set the standard for this House. We hope to live up to those standards. If we are half the person that you were, then all 202 of us will be better and certainly the people of this Commonwealth will be better for you. God bless you, Albert. May you rest in peace.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the lady.

FAMILY INTRODUCED

The SPEAKER. At this time I would take the opportunity to introduce to the House Al’s wife, Joann — would you stand, please, Joann — his son, Albert; his two daughters, Sara and Katherine; his staff from Harrisburg and staff from the district office that are here, if they traveled here today.

Thank you very much.

BENEDICTION

The SPEAKER. The closing prayer will be offered by Representative Louise Williams Bishop.

Members and guests will please rise.

Ms. BISHOP. Thank you, Mr. Speaker.

Joann, members of Al's family, ladies and gentlemen of the House:

Many years ago there was a writer who, in the windmills of his mind, found himself standing in a similar situation as we stand today. He wrote these words; I would just like to leave a few with you when I go to prayer:

Sunset and evening star,
And one clear call for me!
And may there be no moaning of the bar,
When I put out to sea,

But such a tide as moving seems asleep,
Too full for sound and foam,
When that which drew from out the boundless deep
Turns again home.

Twilight and evening bell,
And after that the dark.
And may there be no sadness of farewell
When I embark;

For though from our borne of time and place,
The flood may bear me far.
I hope to see my Pilot face to face
When I have crossed the bar.

O God, our Heavenly Father, we come today to memorialize our fallen comrade, our colleague, our friend, and public servant, Al Pettit.

I thank You for the gift that You have given not only to his family and to his community, to his district, to his county, but to the entire Commonwealth of Pennsylvania.

I thank You also for the gift that You have given to each of us, for we have had the opportunity to serve with one whose life was truly a reflection of good and honesty and respect.

We now release him, and as we release him, we ask Your blessings upon his family — Joann and all of the rest of the members of his family. We ask that You would mount them up on wings of eagles, that they may soar through the storms of life with ease by Your grace.

And strengthen all of us, each of us, that we may be able to pray the Prayer of Serenity: Lord, grant unto us the strength to accept those things we cannot change, grant unto us courage to change the things we can, and give us wisdom to know the difference.

Bless each of us now that we might be an instrument of Thy peace. Where there is doubt, let us show hope, and where there is hatred, let us show love. Where there is darkness, let us show light, and where there is weakness, bring us into Your strength.

We ask these and all blessings in Your name. Amen.

The SPEAKER. Members and guests may now be seated.

The Sergeant at Arms will open the doors of the House.

The Chair declares the memorial service over, and we will proceed now with our regular session.

APPROPRIATIONS COMMITTEE MEETING

The SPEAKER. The gentleman, Mr. Barley, is recognized for the purpose of making an announcement.

Mr. BARLEY. Thank you, Mr. Speaker.

I would like to call a meeting of the Appropriations Committee in the majority Appropriations Committee room upon the call for recess. We will have an immediate meeting.

RECESS

The SPEAKER. Does the Republican leader or Democratic leader have any business at this time?

Hearing none, this House will stand in recess until 1 p.m., or unless sooner recalled by the Chair.

AFTER RECESS

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

COMMUNICATIONS FROM GOVERNOR

APPROVAL OF HOUSE BILLS

The Speaker laid before the House communications in writing from the office of His Excellency, the Governor of the Commonwealth, advising that the following House bills had been approved and signed by the Governor:

HB 132 and HB 133.

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

HB 623, PN 2010 (Amended)

By Rep. WOGAN

An Act requiring disclosure of new motor vehicle damage; and providing for enforcement.

CONSUMER AFFAIRS.

BILLS REREPORTED FROM COMMITTEE

SB 125, PN 387

By Rep. BARLEY

An Act amending the act of August 9, 1955 (P.L.323, No.130), entitled The County Code, providing for an excise tax in certain counties.

APPROPRIATIONS.

SB 182, PN 948

By Rep. BARLEY

An Act amending the act of December 17, 1968 (P.L.1224, No.387), entitled Unfair Trade Practices and Consumer Protection Law, providing protection for dog purchaser; imposing duties on the Attorney General; and providing for records and for penalties.

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:

SB 125, PN 387, and SB 182, PN 948.

CALENDAR

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:

SB 875, PN 1028; SB 123, PN 1131; SB 640, PN 1061; SB 538, PN 1139; and SB 631, PN 1140.

BILLS ON THIRD CONSIDERATION

BILL PASSED OVER TEMPORARILY

The SPEAKER. HB 1303 is over temporarily.

The House proceeded to third consideration of **HB 102, PN 109**, entitled:

An Act making an appropriation to the Pennsylvania Fish and Boat Commission to cover the costs of certain free fishing licenses.

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

BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.
Mr. PERZEL. Mr. Speaker, I move that HB 102 be recommitted to the Committee on Appropriations.

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

BILLS PASSED OVER

The SPEAKER. Page 3 of today's calendar. HB 162, SB 672, HB 135 are over.
Page 4. HB 20, HB 235, HB 1258 are over.

BILLS PASSED OVER TEMPORARILY

The SPEAKER. HB 1304 and SB 423 are over temporarily.
Page 5. SB 635 is over temporarily.

The House proceeded to third consideration of **HB 94, PN 1813**, entitled:

An Act authorizing the attachment of wages.

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

BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.
Mr. PERZEL. Mr. Speaker, I move that HB 94 be recommitted to the Committee on Appropriations.

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

BILLS PASSED OVER

The SPEAKER. HB 836 and HB 1176 are both over.
Page 6. All of the bills on page 6 are over.

The House proceeded to third consideration of **HB 960, PN 1142**, entitled:

An Act amending the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, further providing for authority to sell or lease real property.

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

BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.
Mr. PERZEL. Mr. Speaker, I move that HB 960 be recommitted to the Committee on Appropriations.

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

**BILLS ON CONCURRENCE
IN SENATE AMENDMENTS**

BILLS PASSED OVER TEMPORARILY

The SPEAKER. HB 77 and HB 848 on page 7 are over temporarily.

**BILL ON CONCURRENCE
IN SENATE AMENDMENTS
TO HOUSE AMENDMENTS
TO SENATE AMENDMENTS**

BILL PASSED OVER TEMPORARILY

The SPEAKER. HB 854 on page 7 is over temporarily.

RESOLUTIONS

RESOLUTIONS PASSED OVER

The SPEAKER. Page 8. HR 196, SR 28 are over.

RESOLUTIONS PURSUANT TO RULE 35

Mr. FLEAGLE called **HR 191, PN 1875**, entitled:

A Resolution congratulating Waynesboro on the celebration of its 200th Anniversary in 1997.

On the question,
Will the House adopt the resolution?

REMARKS SUBMITTED FOR THE RECORD

The SPEAKER. On the question of the adoption of the resolution, the gentleman, Mr. Fleagle.

Mr. FLEAGLE. Thank you, Mr. Speaker.

Mr. Speaker, I would like to submit remarks for the record on HR 191, if I may.

The SPEAKER. The gentleman will send his remarks to the desk.

Mr. FLEAGLE submitted the following remarks for the Legislative Journal:

Mr. Speaker, I want to take the opportunity to recognize my hometown of Waynesboro as it celebrates its bicentennial this summer. Waynesboro has a rich colonial history and has thrived on its strong industrial base for years. Over 200 years ago, around 1750, John Wallace came to the Waynesboro area through a grant from William Penn. John Wallace settled and built his cabin by a spring which still flows just east of Waynesboro.

The original plot, known as Waynesburg, was 91 acres laid out in Washington Township, in the county of Franklin. The first sale of lots was held by John Wallace in 1797, and the first deed was entered for record December 28, 1797, by Henry Smith, a shoemaker. The following year witnessed the sale of several lots, and during the subsequent decade and a half, the town entered upon a period of steady growth.

The village was incorporated by an act of the legislature December 21, 1818, under the name of Waynesborough, after General Anthony Wayne,

Wallace's commander at Stony Point. This act was repealed in 1824. Articles of incorporation were revived and approved by Governor George Wolf, January 25, 1831, at which time the present name of Waynesboro was adopted.

The inventive genius which has made Waynesboro what it is had its inception in the Revolutionary War period. At the forge in his little blacksmith shop along the East Branch of the Little Antietam, John Bourns fashioned a cannon which became the first piece from here to go into the war. Later it was captured by the British, and tradition says is not stored in London.

A solid type of settlers came to the Waynesboro area, mainly Scotch, Irish, and German, with a mixture of some Swiss blood. Instinct, understanding of the soil, thrift, were qualities that made them good producers.

The character of the people was disclosed when George Frick substituted steam power for water power and began the development of the present Frick industry. Later came the Landis brothers with other new advancement continued in 1893 when light and power were secured in Waynesboro. Only 10 years later, the first electric railway was projected through the area. In 1913, Main Street was paved with brick within the confines of the borough.

Along with these advancements came steady industrial growth. When the town was but a few houses in the woods, Old Forge, a few miles away, was operating, and the old Burns Forge turned out cannon for the Continental Army. The nearby furnaces also presaged the industrial eminence that was to come to Waynesboro. Just east of town was Royer's tannery from which leather was transported by Conestoga wagons to major markets. Along the streams were great mills grinding the grain of the farms into flour with the power generated by the great water wheels. Saw mills fashioned lumber of the great trees.

As Waynesboro itself took on larger dimensions, small factories sprang up within its limits. First came the village blacksmiths along with the wagon maker. John Seller's saddle and harness shop was also among the first of the small industries in Waynesboro. Later, Joseph Grebs and Jacob Bender conducted furniture shops, and Lewis Forney operated a tannery for many years on East Main Street.

In the early days of Waynesboro, the minister and the schoolmaster were co-laborers. Francis McKeon, whose list of patrons numbered 17 families, is known as the first schoolteacher of Waynesboro. John Bourns built the first schoolhouse about 1770 which served as a church for the congregations of the Lutheran, Reformed, and Presbyterian denominations on Sunday. The early educational system in the area was, in essence, a private system. In 1852, Waynesboro was made a separate public school district, and in 1859, the legislature authorized the erection of a suitable schoolhouse. This is the first instance of a public school in Waynesboro.

Other major public services which came to the Waynesboro area include the postal service, with Michael Stoner serving as Waynesboro's first postmaster from April 1, 1807, to June 9, 1822. The Waynesboro Hospital was established in 1922. It was secured at a cost, for building and grounds, of \$168,906.32, with an additional expenditure of \$15,025.50 for equipment.

As in most small communities, banks figured largely in the growth and development of Waynesboro. In 1853, the people of Waynesboro organized the Waynesboro Savings Fund Society. This institution cared for the finances of the town until 1863, when the Society liquidated and was succeeded by the First National Bank. The People's National Bank of Waynesboro was organized September 18, 1890. After 5 years of steady growth, greater banking facilities were needed, and the Bank of Waynesboro came into being.

About the same time, the Waynesboro Dime Savings Fund & Trust Company was organized. This institution consolidated with the Bank of Waynesboro in 1897. After many mergers and changes, in 1927 the First National Bank & Trust Company came into existence as it is today. Previously in 1901, Citizens National Bank & Trust Company of Waynesboro was established in Center Square where it stands today.

Waynesboro's newspaper history dates back to April 22, 1843. The Waynesboro Circulator was established in that year and published for 2

years. After the Circulator passed out of existence, the Gazette was established but also closed after a short time. Starting in March 1847, the Blair family from Mercersburg published the Village Record for about 45 years. After that, the name changed to the Waynesboro Record and was published as such for many years until the Record Herald Publishing Company acquired the Herald in 1925 and changed it to what we know as the Record Herald today.

For 200 years, Waynesboro has prospered. In 1797 Waynesboro was 91 acres and it has grown to be a town of over 1,600 acres today. Waynesboro has a rich history to be proud of, and I would like to honor it today.

On the question recurring,
Will the House adopt the resolution ?

The following roll call was recorded:

YEAS-200

Adolph	DiGirolamo	Maitland	Saylor
Allen	Donatucci	Major	Schroder
Argall	Druce	Manderino	Schuler
Armstrong	Eachus	Markosek	Scrimenti
Baker	Egolf	Marsico	Semmel
Bard	Evans	Masland	Serafini
Barley	Fairchild	Mayermik	Seyfert
Barrar	Fargo	McCall	Shaner
Battisto	Feese	McGeehan	Smith, B.
Bebko-Jones	Fichter	McGill	Smith, S. H.
Belardi	Fleagle	McIlhattan	Snyder, D. W.
Belfanti	Flick	McNaughton	Staback
Benninghoff	Gannon	Melio	Stairs
Birmelin	Geist	Michlovic	Steelman
Bishop	George	Micozzie	Steil
Blaum	Gigliotti	Mihalich	Stern
Boscola	Gladeck	Miller	Stetler
Boyes	Godshall	Mundy	Stevenson
Brown	Gordner	Myers	Strittmatter
Browne	Gruitza	Nailor	Sturla
Bunt	Gruppo	Nickol	Surra
Butkovitz	Habay	O'Brien	Tangretti
Buxton	Haluska	Olasz	Taylor, E. Z.
Caltagirone	Hanna	Oliver	Taylor, J.
Cappabianca	Harhart	Orie	Thomas
Carn	Hasay	Perzel	Tigue
Carone	Hennessey	Pesci	Travaglio
Casorio	Herman	Petrarca	Trello
Cawley	Hershey	Petrone	Trich
Chadwick	Hess	Phillips	True
Civera	Horsey	Pippy	Tulli
Clark	Hutchinson	Pistella	Vance
Clymer	Itkin	Platts	Van Horne
Cohen, L. I.	Jadlowiec	Preston	Veon
Cohen, M.	James	Ramos	Vitali
Colafigella	Jarolin	Raymond	Walko
Colaizzo	Josephs	Readshaw	Waugh
Conti	Kaiser	Reber	Williams, A. H.
Cornell	Keller	Reinard	Williams, C.
Corpora	Kenney	Rieger	Wilt
Corrigan	Krebs	Roberts	Wogan
Cowell	LaGrotta	Robinson	Wojnaroski
Coy	Laughlin	Roebuck	Wright, M. N.
Curry	Lawless	Rohrer	Yewcic
Daley	Lederer	Rooney	Youngblood
Dally	Leh	Ross	Zimmerman
DeLuca	Lescovitz	Rubley	Zug
Dempsey	Levdansky	Sainato	
Dent	Lloyd	Santoni	Ryan,
Dermody	Lucyk	Sather	Speaker
DeWeese	Lynch		

NAYS-0

NOT VOTING-0

EXCUSED-2

Kirkland Washington

The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

* * *

Mr. WOJNAROSKI called up HR 199, PN 1958, entitled:

A Resolution declaring the week of October 5 through 11, 1997, as "Casimir Pulaski Week" in Pennsylvania and commemorating the achievements and contributions General Casimir Pulaski made to the United States of America.

On the question,
Will the House adopt the resolution ?

The following roll call was recorded:

YEAS-199

Adolph	DiGirolamo	Lynch	Saylor
Allen	Donatucci	Maitland	Schroder
Argall	Druce	Major	Schuler
Armstrong	Eachus	Manderino	Scrimenti
Baker	Egolf	Markosek	Semmel
Bard	Evans	Marsico	Serafini
Barley	Fairchild	Masland	Seyfert
Barrar	Fargo	Mayermik	Shaner
Battisto	Feese	McCall	Smith, B.
Bebko-Jones	Fichter	McGeehan	Smith, S. H.
Belardi	Fleagle	McGill	Snyder, D. W.
Belfanti	Flick	McIlhattan	Staback
Benninghoff	Gannon	McNaughton	Stairs
Birmelin	Geist	Melio	Steelman
Bishop	George	Michlovic	Steil
Blaum	Gigliotti	Micozzie	Stern
Boscola	Gladeck	Mihalich	Stetler
Boyes	Godshall	Miller	Stevenson
Brown	Gordner	Mundy	Strittmatter
Browne	Gruitza	Myers	Sturla
Bunt	Gruppo	Nailor	Surra
Butkovitz	Habay	Nickol	Tangretti
Buxton	Haluska	O'Brien	Taylor, E. Z.
Caltagirone	Hanna	Olasz	Taylor, J.
Cappabianca	Harhart	Oliver	Thomas
Carn	Hasay	Orie	Tigue
Carone	Hennessey	Perzel	Travaglio
Casorio	Herman	Pesci	Trello
Cawley	Hershey	Petrarca	Trich
Chadwick	Hess	Petrone	True
Civera	Horsey	Phillips	Tulli
Clark	Hutchinson	Pippy	Vance
Clymer	Itkin	Pistella	Van Horne
Cohen, L. I.	Jadlowiec	Platts	Veon
Cohen, M.	James	Preston	Vitali
Colafigella	Jarolin	Ramos	Walko
Colaizzo	Josephs	Raymond	Waugh
Conti	Kaiser	Readshaw	Williams, A. H.
Cornell	Keller	Reber	Williams, C.
Corpora	Kenney	Reinard	Wilt
Corrigan	Krebs	Rieger	Wogan
Cowell	LaGrotta	Roberts	Wojnaroski
Coy	Laughlin	Robinson	Wright, M. N.
Curry	Lawless	Rohrer	Yewcic

Daley	Lederer	Rooney	Youngblood
Dally	Leh	Ross	Zimmerman
DeLuca	Lescovitz	Rublely	Zug
Dempsey	Levdansky	Sainato	
Dent	Lloyd	Santoni	Ryan,
Dermody	Lucyk	Sather	Speaker
DeWeese			

NAYS-0

NOT VOTING-1

Roebuck

EXCUSED-2

Kirkland

Washington

The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

BILL ON CONCURRENCE IN SENATE AMENDMENTS AS AMENDED

The House proceeded to consideration of concurrence in Senate amendments to the following **HB 77, PN 1980**, as further amended by the House Rules Committee:

An Act designating a certain bridge on SR 0011 over the West Branch of the Susquehanna River connecting Point Township, Northumberland County and Monroe Township, Snyder County, as the Barry A. King Memorial Bridge; designating a certain bridge on SR 2028 in Mifflin Township and South Centre Township, Columbia County, as the Mifflin-South Centre Veterans Memorial Bridge; designating a certain bridge in the Borough of Clarks Summit, Lackawanna County, as the Veterans of Foreign Wars Memorial Bridge; and transferring roads between Oxford Township, Adams County and the Department of Transportation.

On the question,

Will the House concur in Senate amendments as amended by the Rules Committee?

The SPEAKER. The gentleman, Mr. Scrimenti.

Mr. SCRIMENTI. Thank you, Mr. Speaker.

Mr. Speaker, this House bill is a bill that I had amended when it was over in the House on an earlier occasion to name a highway in Erie County as the Forest Hopkins Memorial Highway. As many of you may remember, of course, Hopkins was a former Republican member of the House of Representatives, who served with distinction representing the 4th Legislative District.

This bill left the House, went to the Senate. The Senate took that amendment out, for what reason, I do not know, and they sent back the bill to us, amended it here in the House with a couple other amendments, and now we are dealing with this bill at this time.

I believe, because we had approved my amendment to this bill unanimously, that we should revert to the prior printer's number to make sure that this amendment is included in this bill to once again honor a former Republican House member by naming—

The SPEAKER. Will the gentleman yield.

May I have the attention of the House.

A motion to revert to a prior printer's number would not be in order. That would be equivalent to an amendment for which you would need to suspend the rules. What is before you at the moment is the question of concurrence.

Mr. SCRIMENTI. Okay. Thank you, Mr. Speaker.

At this time then I would ask the membership to nonconcur on this bill because of that action.

The SPEAKER. The Chair thanks the gentleman.

The gentleman, Mr. Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, will the gentleman from Erie consent to interrogation?

The SPEAKER. The gentleman indicates he will stand for interrogation. You may begin.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, could you again say what the bridge that was deleted from this amendment was and who that bridge was named for?

Mr. SCRIMENTI. It was a road project — it was Route 17 — a road project in Erie County to honor Forest W. Hopkins, a former member of the House, serving the 4th Legislative District.

Mr. COHEN. Mr. Speaker, does the gentleman remember the years Forest Hopkins served in the House of Representatives? It was the 1970's?

Mr. SCRIMENTI. Yes. He served until 1978; approximately 12 years.

Mr. COHEN. Thank you, Mr. Speaker. I have no further questions.

Speaking on the subject, Mr. Speaker?

The SPEAKER. The gentleman, Mr. Cohen.

Mr. COHEN. Mr. Speaker, excuse me; can we return to interrogation for a minute?

The SPEAKER. The gentleman, Mr. Cohen, has been recognized on the question.

Mr. COHEN. Could we return to interrogation for a minute, Mr. Speaker?

The SPEAKER. Go ahead, Mr. Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, does the gentleman have anything else to add?

Mr. SCRIMENTI. Yes.

MOTION TO SUSPEND RULES

Mr. SCRIMENTI. I would like to make a motion to suspend the rules then to revert to that prior printer's number, if that is permissible. Mr. Speaker, I would like to make a motion to suspend the rules to revert to the prior printer's number, if that is permissible.

Mr. COHEN. I will yield to him, if that is permissible, Mr. Speaker.

The SPEAKER. The gentleman, Mr. Scrimenti, moves that the rules of this House be suspended to permit him to make a further motion.

On the question,

Will the House agree to the motion?

The SPEAKER. On the question of suspension of the rules—

Mr. SCRIMENTI. Just for clarification?

The SPEAKER. Mr. Scrimenti.

Mr. SCRIMENTI. Just for clarification, it is not the immediate prior printer's number; it is prior PN 1528.

The SPEAKER. On the question of suspension of the rules—
Mr. PERZEL. Mr. Speaker?

The SPEAKER. Mr. Perzel.

Mr. PERZEL. Thank you, Mr. Speaker.

We would oppose the motion to suspend the rules, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

On the question of suspension of the rules, the question of suspension of the rules is only debatable by the leaders.

The gentleman, Mr. Scrimenti, debated on behalf of the Democratic leader and the Republican leader debated on behalf of himself.

Mr. Scrimenti, you have been recognized on this question. Mr. Scrimenti, do you desire recognition on the question of suspension? Suspension. Mr. Scrimenti, I am speaking to you.

Mr. SCRIMENTI. I yield to the leader, please.

The SPEAKER. No; you cannot yield to the leader. You are the leader for the purpose of this.

Mr. SCRIMENTI. Thank you then, Mr. Speaker.

Mr. Speaker, I would just like to reiterate what I said earlier, that this is a former Republican House member. This amendment had passed unanimously from this House. I see no justification why we cannot support that again in this bill, and by a suspension of the rules to revert to the prior printer's number, that action will do just that.

The SPEAKER. On the question of suspension of the rules—

Mr. DeWeese, I am under the impression you yielded to the gentleman, Mr. Scrimenti, your turn at the bat, if you will.

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

YEAS-96

Battisto	Dermody	Manderino	Sainato
Bebko-Jones	DeWeese	Markosek	Santoni
Belardi	Donatucci	Mayernik	Scrimenti
Belfanti	Eachus	McCall	Shaner
Bishop	Evans	McGeehan	Staback
Blaum	George	Melio	Steelman
Boscola	Gigliotti	Michlovic	Stetler
Butkovitz	Gordner	Mihalich	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Haluska	Myers	Tangretti
Cappabianca	Hanna	Olasz	Thomas
Carn	Horsey	Oliver	Tigue
Casorio	Itkin	Pesci	Travaglio
Cawley	James	Petrarca	Trello
Cohen, M.	Jarolin	Petrone	Trich
Colafella	Josephs	Pistella	Van Horne
Colaizzo	Keller	Preston	Veon
Corpora	LaGrotta	Ramos	Vitali
Corrigan	Laughlin	Readshaw	Walko
Cowell	Lederer	Rieger	Williams, A. H.
Coy	Lescovitz	Roberts	Williams, C.
Curry	Levdansky	Robinson	Wojnaroski
Daley	Lloyd	Roebuck	Yewcic
DeLuca	Lucy	Rooney	Youngblood

NAYS-103

Adolph	Egolf	Maitland	Schuler
Allen	Fairchild	Major	Semmel
Argall	Fargo	Marsico	Serafini

Armstrong	Feese	Masland	Seyfert
Baker	Fichter	McGill	Smith, B.
Bard	Fleagle	McIlhattan	Smith, S. H.
Barley	Flick	McNaughton	Snyder, D. W.
Barrar	Gannon	Micozzie	Stairs
Benninghoff	Geist	Miller	Steil
Birmelin	Gladeck	Nailor	Stern
Boyes	Godshall	Nickol	Stevenson
Brown	Gruppo	O'Brien	Strittmatter
Browne	Habay	Orie	Taylor, E. Z.
Bunt	Harhart	Perzel	Taylor, J.
Carone	Hasay	Phillips	True
Chadwick	Hennessey	Pippy	Tullii
Civera	Herman	Platts	Vance
Clark	Hershey	Raymond	Waugh
Clymer	Hess	Reber	Wilt
Cohen, L. I.	Hutchinson	Reinard	Wogan
Conti	Jadlowiec	Rohrer	Wright, M. N.
Cornell	Kenney	Ross	Zimmerman
Dally	Krebs	Rubley	Zug
Dempsey	Lawless	Sather	
Dent	Leh	Saylor	Ryan,
DiGirolamo	Lynch	Schroder	Speaker
Druce			

NOT VOTING-1

Kaiser

EXCUSED-2

Kirkland

Washington

Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,

Will the House concur in Senate amendments as amended by the Rules Committee?

MOTION TO RECOMMIT

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

Mr. DeWEESE. Mr. Speaker, I would like to move that we recommit HB 77 to the Rules Committee for the purpose of an amendment that would allow for Forry Hopkins' name to be placed back into the proposal, the bridge naming for our former member who died in office after 12 years, a Republican member of the House.

On all days, this day, it seems to be a poignant opportunity for us. The State Senate is still in session. There are no mechanical difficulties that are standing in our way. So I would ask that for the men and women of northwestern Pennsylvania, Democrats and Republicans alike, we recommit this bill momentarily. It will not take long. The Rules Committee could meet off the floor and we could add an amendment that would honor our late Republican colleague who died in office, Mr. Forry Hopkins, from northwestern Pennsylvania, and I so move.

The SPEAKER. Mr. DeWeese, if I may interrogate you for a moment. Is this a motion with instructions that you have made or a simple motion to recommit?

Mr. DeWEESE. A simple motion to recommit, Mr. Speaker.

The SPEAKER. Thank you.

The gentleman, Mr. DeWeese, has moved that HB 77 be recommitted to the Rules Committee.

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

The SPEAKER. On that question, the Chair recognizes the gentleman, Mr. Cappabianca.

Mr. CAPPABIANCA. Thank you, Mr. Speaker.

This is debatable? Okay.

I stand, Mr. Speaker, in support of the minority leader's position in asking for a motion to recommit.

Mr. Speaker, it surprises me that a simple amendment that Mr. Scrimenti put into this bill honoring a colleague that I believe you served with and a very few other members are still around that could remember Mr. Hopkins, who was a loyal Republican for 12 years on the floor of this House, I cannot see why there would be any controversy over this particular amendment.

It is a shame, as the minority leader pointed out, on a moment, on a day like today when we are remembering other fallen comrades, that we would not remember Forry Hopkins. I just think it is a shame.

I think you owe it to us or at least you owe us an explanation, not only to the people of northwestern Pennsylvania but Representative Scrimenti, if there is some other possibility of another bill that they are going to give honor to Forry Hopkins.

I would ask for support of this motion, Mr. Speaker.

The SPEAKER. The gentleman, Mr. Perzel.

Mr. PERZEL. Thank you, Mr. Speaker.

I know we are not supposed to mention names, Mr. Speaker, but I do not have any problem with the Forest Hopkins naming. I saw Mr. Scrimenti and Mr. Cappabianca stand up for that. I would be glad to run a bill with that, but for some reason in the Senate they decided to take it out.

There are other problems that we are trying to resolve with this piece of legislation right now that we would like to see done. I cannot help the fact that the Senate took it out, and I would be glad, as I said, to run a bill for Representative Scrimenti. But right now we need to pass HB 77, get it to the Governor's desk so we can take care of the problems that are in there.

So because of that, I would oppose the motion of sending it back to the Rules Committee.

The SPEAKER. The gentleman, Mr. DeWeese.

Mr. DeWEESE. On slot machines, we kowtow to Ridge; on the naming of a highway for a fallen member who died in office, a Republican member, we kowtow to the Senate. The internal prerogatives of our chamber are being vitiated by the hour. Where is the stalwart GOP leadership on this floor at a time like this? This is an institutional question that could be taken care of in 5 minutes, and if we acquiesce to the Senate in this comparatively innocuous moment, then we are not standing up for our chamber.

The Senate being the Senate and the executive being the executive are perceived a little bit differently than we are on this floor, and I think for our own institutional integrity we should make this amendment a part of the proposal, and it should be done in the Rules Committee.

I would ask for a favorable vote in honor of the late Forry Hopkins, Republican member from northwestern Pennsylvania. Thank you.

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

The following roll call was recorded:

YEAS-96

Battisto	Dermody	Manderino	Sainato
Bebko-Jones	DeWeese	Markosek	Santoni
Belardi	Donatucci	Mayernik	Scrimenti
Belfanti	Eachus	McCall	Shaner
Bishop	Evans	McGeehan	Staback
Blaum	George	Melio	Steelman
Boscola	Gigliotti	Michlovic	Stetler
Butkovitz	Gordner	Mihalich	Sturla
Buxton	Gruitza	Mundy	Surra
Caltagirone	Haluska	Myers	Tangretti
Cappabianca	Hanna	Olasz	Thomas
Carn	Horsey	Oliver	Tigue
Casorio	Itkin	Pesci	Travaglio
Cawley	James	Petrarca	Trello
Cohen, M.	Jarolin	Petrone	Trich
Colaella	Josephs	Pistella	Van Horne
Colaizzo	Keller	Preston	Veon
Corpora	LaGrotta	Ramos	Vitali
Corrigan	Laughlin	Readshaw	Walko
Cowell	Lederer	Rieger	Williams, A. H.
Coy	Lescovitz	Roberts	Williams, C.
Curry	Levdansky	Robinson	Wojnaroski
Daley	Lloyd	Roebuck	Yewcic
DeLuca	Lucyk	Rooney	Youngblood

NAYS-103

Adolph	Egolf	Maitland	Schuler
Allen	Fairchild	Major	Semmel
Argall	Fargo	Marsico	Serafini
Armstrong	Feese	Masland	Seyfert
Baker	Fichter	McGill	Smith, B.
Bard	Fleagle	McIlhattan	Smith, S. H.
Barley	Flick	McNaughton	Snyder, D. W.
Barrar	Gannon	Micozzie	Stairs
Benninghoff	Geist	Miller	Steil
Birmelin	Gladeck	Nailor	Stern
Boyes	Godshall	Nickol	Stevenson
Brown	Gruppo	O'Brien	Stritmatter
Browne	Habay	Orie	Taylor, E. Z.
Bunt	Harhart	Perzel	Taylor, J.
Carone	Hasay	Phillips	True
Chadwick	Hennessey	Pippy	Tulli
Civera	Herman	Platts	Vance
Clark	Hershey	Raymond	Waugh
Clymer	Hess	Reber	Wilt
Cohen, L. I.	Hutchinson	Reinard	Wogan
Conti	Jadlowiec	Rohrer	Wright, M. N.
Cornell	Kenney	Ross	Zimmerman
Dally	Krebs	Rublely	Zug
Dempsey	Lawless	Sather	
Dent	Leh	Saylor	Ryan,
DiGirolamo	Lynch	Schroder	Speaker
Druce			

NOT VOTING-1

Kaiser

EXCUSED-2

Kirkland Washington

Less than the majority having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,
Will the House concur in Senate amendments as amended by the Rules Committee?

The SPEAKER. On that question, Mr. Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, I remember Forest Hopkins. When I was sworn in as a member of the House, Forest Hopkins was a member from Erie County. Forest Hopkins, as I recall, was an extremely polite, an extremely gracious, an extremely decent, a rather short but always a very cheerful man. Listening to the eulogy for Al Pettit, I think that while the biographical statement of Al Pettit's life is somewhat different from the biographical details of Forest Hopkins' life, I think all the good words of character that apply to Al Pettit apply to Forest Hopkins.

There is no good reason why Route 17 ought not to be named for Forest Hopkins. We have not heard any reasons cited today. He has been deceased for almost 20 years. There is no political or other motive for naming this after Mr. Hopkins.

Obviously, the votes are here to pass this bill, but I would think it would be strongly in the interest of the prerogatives of the House to assert that the Senate of Pennsylvania ought not to interfere with this.

Mr. Speaker, I ask to suspend for a minute.

GUESTS INTRODUCED

The SPEAKER. While the gentleman is in conference, the Chair will take this opportunity to welcome to the hall of the House, as the guests of Representative Nick Colafella and Representative Susan Laughlin, a group from St. Francis Cabrini, the plus-50 group, located in Beaver County. Would that group kindly wave and acknowledge. There we are. Welcome to Harrisburg.

CONSIDERATION OF HB 77 CONTINUED

The SPEAKER. Mr. Cohen.

Mr. COHEN. Thank you.

Mr. Speaker, I am informed that Mr. Perzel, the majority leader, has worked out with Mr. Scrimenti a series of steps, specific steps at specific times that he will take in order to see that Route 17 is named after Forest Hopkins. We appreciate this very much.

Therefore, I would urge support and concurrence in HB 77.

On the question recurring,

Will the House concur in Senate amendments as amended by the Rules Committee?

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

YEAS—200

- | | | | |
|-------------|------------|------------|---------------|
| Adolph | DiGirolamo | Maitland | Saylor |
| Allen | Donatucci | Major | Schroder |
| Argall | Druce | Manderino | Schuler |
| Armstrong | Eachus | Markosek | Scrimenti |
| Baker | Egolf | Marsico | Semmel |
| Bard | Evans | Masland | Serafini |
| Barley | Fairchild | Mayernik | Seyfert |
| Barrar | Fargo | McCall | Shaner |
| Battisto | Feese | McGeehan | Smith, B. |
| Bebko-Jones | Fichter | McGill | Smith, S. H. |
| Belardi | Fleagle | McIlhattan | Snyder, D. W. |

- | | | | |
|--------------|------------|------------|-----------------|
| Belfanti | Flick | McNaughton | Staback |
| Benninghoff | Gannon | Melio | Stairs |
| Birmelin | Geist | Michlovic | Steelman |
| Bishop | George | Micozzie | Steil |
| Blaum | Gigliotti | Mihalich | Stern |
| Boscola | Gladeck | Miller | Stetler |
| Boyes | Godshall | Mundy | Stevenson |
| Brown | Gordner | Myers | Strittmatter |
| Browne | Gruitza | Nailor | Sturla |
| Bunt | Gruppo | Nickol | Surra |
| Butkowitz | Habay | O'Brien | Tangretti |
| Buxton | Haluska | Olasz | Taylor, E. Z. |
| Caltagirone | Hanna | Oliver | Taylor, J. |
| Cappabianca | Harhart | Orie | Thomas |
| Carn | Hasay | Perzel | Tigue |
| Carone | Hennessey | Pesci | Travaglio |
| Casorio | Herman | Petrarca | Trelo |
| Cawley | Hershey | Petrone | Trich |
| Chadwick | Hess | Phillips | True |
| Civera | Horsey | Pippy | Tulli |
| Clark | Hutchinson | Pistella | Vance |
| Clymer | Itkin | Platts | Van Horne |
| Cohen, L. I. | Jadlowiec | Preston | Veon |
| Cohen, M. | James | Ramos | Vitali |
| Colafella | Jarolin | Raymond | Walko |
| Colaizzo | Josephs | Readshaw | Waugh |
| Conti | Kaiser | Reber | Williams, A. H. |
| Cornell | Keller | Reinard | Williams, C. |
| Corpora | Kenney | Rieger | Wilt |
| Corrigan | Krebs | Roberts | Wogan |
| Cowell | LaGrotta | Robinson | Wojnaroski |
| Coy | Laughlin | Roebuck | Wright, M. N. |
| Curry | Lawless | Rohrer | Yewcic |
| Daley | Lederer | Rooney | Youngblood |
| Dally | Leh | Ross | Zimmerman |
| DeLuca | Lescovitz | Rubley | Zug |
| Dempsey | Levdansky | Sainato | |
| Dent | Lloyd | Santoni | Ryan, |
| Dermody | Lucyk | Sather | Speaker |
| DeWeese | Lynch | | |

NAYS—0

NOT VOTING—0

EXCUSED—2

Kirkland Washington

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments as amended by the Rules Committee were concurred in.

Ordered, That the clerk inform the Senate accordingly.

**BILL ON CONCURRENCE
IN SENATE AMENDMENTS**

The House proceeded to consideration of concurrence in Senate amendments to **HB 848, PN 1786**, entitled:

An Act making appropriations from a restricted revenue account within the General Fund and from Federal augmentation funds to the Pennsylvania Public Utility Commission.

On the question,
Will the House concur in Senate amendments?

The SPEAKER. On that question, it is moved by the gentleman, Mr. Barley, that the House do concur in the amendments inserted by the Senate.

On the question recurring,

Will the House concur in Senate amendments?

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

YEAS-200

- | | | | |
|--------------|------------|------------|-----------------|
| Adolph | DiGirolamo | Maitland | Saylor |
| Allen | Donatucci | Major | Schroder |
| Argall | Druce | Manderino | Schuler |
| Armstrong | Eachus | Markosek | Scrimenti |
| Baker | Egolf | Marsico | Semmel |
| Bard | Evans | Masland | Serafini |
| Barley | Fairchild | Mayernik | Seyfert |
| Barrar | Fargo | McCall | Shaner |
| Battisto | Feese | McGeehan | Smith, B. |
| Bebko-Jones | Fichter | McGill | Smith, S. H. |
| Belardi | Fleagle | McIlhatten | Snyder, D. W. |
| Belfanti | Flick | McNaughton | Staback |
| Benninghoff | Gannon | Melio | Stairs |
| Birmelin | Geist | Michlovic | Steelman |
| Bishop | George | Micozzie | Steil |
| Blaum | Gigliotti | Mihalich | Stern |
| Boscola | Gladeck | Miller | Stetler |
| Boyes | Godshall | Mundy | Stevenson |
| Brown | Gordner | Myers | Strittmatter |
| Browne | Gruitza | Nailor | Sturla |
| Bunt | Gruppo | Nickol | Surra |
| Butkovitz | Habay | O'Brien | Tangretti |
| Buxton | Haluska | Olasz | Taylor, E. Z. |
| Caltagirone | Hanna | Oliver | Taylor, J. |
| Cappabianca | Harhart | Orie | Thomas |
| Carn | Hasay | Perzel | Tigue |
| Carone | Hennessey | Pesci | Travaglio |
| Casorio | Herman | Petrarca | Trello |
| Cawley | Hershey | Petrone | Trich |
| Chadwick | Hess | Phillips | True |
| Civera | Horsey | Pippy | Tulli |
| Clark | Hutchinson | Pistella | Vance |
| Clymer | Itkin | Platts | Van Horne |
| Cohen, L. I. | Jadlowiec | Preston | Veon |
| Cohen, M. | James | Ramos | Vitali |
| Colafella | Jarolin | Raymond | Walko |
| Colaizzo | Josephs | Readshaw | Waugh |
| Conti | Kaiser | Reber | Williams, A. H. |
| Cornell | Keller | Reinard | Williams, C. |
| Corpora | Kenney | Rieger | Wilt |
| Corrigan | Krebs | Roberts | Wogan |
| Cowell | LaGrotta | Robinson | Wojnaroski |
| Coy | Laughlin | Roebuck | Wright, M. N. |
| Curry | Lawless | Rohrer | Yewcic |
| Daley | Lederer | Rooney | Youngblood |
| Dally | Leh | Ross | Zimmerman |
| DeLuca | Lescovitz | Rubley | Zug |
| Dempsey | Levdansky | Sainato | |
| Dent | Lloyd | Santoni | Ryan, |
| Dermody | Lucyk | Sather | Speaker |
| DeWeese | Lynch | | |

NAYS-0

NOT VOTING-0

EXCUSED-2

- | | |
|----------|------------|
| Kirkland | Washington |
|----------|------------|

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments were concurred in.

Ordered, That the clerk inform the Senate accordingly.

BILL ON CONCURRENCE IN SENATE AMENDMENTS TO HOUSE AMENDMENTS TO SENATE AMENDMENTS

The House proceeded to consideration of concurrence in Senate amendments to House amendments to Senate amendments to HB 854, PN 1924, entitled:

An Act providing for the capital budget for the fiscal year 1997-1998.

On the question,

Will the House concur in Senate amendments to House amendments to Senate amendments?

The SPEAKER. On that question, the gentleman, Mr. Barley, moves that the House do so concur.

On the question recurring,

Will the House concur in Senate amendments to House amendments to Senate amendments?

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

YEAS-200

- | | | | |
|--------------|------------|------------|-----------------|
| Adolph | DiGirolamo | Maitland | Saylor |
| Allen | Donatucci | Major | Schroder |
| Argall | Druce | Manderino | Schuler |
| Armstrong | Eachus | Markosek | Scrimenti |
| Baker | Egolf | Marsico | Semmel |
| Bard | Evans | Masland | Serafini |
| Barley | Fairchild | Mayernik | Seyfert |
| Barrar | Fargo | McCall | Shaner |
| Battisto | Feese | McGeehan | Smith, B. |
| Bebko-Jones | Fichter | McGill | Smith, S. H. |
| Belardi | Fleagle | McIlhatten | Snyder, D. W. |
| Belfanti | Flick | McNaughton | Staback |
| Benninghoff | Gannon | Melio | Stairs |
| Birmelin | Geist | Michlovic | Steelman |
| Bishop | George | Micozzie | Steil |
| Blaum | Gigliotti | Mihalich | Stern |
| Boscola | Gladeck | Miller | Stetler |
| Boyes | Godshall | Mundy | Stevenson |
| Brown | Gordner | Myers | Strittmatter |
| Browne | Gruitza | Nailor | Sturla |
| Bunt | Gruppo | Nickol | Surra |
| Butkovitz | Habay | O'Brien | Tangretti |
| Buxton | Haluska | Olasz | Taylor, E. Z. |
| Caltagirone | Hanna | Oliver | Taylor, J. |
| Cappabianca | Harhart | Orie | Thomas |
| Carn | Hasay | Perzel | Tigue |
| Carone | Hennessey | Pesci | Travaglio |
| Casorio | Herman | Petrarca | Trello |
| Cawley | Hershey | Petrone | Trich |
| Chadwick | Hess | Phillips | True |
| Civera | Horsey | Pippy | Tulli |
| Clark | Hutchinson | Pistella | Vance |
| Clymer | Itkin | Platts | Van Horne |
| Cohen, L. I. | Jadlowiec | Preston | Veon |
| Cohen, M. | James | Ramos | Vitali |
| Colafella | Jarolin | Raymond | Walko |
| Colaizzo | Josephs | Readshaw | Waugh |
| Conti | Kaiser | Reber | Williams, A. H. |
| Cornell | Keller | Reinard | Williams, C. |

Corpora	Kenney	Rieger	Wilt
Corrigan	Krebs	Roberts	Wogan
Cowell	LaGrotta	Robinson	Wojnaroski
Coy	Laughlin	Roebuck	Wright, M. N.
Curry	Lawless	Rohrer	Yewcie
Daley	Lederer	Rooney	Youngblood
Dally	Leh	Ross	Zimmerman
DeLuca	Lescovitz	Rubley	Zug
Dempsey	Levdansky	Sainato	Ryan,
Dent	Lloyd	Santoni	Speaker
Dermody	Lucyk	Sather	
DeWeese	Lynch		

NAYS-0

NOT VOTING-0

EXCUSED-2

Kirkland Washington

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments to House amendments to Senate amendments were concurred in.

Ordered, That the clerk inform the Senate accordingly.

RULES COMMITTEE MEETING

The SPEAKER. The Chair recognizes the majority leader, Mr. Perzel, who asks for an immediate meeting at the majority leader's desk of the Rules Committee.

BILLS ON CONCURRENCE REPORTED FROM COMMITTEE

HB 849, PN 1978 By Rep. PERZEL

An Act making appropriations from a restricted revenue account within the General Fund to the Office of Consumer Advocate in the Office of Attorney General.

RULES.

SB 870, PN 1157 By Rep. PERZEL

An Act amending the act of May 6, 1997 (P.L. , No.4A), entitled General Appropriations Act of 1997, adding and amending certain Federal and State appropriations made to certain agencies within the Executive Department of the Commonwealth.

RULES.

RESOLUTIONS REPORTED FROM COMMITTEE

HR 192, PN 1876 By Rep. PERZEL

A Concurrent Resolution urging the Governor to proclaim the month of July 1997 as "Buy American Month" in Pennsylvania.

RULES.

HR 207, PN 2009 By Rep. PERZEL

A Resolution calling for the Legislative Budget and Finance Committee to conduct an immediate study of the physical health component of the HealthChoices program administered by the Department of Public Welfare in order to evaluate the adequacy of rates for managed care organizations under HealthChoices.

RULES.

SUPPLEMENTAL CALENDAR A

BILL ON CONCURRENCE IN SENATE AMENDMENTS

The House proceeded to consideration of concurrence in Senate amendments to **HB 849, PN 1978**, entitled:

An Act making appropriations from a restricted revenue account within the General Fund to the Office of Consumer Advocate in the Office of Attorney General.

On the question,
Will the House concur in Senate amendments ?

The SPEAKER. The gentleman, Mr. Barley, moves that the House do concur in the amendments inserted by the Senate.

On the question, the gentleman, Mr. Preston.

Mr. PRESTON. Mr. Speaker, supplemental A has not been passed out yet, to my knowledge.

The SPEAKER. It is my understanding they are being passed out right now, Mr. Preston. Thank you. It is the Chair's understanding that copies have been passed out.

The Chair recognizes the lady, Ms. Mundy.

Ms. MUNDY. Thank you, Mr. Speaker.

May I ask the Appropriations chairman, Mr. Barley, a question, please ?

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

Ms. MUNDY. Mr. Speaker, in the bill on line 6, I notice that there is a \$100,000 cut in the amount of money appropriated for the Consumer Advocate's operations, and I am wondering if you can explain the rationale for cutting \$100,000 from that line.

Mr. BARLEY. Thank you, Mr. Speaker.

The cut of \$100,000 was made in the bill, but then there was an increase of \$235,000 provided in the bill for relocation expenses in the event that the Consumer Advocate would be required to relocate.

We have checked with the Consumer Advocate because we had, quite frankly, some of the concerns that you have raised, the main concern being whether or not this would fund their needs adequately for the upcoming fiscal year. They assured us that a funding level such as this, with the added appropriation for relocation expenses if needed and if necessary, they could live with this and would be satisfied.

Ms. MUNDY. One further question. It is my understanding that the Consumer Advocate originally asked for \$235,000 in moving expenses. Have they now determined that it will only cost them \$135,000? I guess I do not understand. If they need \$235,000 to move and we are giving them \$235,000 to move, then that is still a \$100,000 cut in their operating expenses, and I do not understand the rationale for that. Perhaps the issue of how much they will need in moving expenses is where we should focus.

Mr. BARLEY. Again, Mr. Speaker, the Consumer Advocate's Office, actually the Consumer Advocate, has indicated to our office that the funding — and these changes were made in the Senate; we did not make the changes — but as the bill came back, we wanted to be certain that it did in fact provide adequate funding. We have that assurance from the Consumer Advocate, and I felt that was obviously the underlying concern that we had and should have whether or not this would be adequate funding, and we do have that assurance.

Ms. MUNDY. Mr. Speaker, on the bill.

The SPEAKER. The lady, Ms. Mundy.

Ms. MUNDY. Mr. Speaker, I have to say that during the Appropriations Committee hearings, I raised concerns about the adequacy of the funding level for the Consumer Advocate.

The SPEAKER. Will the lady, Ms. Mundy, please yield.

The conference on the side aisle, please break up. The conference in the vicinity of the lady, Ms. Mundy, please break up.

Ms. Mundy.

Ms. MUNDY. Thank you, Mr. Speaker.

It seems to me that in a time of utility deregulation, electric deregulation, telephone deregulation, that we should be doing our best to make sure that the funding for the Consumer Advocate's Office is at its highest level. This money belongs to the consumers of Pennsylvania, the people, retired citizens on fixed incomes, low-income working families who need the protection that this office provides.

I have grave concerns that as much as \$100,000 is being cut from their budget, their operating budget, and I honestly do not understand at a time when we have a \$573-million surplus, we would find it necessary to cut \$100,000 from the Consumer Advocate's budget. That makes absolutely no sense to me.

I will be voting to nonconcur, and I would hope that people who care about consumers in Pennsylvania will vote likewise. Thank you.

The SPEAKER. The gentleman, Mr. Lloyd.

Mr. LLOYD. Thank you, Mr. Speaker.

Mr. Speaker, I agree with the lady, Ms. Mundy, that the cut made by the Senate cannot be justified, but I disagree with the conclusion. I think we need to concur in this bill, because I think if we do not, we run the serious risk of not having a budget for the Consumer Advocate at all.

I have had numerous conversations with the Consumer Advocate in the last few days about his budget. I was prepared to offer his original budget as an amendment to a Senate bill which was out on the calendar. I talked to him several times yesterday

afternoon, and he said, whatever you do, get me a budget, because there had been an amendment floating around in the Senate which would have given him a 6-month budget.

Now, I think that the Senate objections to a position which he took on an issue is not proper. I do not think the Senate ought to be attempting to influence the advocacy of the Consumer Advocate's Office by exacting penalties in the budget. But in a \$3.8-million budget for general operation, he has indicated that he can live with that budget, and he would like not to have his staff and his contractors, who are involved in very important litigation, put at risk by not having a budget at all.

It is important to recognize that the additional funding for the moving expenses, it is not a net increase of \$135,000. When this budget was considered in the House, he justified and we approved \$3,860,000 for his normal operating expenses. He asked subsequently for some additional money for moving expenses. He has gotten that money but he is being forced to eat \$100,000 of that. That is not a great thing, but it would be a real tragedy if we did not have a budget at all, and I would encourage members to vote "yes" on the Senate amendments.

The SPEAKER. The Chair thanks the gentleman.

The gentleman, Mr. Rooney.

Mr. ROONEY. Thank you, Mr. Speaker.

I rise in opposition to concurrence of HB 849.

While the gentleman, Mr. Barley, suggested, and rightfully so, suggested that the Consumer Advocate is prepared to live with this budget whatever it looks like and the sentiments expressed by the gentleman, Mr. Lloyd, suggesting that the Consumer Advocate needs to have a budget, any budget in place, in my estimation, is no way to govern.

The fact of the matter is, as it is my understanding, initially, the Senate proposed, the Senate Appropriations Committee had an amendment that would have cut in half the budget of the Consumer Advocate, and as the gentlelady, Ms. Mundy, suggested, in the face of gas deregulation, in the implementation of electric utility reregulation, it is imperative now, perhaps more than at any time in the history of this Commonwealth, that the Office of Consumer Advocate be funded adequately and fully. The fact of the matter is, many, many thousands of Pennsylvanians rely on the Office of Consumer Advocate to forward an agenda that oftentimes runs counter to that of those on the other side who run the show here in Harrisburg. The Office of Consumer Advocate needs to be funded adequately. This measure, this proposal before us, HB 849, does not do that.

A \$100,000 cut in this budget is drastic, and the Consumer Advocate of the Commonwealth of Pennsylvania should not have a gun pointed at his head and having it suggested to him that he take something or nothing at all. That is absolutely no way for us to represent the people, the low-income people, I might add, that we all represent who rely on the services of the Office of Consumer Advocate.

I would forcefully request, respectfully request that my colleagues on both sides say "no" to this form of intimidation to the Office of Consumer Advocate, and accordingly, vote "no" on concurrence of HB 849.

The SPEAKER. The gentleman, Mr. DeWeese.

Mr. DeWEESE. Thank you, Mr. Speaker.

I am not sure whether I am, Mr. Speaker, able to coin a proverbial phrase, but I am going to try: I am going to "do a Fumo." I am going to speak against something, and then I am going

to vote for it. I might say somewhat elliptically that the gentleman from Philadelphia, who serves in the Senate from south Philadelphia, is probably the most able combatant I have served with in 22 years in this process, so I say that with some degree of levity and a substantial degree of respect.

I will also accede to the ratiocinative tour de force from Harvard University, the only Harvard lawyer on the floor, Mr. Lloyd from Somerset County. He has convinced me by his commentaries that the Consumer Advocate needs this budget, the Consumer Advocate needs this money. However, the word that came from the Lehigh Valley was "intimidation." This is obviously no way to run the proverbial railroad.

The office of the Consumer Advocate is so parsimoniously funded that, literally, the rank-and-file employees pay 25 cents for their coffee. You do not pay 25 cents for your coffee and neither do I. They run on an exceptionally sparse budget, Mr. Speaker.

Consumer advocates — that is what you all should be; that is what we all should be. We should all be consumer advocates. It is unfathomable today that you are putting us in this position. Either take it or leave it, you are saying. My common sense says that we must be acquiescent. We have to concur. We have to keep the Consumer Advocate moving along.

But as the gentlelady from Luzerne, who preceded me to the microphone, said not too long ago, in this day and age, with electric utility deregulation — one of the most exceptionally complicated phenomenon of modern life — taking place as we sit here, and all of us, all of us, even those of you from Montgomery, Chester, Bucks, and Delaware, those exceptionally wealthy precincts around Philadelphia, all of you have poor people in your districts. All of you in the rural hinterlands of the State have poor people in your districts. You should be consumer advocates with a small "c" and a small "a," but the Consumer Advocates with a large "C" and a large "A" are professionals. They are pinioned, Mr. Speaker; they are shackled, Mr. Speaker, by the parsimony of the Senate. This is arrogant. This is wrong.

For you, the ruling majority, the Republican majority, the Tom Ridge Republican majority in the House and in the Senate, to say to the Consumer Advocate that with \$600 or \$700 million in surplus cash, that \$100,000 cannot be found for the Consumer Advocate, so that men and women who live in Philadelphia and Greene County cannot be more aggressively represented by a Consumer Advocate? I accede to the reality of the voting board, Mr. Speaker. You have the votes. Concurrence is probably our best option at this moment so that the summer will not intercede and the Consumer Advocate will not be completely vitiated.

But again, Mr. Speaker, this is obviously and certainly no way to treat this very small yet dynamic and precisioned group of workers that try to help our poor people, primarily, as they and others in our Pennsylvania society experience Pennsylvania's electric deregulation. Thank you very much, Mr. Speaker.

The SPEAKER. The gentleman, Mr. Perzel.

Mr. PERZEL. Mr. Speaker, I really do not want to belabor this, but I did want to mention that the Governor's Office pays for their coffee, since that is part of the discussion now.

The Consumer Advocate's Office said that they could live with this. I do not understand why we are trying to second-guess them on the amount of money that they need. They say they can live with it, and we are sitting here for an hour debating whether or not they can live with the amount of money they already said they can live with.

Mr. Speaker, I urge a "yes" vote.

Mr. DeWEESE. Mr. Speaker?

The SPEAKER. The gentleman, Mr. George.

The gentleman, Mr. DeWeese? I am sorry.

Mr. DeWEESE. The gentleman from Philadelphia, the majority leader, is being disingenuous. Those remarks that the Consumer Advocate can live with this measure are forced remarks. They have a bullet pointed at their head. They do not want this budget. Sure, they will accept it rather than get nothing.

I have already acquiesced on concurrence. I am going to ask our members to concur. But to proffer the concept that the Consumer Advocate, pinioned as they are, with not enough money to do the job, with Tom Ridge sitting on a mountain of money, is absolute balderdash.

The SPEAKER. Does the gentleman, Mr. George, desire to be recognized?

Mr. GEORGE. Thank you, Mr. Speaker. I will not be long.

I would surmise that this is one of the times when we are darned if we do and we are darned if we do not.

I do not believe that there is any more important funding that will be taken up than the funding that we are about to vote upon at this moment. There will be no better opportunity for the people in Pennsylvania to be represented and represented the way they should be in regard to the deregulation of the electric utilities and the fact that already one of the large utilities has been awarded a billion and a half on stranded costs. There are two more that are coming in at this time. And even though the generation part of this will not fall under the purview of the public utility from that point on, there will be no better way to apprise our citizens of whether or not they are being treated fairly and whether or not their interests are being looked into.

So I guess, Mr. Speaker, we are going to have to vote for this bill. Thank you.

On the question recurring,

Will the House concur in Senate amendments?

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

YEAS—183

Adolph	DeWeese	Lloyd	Sather
Allen	DiGirolamo	Lucyk	Saylor
Argall	Donatucci	Lynch	Schroder
Armstrong	Druce	Maitland	Schuler
Baker	Eachus	Major	Scrimenti
Bard	Egolf	Manderino	Semmel
Barley	Evans	Markosek	Serafini
Barrar	Fairchild	Marsico	Seyfert
Battisto	Fargo	Masland	Shaner
Bebko-Jones	Feese	Mayermik	Smith, B.
Belardi	Fichter	McCall	Smith, S. H.
Belfanti	Fleagle	McGeehan	Snyder, D. W.
Benninghoff	Flick	McGill	Staback
Birmelin	Gannon	McIlhattan	Stairs
Bishop	Geist	McNaughton	Steil
Blaum	George	Michlovic	Stern
Boscola	Gigliotti	Micozzie	Stetler
Boyes	Gladeck	Miller	Stevenson
Brown	Godshall	Myers	Strittmatter
Browne	Gordner	Nailor	Sturla
Bunt	Gruitza	Nickol	Tangretti
Butkovitz	Gruppo	O'Brien	Taylor, E. Z.
Buxton	Habay	Olasz	Taylor, J.
Caltagirone	Haluska	Oliver	Thomas
Cappabianca	Hanna	Orie	Tigue
Cam	Harhart	Perzel	Travaglio

Carone	Hasay	Pesci	Trello
Cawley	Hennessey	Petrarca	True
Chadwick	Herman	Petrone	Tulli
Civera	Hershey	Phillips	Vance
Clark	Hess	Pippy	Van Horne
Clymer	Horsey	Pistella	Walko
Cohen, L. I.	Hutchinson	Platts	Waugh
Colaifella	Itkin	Preston	Williams, A. H.
Colaizzo	Jadlowiec	Ramos	Williams, C.
Conti	James	Raymond	Wilt
Cornell	Kaiser	Readshaw	Wogan
Corrigan	Keller	Reber	Wojnaroski
Cowell	Kenney	Reinard	Wright, M. N.
Coy	Krebs	Rieger	Yewcic
Curry	LaGrotta	Roebuck	Youngblood
Daley	Laughlin	Rohrer	Zimmerman
Dally	Lawless	Ross	Zug
DeLuca	Lederer	Rublely	
Dempsey	Leh	Sainato	Ryan,
Dent	Lescovitz	Santoni	Speaker
Dermody			

NAYS-17

Casorio	Levdansky	Roberts	Surra
Cohen, M.	Melio	Robinson	Trich
Corpora	Mihalich	Rooney	Veon
Jarolin	Mundy	Steelman	Vitali
Josephs			

NOT VOTING-0

EXCUSED-2

Kirkland	Washington
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The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments were concurred in.

Ordered, That the clerk inform the Senate accordingly.

**BILL ON CONCURRENCE
IN SENATE AMENDMENTS
TO HOUSE AMENDMENTS**

BILL PASSED OVER TEMPORARILY

The SPEAKER. SB 870 is over temporarily.

RULES SUSPENDED

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

Mr. PERZEL. Mr. Speaker, I move that the rules of the House be suspended to permit the immediate consideration of HR 207.

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

The following roll call was recorded:

YEAS-194

Adolph	DeWeese	Lynch	Sather
Allen	DiGirolamo	Maitland	Saylor
Argall	Donatucci	Major	Schroder

Armstrong	Druce	Manderino	Schuler
Baker	Eachus	Markosek	Scrimenti
Bard	Egolf	Marsico	Semmel
Barley	Evans	Masland	Serafini
Barrar	Fairchild	Mayernik	Seyfert
Battisto	Fargo	McCall	Shaner
Bebko-Jones	Feese	McGeehan	Smith, B.
Belardi	Fichter	McGill	Smith, S. H.
Belfanti	Fleagle	McIlhattan	Snyder, D. W.
Benninghoff	Flick	McNaughton	Staback
Birmelin	Gannon	Melio	Stairs
Bishop	Geist	Michlovic	Stern
Blaum	George	Micozzie	Stetler
Boscola	Gigliotti	Mihalich	Stevenson
Boyes	Gladeck	Miller	Strittmatter
Brown	Godshall	Mundy	Sturla
Browne	Gordner	Myers	Surra
Bunt	Gruitza	Nailor	Tangretti
Butkovitz	Gruppo	Nickol	Taylor, E. Z.
Buxton	Habay	O'Brien	Taylor, J.
Caltagirone	Haluska	Olasz	Thomas
Cappabianca	Harhart	Oliver	Tigue
Carn	Hasay	Orie	Travaglio
Casorio	Hennessey	Perzel	Trello
Cawley	Herman	Pesci	Trich
Chadwick	Hershey	Petrarca	True
Civera	Hess	Petrone	Tulli
Clark	Horsey	Phillips	Vance
Clymer	Hutchinson	Pippy	Van Horne
Cohen, L. I.	Itkin	Pistella	Veon
Cohen, M.	Jadlowiec	Preston	Vitali
Colaifella	James	Ramos	Walko
Colaizzo	Jarolin	Raymond	Waugh
Conti	Josephs	Readshaw	Williams, A. H.
Cornell	Kaiser	Reber	Williams, C.
Corpora	Keller	Reinard	Wilt
Corrigan	Kenney	Rieger	Wogan
Cowell	LaGrotta	Roberts	Wojnaroski
Coy	Laughlin	Robinson	Wright, M. N.
Curry	Lawless	Roebuck	Yewcic
Daley	Lederer	Rohrer	Youngblood
Dally	Leh	Rooney	Zimmerman
DeLuca	Lescovitz	Ross	Zug
Dempsey	Levdansky	Rublely	
Dent	Lloyd	Sainato	Ryan,
Dermody	Lucyk	Santoni	Speaker

NAYS-6

Carone	Krebs	Steelman	Steil
Hanna	Platts		

NOT VOTING-0

EXCUSED-2

Kirkland	Washington
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A majority of the members required by the rules having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

SUPPLEMENTAL CALENDAR B

RESOLUTION

Mr. O'BRIEN called up HR 207, PN 2009, entitled:

A Resolution calling for the Legislative Budget and Finance Committee to conduct an immediate study of the physical health component of the HealthChoices program administered by the Department

Carone	Hasay	Pesci	Trello
Cawley	Hennessey	Petrarca	True
Chadwick	Herman	Petrone	Tulli
Civera	Hershey	Phillips	Vance
Clark	Hess	Pippy	Van Horne
Clymer	Horsey	Pistella	Walko
Cohen, L. I.	Hutchinson	Platts	Waugh
Colafella	Itkin	Preston	Williams, A. H.
Colaizzo	Jadlowiec	Ramos	Williams, C.
Conti	James	Raymond	Wilt
Cornell	Kaiser	Readshaw	Wogan
Corrigan	Keller	Reber	Wojnaroski
Cowell	Kenney	Reinard	Wright, M. N.
Coy	Krebs	Rieger	Yewcic
Curry	LaGrotta	Roebuck	Youngblood
Daley	Laughlin	Rohrer	Zimmerman
Dally	Lawless	Ross	Zug
DeLuca	Lederer	Rublely	
Dempsey	Leh	Sainato	Ryan,
Dent	Lescovitz	Santoni	Speaker
Dermody			

NAYS-17

Casorio	Levdansky	Roberts	Surra
Cohen, M.	Melio	Robinson	Trich
Corpora	Mihalich	Rooney	Veon
Jarolin	Mundy	Steelman	Vitali
Josephs			

NOT VOTING-0

EXCUSED-2

Kirkland Washington

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments were concurred in.

Ordered, That the clerk inform the Senate accordingly.

**BILL ON CONCURRENCE
IN SENATE AMENDMENTS
TO HOUSE AMENDMENTS**

BILL PASSED OVER TEMPORARILY

The SPEAKER. SB 870 is over temporarily.

RULES SUSPENDED

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

Mr. PERZEL. Mr. Speaker, I move that the rules of the House be suspended to permit the immediate consideration of HR 207.

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

The following roll call was recorded:

YEAS-194

Adolph	DeWeese	Lynch	Sather
Allen	DiGirolamo	Maitland	Saylor
Argall	Donatucci	Major	Schroder

Armstrong	Druce	Manderino	Schuler
Baker	Eachus	Markosek	Scrimenti
Bard	Egolf	Marsico	Semmel
Barley	Evans	Masland	Serafini
Barrar	Fairchild	Mayernik	Seyfert
Battisto	Fargo	McCall	Shaner
Bebko-Jones	Feese	McGeehan	Smith, B.
Belardi	Fichter	McGill	Smith, S. H.
Belfanti	Fleagle	McIlhattan	Snyder, D. W.
Benninghoff	Flick	McNaughton	Staback
Birmelin	Gannon	Melio	Stairs
Bishop	Geist	Michlovic	Stern
Blaum	George	Micozzie	Stetler
Boscola	Gigliotti	Mihalich	Stevenson
Boyes	Gladeck	Miller	Stritmatter
Brown	Godshall	Mundy	Sturla
Browne	Gordner	Myers	Surra
Bunt	Gruitza	Nailor	Tangretti
Butkovitz	Gruppo	Nickol	Taylor, E. Z.
Buxton	Habay	O'Brien	Taylor, J.
Caltagirone	Haluska	Olasz	Thomas
Cappabianca	Harhart	Oliver	Tigue
Carn	Hasay	Orie	Travaglio
Casorio	Hennessey	Perzel	Trello
Cawley	Herman	Pesci	Trich
Chadwick	Hershey	Petrarca	True
Civera	Hess	Petrone	Tulli
Clark	Horsey	Phillips	Vance
Clymer	Hutchinson	Pippy	Van Horne
Cohen, L. I.	Itkin	Pistella	Veon
Cohen, M.	Jadlowiec	Preston	Vitali
Colafella	James	Ramos	Walko
Colaizzo	Jarolin	Raymond	Waugh
Conti	Josephs	Readshaw	Williams, A. H.
Cornell	Kaiser	Reber	Williams, C.
Corpora	Keller	Reinard	Wilt
Corrigan	Kenney	Rieger	Wogan
Cowell	LaGrotta	Roberts	Wojnaroski
Coy	Laughlin	Robinson	Wright, M. N.
Curry	Lawless	Roebuck	Yewcic
Daley	Lederer	Rohrer	Youngblood
Dally	Leh	Rooney	Zimmerman
DeLuca	Lescovitz	Ross	Zug
Dempsey	Levdansky	Rublely	
Dent	Lloyd	Sainato	Ryan,
Dermody	Lucyk	Santoni	Speaker

NAYS-6

Carone	Krebs	Steelman	Steil
Hanna	Platts		

NOT VOTING-0

EXCUSED-2

Kirkland Washington

A majority of the members required by the rules having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

SUPPLEMENTAL CALENDAR B

RESOLUTION

Mr. O'BRIEN called up HR 207, PN 2009, entitled:

A Resolution calling for the Legislative Budget and Finance Committee to conduct an immediate study of the physical health component of the HealthChoices program administered by the Department

of Public Welfare in order to evaluate the adequacy of rates for managed care organizations under HealthChoices.

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS-200

Adolph	DiGirolamo	Maitland	Saylor
Allen	Donatucci	Major	Schroder
Argall	Druce	Manderino	Schuler
Armstrong	Eachus	Markosek	Scrimenti
Baker	Egolf	Marsico	Semmel
Bard	Evans	Masland	Serafini
Barley	Fairchild	Mayernik	Seyfert
Barrar	Fargo	McCall	Shaner
Battisto	Feese	McGeehan	Smith, B.
Bebko-Jones	Fichter	McGill	Smith, S. H.
Belardi	Fleagle	McIlhattan	Snyder, D. W.
Belfanti	Flick	McNaughton	Staback
Benninghoff	Gannon	Melio	Stairs
Birmelin	Geist	Michlovic	Steelman
Bishop	George	Micozzie	Steil
Blaum	Gigliotti	Mihalich	Stern
Boscola	Gladeck	Miller	Stetler
Boyes	Godshall	Mundy	Stevenson
Browne	Gordner	Myers	Strittmatter
Browne	Gruitza	Nailor	Sturla
Bunt	Gruppo	Nickol	Surra
Butkovitz	Habay	O'Brien	Tangretti
Buxton	Haluska	Olasz	Taylor, E. Z.
Caltagirone	Hanna	Oliver	Taylor, J.
Cappabianca	Harhart	Orie	Thomas
Cam	Hasay	Perzel	Tigue
Carone	Hennessey	Pesci	Travaglio
Casorio	Herman	Petrarca	Trello
Cawley	Hershey	Petrone	Trich
Chadwick	Hess	Phillips	True
Civera	Horsy	Pippy	Tulli
Clark	Hutchinson	Pistella	Vance
Clymer	Itkin	Platts	Van Horne
Cohen, L. I.	Jadlowiec	Preston	Veon
Cohen, M.	James	Ramos	Vitali
Colaafella	Jarolin	Raymond	Walko
Colaizzo	Josephs	Readshaw	Waugh
Conti	Kaiser	Reber	Williams, A. H.
Cornell	Keller	Reinard	Williams, C.
Corpora	Kenney	Rieger	Wilt
Corrigan	Krebs	Roberts	Wogan
Cowell	LaGrotta	Robinson	Wojnaroski
Coy	Laughlin	Roebuck	Wright, M. N.
Curry	Lawless	Rohrer	Yewcic
Daley	Lederer	Rooney	Youngblood
Daily	Leh	Ross	Zimmerman
DeLuca	Lescovitz	Rubley	Zug
Dempsey	Levdansky	Sainato	
Dent	Lloyd	Santoni	Ryan,
Dermody	Lucyk	Sather	Speaker
DeWeese	Lynch		

NAYS-0

NOT VOTING-0

EXCUSED-2

Kirkland Washington

The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

RULES SUSPENDED

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

Mr. PERZEL. Mr. Speaker, I move that the rules of the House be suspended to permit the immediate consideration of HR 192.

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

The following roll call was recorded:

YEAS-194

Adolph	DeWeese	Lynch	Santoni
Allen	DiGirolamo	Maitland	Sather
Argall	Donatucci	Major	Schroder
Armstrong	Druce	Manderino	Schuler
Baker	Eachus	Markosek	Scrimenti
Bard	Egolf	Marsico	Semmel
Barley	Evans	Masland	Serafini
Barrar	Fairchild	Mayernik	Seyfert
Battisto	Fargo	McCall	Shaner
Bebko-Jones	Feese	McGeehan	Smith, B.
Belardi	Fichter	McGill	Smith, S. H.
Belfanti	Fleagle	McIlhattan	Snyder, D. W.
Benninghoff	Flick	McNaughton	Staback
Birmelin	Gannon	Melio	Stairs
Bishop	Geist	Michlovic	Stem
Blaum	George	Micozzie	Stetler
Boscola	Gigliotti	Mihalich	Stevenson
Boyes	Gladeck	Miller	Strittmatter
Brown	Godshall	Mundy	Sturla
Browne	Gordner	Myers	Surra
Bunt	Gruitza	Nailor	Tangretti
Butkovitz	Gruppo	Nickol	Taylor, E. Z.
Buxton	Habay	O'Brien	Taylor, J.
Caltagirone	Haluska	Olasz	Thomas
Cappabianca	Harhart	Oliver	Tigue
Cam	Hasay	Orie	Travaglio
Casorio	Hennessey	Perzel	Trello
Cawley	Herman	Pesci	Trich
Chadwick	Hershey	Petrarca	True
Civera	Hess	Petrone	Tulli
Clark	Horsy	Phillips	Vance
Clymer	Hutchinson	Pippy	Van Horne
Cohen, L. I.	Itkin	Pistella	Veon
Cohen, M.	Jadlowiec	Platts	Vitali
Colaafella	James	Preston	Walko
Colaizzo	Jarolin	Ramos	Waugh
Conti	Josephs	Raymond	Williams, A. H.
Cornell	Kaiser	Readshaw	Williams, C.
Corpora	Keller	Reber	Wilt
Corrigan	Kenney	Reinard	Wogan
Cowell	LaGrotta	Rieger	Wojnaroski
Coy	Laughlin	Roberts	Wright, M. N.
Curry	Lawless	Robinson	Yewcic
Daley	Lederer	Roebuck	Youngblood
Daily	Leh	Rohrer	Zimmerman
DeLuca	Lescovitz	Rooney	Zug
Dempsey	Levdansky	Ross	
Dent	Lloyd	Rubley	Ryan,
Dermody	Lucyk	Sainato	Speaker

NAYS-5

Carone Krebs Steelman Steil
Hanna

NOT VOTING-1

Saylor

EXCUSED-2

Kirkland Washington

A majority of the members required by the rules having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

SUPPLEMENTAL CALENDAR C

RESOLUTION

Mr. MICHLOVIC called up HR 192, PN 1876, entitled:

A Concurrent Resolution urging the Governor to proclaim the month of July 1997 as "Buy American Month" in Pennsylvania.

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS-200

Adolph	DiGirolamo	Maitland	Saylor
Allen	Donatucci	Major	Schroder
Argall	Druce	Manderino	Schuler
Armstrong	Eachus	Markosek	Scrimenti
Baker	Egolf	Marsico	Semmel
Bard	Evans	Masland	Serafini
Barley	Fairchild	Mayernik	Seyfert
Barrar	Fargo	McCall	Shaner
Battisto	Feese	McGeehan	Smith, B.
Bebko-Jones	Fichter	McGill	Smith, S. H.
Belardi	Fleagle	McIlhattan	Snyder, D. W.
Belfanti	Flick	McNaughton	Staback
Benninghoff	Gannon	Melio	Stairs
Birmelin	Geist	Michlovic	Steelman
Bishop	George	Micozzie	Steil
Blaum	Gigliotti	Mihalich	Stern
Boscola	Gladeck	Miller	Stetler
Boyes	Godshall	Mundy	Stevenson
Brown	Gordner	Myers	Strittmatter
Browne	Gruitza	Nailor	Sturla
Bunt	Gruppo	Nickol	Surra
Butkovitz	Habay	O'Brien	Tangretti
Buxton	Haluska	Olasz	Taylor, E. Z.
Caltagirone	Hanna	Oliver	Taylor, J.
Cappabianca	Harhart	Orie	Thomas
Carn	Hasay	Perzel	Tigue
Carone	Hennessey	Pesci	Travaglio
Casorio	Herman	Petrarca	Trello
Cawley	Hershey	Petrone	Trich
Chadwick	Hess	Phillips	True
Civera	Horsley	Pippy	Tulli
Clark	Hutchinson	Pistella	Vance
Clymer	Itkin	Platts	Van Horne
Cohen, L. I.	Jadlowiec	Preston	Veon
Cohen, M.	James	Ramos	Vitali
Colafrella	Jarolin	Raymond	Walko
Colaizzo	Josephs	Readshaw	Waugh
Conti	Kaiser	Reber	Williams, A. H.
Cornell	Keller	Reinard	Williams, C.
Corpora	Kenney	Rieger	Wilt
Corrigan	Krebs	Roberts	Wogan
Cowell	LaGrotta	Robinson	Wojnaroski
Coy	Laughlin	Roebuck	Wright, M. N.
Curry	Lawless	Rohrer	Yewcic

Daley	Lederer	Rooney	Youngblood
Dally	Leh	Ross	Zimmerman
DeLuca	Lescovitz	Rubley	Zug
Dempsey	Levdansky	Sainato	
Dent	Lloyd	Santoni	Ryan,
Dermody	Lucyk	Sather	Speaker
DeWeese	Lynch		

NAYS-0

NOT VOTING-0

EXCUSED-2

Kirkland Washington

The majority of the members elected to the House having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

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

GUESTS INTRODUCED

The SPEAKER. The Chair is pleased to welcome to the hall of the House, as the guests of Representative Larry Roberts, the Menarcheck family from Uniontown, Fayette County. Would these folks please rise.

ANNOUNCEMENT BY SPEAKER

The SPEAKER. For your general information, session will begin tomorrow at 9:30 a.m.; 9:30 a.m. So those of you who have meetings scheduled between 9:30 and 11 o'clock, when we ordinarily would come in, had best reconsider your meeting times.

SUPPLEMENTAL CALENDAR D

RESOLUTION PURSUANT TO RULE 35

Mr. HORSEY called up HR 208, PN 2011, entitled:

A Resolution commending Police Commissioner Richard Neal on being selected as a recipient of the United States Attorney General's William French Smith Award.

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS-200

Adolph	DiGirolamo	Maitland	Saylor
Allen	Donatucci	Major	Schroder
Argall	Druce	Manderino	Schuler
Armstrong	Eachus	Markosek	Scrimenti
Baker	Egolf	Marsico	Semmel
Bard	Evans	Masland	Serafini
Barley	Fairchild	Mayernik	Seyfert
Barrar	Fargo	McCall	Shaner
Battisto	Feese	McGeehan	Smith, B.
Bebko-Jones	Fichter	McGill	Smith, S. H.
Belardi	Fleagle	McIlhattan	Snyder, D. W.

Belfanti	Flick	McNaughton	Staback
Benninghoff	Gannon	Melio	Stairs
Birmelin	Geist	Michlovic	Steelman
Bishop	George	Micozzie	Steil
Blaum	Gigliotti	Mihalich	Stern
Boscola	Gladeck	Miller	Stetler
Boyes	Godshall	Mundy	Stevenson
Brown	Gordner	Myers	Strittmatter
Browne	Gruitza	Nailor	Sturla
Bunt	Gruppo	Nickol	Surra
Butkovitz	Habay	O'Brien	Tangretti
Buxton	Haluska	Olasz	Taylor, E. Z.
Caltagirone	Hanna	Oliver	Taylor, J.
Cappabianca	Harhart	Orie	Thomas
Carn	Hasay	Perzel	Tigue
Carone	Hennessey	Pesci	Travaglio
Casorio	Herman	Petrarca	Trello
Cawley	Hershey	Petrone	Trich
Chadwick	Hess	Phillips	True
Civera	Horsey	Pippy	Tulli
Clark	Hutchinson	Pistella	Vance
Clymer	Itkin	Platts	Van Horne
Cohen, L. I.	Jadlowiec	Preston	Veon
Cohen, M.	James	Ramos	Vitali
Colafella	Jarolin	Raymond	Walko
Colaizzo	Josephs	Readshaw	Waugh
Conti	Kaiser	Reber	Williams, A. H.
Cornell	Keller	Reinard	Williams, C.
Corpora	Kenney	Rieger	Wilt
Corrigan	Krebs	Roberts	Wogan
Cowell	LaGrotta	Robinson	Wojnaroski
Coy	Laughlin	Roebuck	Wright, M. N.
Curry	Lawless	Rohrer	Yewcic
Daley	Lederer	Rooney	Youngblood
Dally	Leh	Ross	Zimmerman
DeLuca	Lescovitz	Rubley	Zug
Dempsey	Levdansky	Sainato	
Dent	Lloyd	Santoni	Ryan,
Dermody	Lucyk	Sather	Speaker
DeWeese	Lynch		

HB 854, PN 1924

An Act providing for the capital budget for the fiscal year 1997-1998.

Whereupon, the Speaker, in the presence of the House, signed the same.

The SPEAKER. The Chair has requested the lady, Mrs. Vance, to temporarily preside.

**THE SPEAKER PRO TEMPORE
(PATRICIA H. VANCE) PRESIDING**

CALENDAR CONTINUED

BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 1303, PN 1748** entitled:

An Act amending the act of December 19, 1974 (P.L.973, No.319), known as the Pennsylvania Farmland and Forest Land Assessment Act of 1974, further providing for tax determination upon abandonment.

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

Mrs. MILLER offered the following amendment No. **A2920**:

Amend Sec. 1 (Sec. 8), page 3, lines 14 and 15, by striking out "by grant or donation"

Amend Sec. 1 (Sec. 8), page 3, line 23, by inserting brackets before and after "A" and inserting immediately thereafter

Any acquisition or

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

The SPEAKER pro tempore. On that question, the Chair recognizes Representative Miller.

Mrs. MILLER. Thank you, Madam Speaker.

Amendment A2920 to HB 1303 is being offered in response to a request from the Pennsylvania Farm Bureau to further clarify the circumstances for any rollback taxes being the responsibility of a not-for-profit organization if the land conveyed under HB 1303 to the not-for-profit would not be used for the purpose provided for in the bill, which is a public trail for nonmotorized use.

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

The following roll call was recorded:

YEAS-200

Adolph	DiGirolamo	Maitland	Saylor
Allen	Donatucci	Major	Schroder
Argall	Druce	Manderino	Schuler
Armstrong	Eachus	Markosek	Scrimanti
Baker	Egolf	Marsico	Semmel
Bard	Evans	Masland	Serafini
Barley	Fairchild	Mayernik	Seyfert
Barrar	Fargo	McCall	Shaner

NAYS-0

NOT VOTING-0

EXCUSED-2

Kirkland Washington

The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

BILLS SIGNED BY SPEAKER

Bills numbered and entitled as follows having been prepared for presentation to the Governor, and the same being correct, the titles were publicly read as follows:

HB 848, PN 1786

An Act making appropriations from a restricted revenue account within the General Fund and from Federal augmentation funds to the Pennsylvania Public Utility Commission.

HB 849, PN 1978

An Act making appropriations from a restricted revenue account within the General Fund to the Office of Consumer Advocate in the Office of Attorney General.

Battisto	Feese	McGeehan	Smith, B.
Bebko-Jones	Fichter	McGill	Smith, S. H.
Belardi	Fleagle	McIlhattan	Snyder, D. W.
Belfanti	Flick	McNaughton	Staback
Benninghoff	Gannon	Melio	Stairs
Birmelin	Geist	Michlovic	Steelman
Bishop	George	Micozzie	Steil
Blaum	Gigliotti	Mihalich	Stern
Boscola	Gladeck	Miller	Stetler
Boyes	Godshall	Mundy	Stevenson
Brown	Gordner	Myers	Strittmatter
Browne	Gruitza	Nailor	Sturla
Bunt	Gruppo	Nickol	Surra
Butkovitz	Habay	O'Brien	Tangretti
Buxton	Haluska	Olasz	Taylor, E. Z.
Caltagirone	Hanna	Oliver	Taylor, J.
Cappabianca	Harhart	Orie	Thomas
Carn	Hasay	Perzel	Tigue
Carone	Hennessey	Pesci	Travaglio
Casorio	Herman	Petrarca	Trello
Cawley	Hershey	Petrone	Trich
Chadwick	Hess	Phillips	True
Civera	Horshey	Pippy	Tulli
Clark	Hutchinson	Pistella	Vance
Clymer	Itkin	Platts	Van Horne
Cohen, L. I.	Jadlowiec	Preston	Veon
Cohen, M.	James	Ramos	Vitali
Colafiglia	Jarolin	Raymond	Walko
Colaizzo	Josephs	Readshaw	Waugh
Conti	Kaiser	Reber	Williams, A. H.
Cornell	Keller	Reinard	Williams, C.
Corpora	Kenney	Rieger	Wilt
Corrigan	Krebs	Roberts	Wogan
Cowell	LaGrotta	Robinson	Wojnaroski
Coy	Laughlin	Roebuck	Wright, M. N.
Curry	Lawless	Rohrer	Yewcic
Daley	Lederer	Rooney	Youngblood
Dally	Leh	Ross	Zimmerman
DeLuca	Lescovitz	Rubley	Zug
Dempsey	Levdansky	Sainato	
Dent	Lloyd	Santoni	Ryan,
Dermody	Lucyk	Sather	Speaker
DeWeese	Lynch		

NAYS-0

NOT VOTING-0

EXCUSED-2

Kirkland Washington

The majority having voted in the affirmative, 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-200

Adolph	DiGirolamo	Maitland	Saylor
Allen	Donatucci	Major	Schroder
Argall	Druce	Manderino	Schuler
Armstrong	Eachus	Markosek	Scrimenti
Baker	Egolf	Marsico	Semmel
Bard	Evans	Masland	Serafini
Barley	Fairchild	Mayernik	Seyfert
Barrar	Fargo	McCall	Shaner
Battisto	Feese	McGeehan	Smith, B.
Bebko-Jones	Fichter	McGill	Smith, S. H.
Belardi	Fleagle	McIlhattan	Snyder, D. W.
Belfanti	Flick	McNaughton	Staback
Benninghoff	Gannon	Melio	Stairs
Birmelin	Geist	Michlovic	Steelman
Bishop	George	Micozzie	Steil
Blaum	Gigliotti	Mihalich	Stern
Boscola	Gladeck	Miller	Stetler
Boyes	Godshall	Mundy	Stevenson
Brown	Gordner	Myers	Strittmatter
Browne	Gruitza	Nailor	Sturla
Bunt	Gruppo	Nickol	Surra
Butkovitz	Habay	O'Brien	Tangretti
Buxton	Haluska	Olasz	Taylor, E. Z.
Caltagirone	Hanna	Oliver	Taylor, J.
Cappabianca	Harhart	Orie	Thomas
Carn	Hasay	Perzel	Tigue
Carone	Hennessey	Pesci	Travaglio
Casorio	Herman	Petrarca	Trello
Cawley	Hershey	Petrone	Trich
Chadwick	Hess	Phillips	True
Civera	Horshey	Pippy	Tulli
Clark	Hutchinson	Pistella	Vance
Clymer	Itkin	Platts	Van Horne
Cohen, L. I.	Jadlowiec	Preston	Veon
Cohen, M.	James	Ramos	Vitali
Colafiglia	Jarolin	Raymond	Walko
Colaizzo	Josephs	Readshaw	Waugh
Conti	Kaiser	Reber	Williams, A. H.
Cornell	Keller	Reinard	Williams, C.
Corpora	Kenney	Rieger	Wilt
Corrigan	Krebs	Roberts	Wogan
Cowell	LaGrotta	Robinson	Wojnaroski
Coy	Laughlin	Roebuck	Wright, M. N.
Curry	Lawless	Rohrer	Yewcic
Daley	Lederer	Rooney	Youngblood
Dally	Leh	Ross	Zimmerman
DeLuca	Lescovitz	Rubley	Zug
Dempsey	Levdansky	Sainato	
Dent	Lloyd	Santoni	Ryan,
Dermody	Lucyk	Sather	Speaker
DeWeese	Lynch		

NAYS-0

NOT VOTING-0

EXCUSED-2

Kirkland Washington

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.

RULES SUSPENDED

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

Mr. PERZEL. Madam Speaker, I move that the rules be suspended to immediately be able to consider HB 558.

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

The following roll call was recorded:

YEAS—191

Adolph	DiGirolamo	Maitland	Saylor
Allen	Donatucci	Major	Schroder
Argall	Druce	Manderino	Schuler
Armstrong	Eachus	Markosek	Scrimenti
Baker	Egolf	Marsico	Semmel
Bard	Evans	Masland	Serafini
Barley	Fairchild	Mayernik	Seyfert
Barrar	Fargo	McCall	Shaner
Battisto	Feese	McGeehan	Smith, B.
Bebko-Jones	Fichter	McGill	Smith, S. H.
Belardi	Fleagle	McIlhattan	Snyder, D. W.
Belfanti	Flick	McNaughton	Staback
Benninghoff	Gannon	Melio	Stairs
Bishop	Geist	Michlovic	Stern
Blaum	George	Micozzie	Stetler
Boscola	Gigliotti	Mihalich	Stevenson
Boyes	Gladeck	Miller	Strittmatter
Brown	Godshall	Mundy	Sturla
Browne	Gordner	Nailor	Surra
Bunt	Gruitza	Nickol	Tangretti
Butkovitz	Gruppo	O'Brien	Taylor, E. Z.
Buxton	Habay	Olasz	Taylor, J.
Caltagirone	Haluska	Oliver	Thomas
Cappabianca	Harhart	Orie	Tigue
Carn	Hasay	Perzel	Travaglio
Casorio	Hennessey	Pesci	Trello
Cawley	Herman	Petrarca	Trich
Chadwick	Hershey	Petrone	True
Civera	Hess	Phillips	Tulli
Clark	Horsey	Pippy	Vance
Clymer	Hutchinson	Pistella	Van Horne
Cohen, L. I.	Itkin	Preston	Veon
Cohen, M.	Jadlowiec	Ramos	Vitali
Colafella	Jarolin	Raymond	Walko
Colaizzo	Josephs	Readshaw	Waugh
Conti	Kaiser	Reber	Williams, A. H.
Cornell	Keller	Reinard	Williams, C.
Corpora	Kenney	Rieger	Wilt
Corrigan	LaGrotta	Roberts	Wogan
Cowell	Laughlin	Robinson	Wojnaroski
Coy	Lawless	Roebuck	Wright, M. N.
Curry	Lederer	Rohrer	Yewcic
Daley	Leh	Rooney	Youngblood
Dally	Lescovitz	Ross	Zimmerman
DeLuca	Levdansky	Rublely	Zug
Dempsey	Lloyd	Sainato	
Dent	Lucyk	Santoni	
Dermody	Lynch	Sather	Ryan, Speaker
DeWeese			

NAYS—6

Carone	Krebs	Steelman	Steil
Hanna	Platts		

NOT VOTING—3

Birmelin James Myers

EXCUSED—2

Kirkland Washington

A majority of the members required by the rules having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 558, PN 1793**, entitled:

An Act amending the act of November 24, 1976 (P.L. 1182, No.262), known as the Hearing Aid Sales Registration Law, providing for medical examination and for the return of a hearing aid.

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 Monroe, Mr. Battisto. Mr. BATTISTO. Thank you, Madam Speaker.

Madam Speaker, HB 558 provides purchasers of hearing aids with a 30-day money-back written guarantee. About half the States have such legislation.

It is a reasonable consumer protection piece of legislation. Therefore, I urge its passage. Thank you.

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

Mr. GEORGE. Thank you, Madam Speaker.

Madam Speaker, I think that Mr. Battisto, if I can use a proper name, should have advised this gathering, if I can call it that, but I had agreed to pull an amendment back because it was said that the leadership over there would not run the bill if my amendment alluded to helping senior citizens get hearing-aid devices paid for under these HMO (health maintenance organization) covered insurance contractors. It is too bad when we even can intimidate those at AARP (American Association of Retired Persons), to scare these people by saying that now we have a bill, and if we put another bill in, that could kill the bill. Well, the truth of the matter is, we are only getting a leg, and before we were going to get the whole thing.

Now, the truth of the matter is, Madam Speaker, that we will vote for that – and we should – and what it does is a very small part of what the amendment would do. But I will be here tomorrow or the next day that we are in session, and I hope there will be enough of us that have the courage to stand up to the insurance industry, Madam Speaker, and say, hey, look, even the Governor insisted that we are going to take medicare and some of that that we must cover under law and purchase an HMO coverage for it, and if that is what we are going to do, then let us force these HMO's to quit

playing selective games, Madam Speaker, and let us cover the people in the way that we are paying for them to be covered, and let us take care of these senior citizens.

Let us not talk the talk; let us walk the walk. Thank you, Madam 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—200

Adolph	DiGirolamo	Maitland	Saylor
Allen	Donatucci	Major	Schroder
Argall	Druce	Manderino	Schuler
Armstrong	Eachus	Markosek	Scrimenti
Baker	Egolf	Marsico	Semmel
Bard	Evans	Masland	Serafini
Barley	Fairchild	Mayernik	Seyfert
Barrar	Fargo	McCall	Shaner
Battisto	Feese	McGeehan	Smith, B.
Bebko-Jones	Fichter	McGill	Smith, S. H.
Belardi	Fleagle	McIlhattan	Snyder, D. W.
Belfanti	Flick	McNaughton	Staback
Benninghoff	Gannon	Melio	Stairs
Binnelin	Geist	Michlovic	Steelman
Bishop	George	Micozzie	Stell
Blaum	Gigliotti	Mihalich	Stern
Boscola	Gladeck	Miller	Stetler
Boyes	Godshall	Mundy	Stevenson
Brown	Gordner	Myers	Strittmatter
Browne	Gruitza	Nailor	Sturla
Bunt	Gruppo	Nickol	Surra
Butkovitz	Habay	O'Brien	Tangretti
Buxton	Haluska	Olasz	Taylor, E. Z.
Caltagirone	Hanna	Oliver	Taylor, J.
Cappabianca	Harhart	Orie	Thomas
Carn	Hasay	Perzel	Tigue
Carone	Hennessey	Pesci	Travaglio
Casorio	Herman	Petrarca	Trello
Cawley	Hershey	Petrone	Trich
Chadwick	Hess	Phillips	True
Civera	Horsey	Pippy	Tulli
Clark	Hutchinson	Pistella	Vance
Clymer	Itkin	Platts	Van Home
Cohen, L. I.	Jadlowiec	Preston	Veon
Cohen, M.	James	Ramos	Vitali
Colafrilla	Jarolin	Raymond	Walko
Colaizzo	Josephs	Readshaw	Waugh
Conti	Kaiser	Reber	Williams, A. H.
Cornell	Keller	Reinard	Williams, C.
Corpora	Kenney	Rieger	Wilt
Corrigan	Krebs	Roberts	Wogan
Cowell	LaGrotta	Robinson	Wojnaroski
Coy	Laughlin	Roebuck	Wright, M. N.
Curry	Lawless	Rohrer	Yewcic
Daley	Lederer	Rooney	Youngblood
Dally	Leh	Ross	Zimmerman
DeLuca	Lescovitz	Rublely	Zug
Dempsey	Levdansky	Sainato	
Dent	Lloyd	Santoni	
Dermody	Lucyk	Sather	Ryan, Speaker
DeWeese	Lynch		

NAYS—0

NOT VOTING—0

EXCUSED—2

Kirkland Washington

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 1304, PN 1477**, entitled:

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, providing for disposition of remains of a deceased party to divorce action.

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

Mr. VEON offered the following amendment No. **A2896**:

Amend Title, page 1, line 3, by removing the period after "action" and inserting

; and further providing for contempt for noncompliance with support order.

Amend Bill, page 1, by inserting between lines 14 and 15

Section 2. Section 4345 of Title 23 is amended by adding a subsection to read:

§ 4345. Contempt for noncompliance with support order.

* * *

(c.1) Operating privilege.—In addition to any penalty prescribed in subsection (a), the court shall order the Department of Transportation to suspend the operating privileges of or deny any permit or registration granted under Title 75 (relating to vehicles) to any person found in contempt under this section until that person has demonstrated compliance with an existing support order.

Amend Sec. 2, page 1, line 15, by striking out "2" and inserting

3

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

AMENDMENT WITHDRAWN

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

Mr. VEON. Thank you, Madam Speaker.

Madam Speaker, that amendment is withdrawn.

The gentleman from Fayette County, I know, has put a considerable amount of time into this bill. It deals with a personal family tragedy in his county, and I would like to have an opportunity to offer this amendment at another time. Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,
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 Fayette, Mr. Roberts. Mr. ROBERTS. Thank you, Madam Speaker.

Madam Speaker, 2 years ago the crash of USAir Flight 427 devastated the Pittsburgh region and our Commonwealth. We lost many friends and neighbors in that accident, and because our current laws do not legally define an "estranged wife," the family of at least one victim of the crash became victims themselves.

Madam Speaker, may I have just a bit of order, please.

The SPEAKER pro tempore. The gentleman is correct. Could we please have quiet. The gentleman really is entitled to be heard.

Mr. ROBERTS. Thank you, Madam Speaker.

While time is said to heal all wounds, this family with us today — the Menarchecks — continues to suffer. Some of them are here with us today.

Because of the inadequacies of our current laws, this family was denied the important details of their son and brother's death. They were denied access to the memorial service following the air crash and the arrangements for his burial. They were never afforded, but denied, the ever-important closure to his death.

HB 1304 amends Title 23 of the Pennsylvania Consolidated Statutes to allow before the final divorce order the parents or children of a deceased party to a divorce to have standing to institute a single action relating to the disposition and interment of the body of the deceased. In the immediate instance, Madam Speaker, this legislation is intended to at least allow the Menarcheck family to put a headstone on their son's grave and, hopefully, help bring closure to their tragic loss and suffering. This legislation will also help other Pennsylvanians who in the future may be subjected to a similar atrocity.

Many of you here in this hall today have heard from the Menarchecks personally, and you have responded favorably to them. Now I ask that you vote in favor of this legislation, which I have termed "Bill's Law." Please vote "yes" and allow this family to properly put Bill to rest. Thank you very much.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Delaware County, Representative Gannon.

Mr. GANNON. Thank you, Madam Speaker.

Madam Speaker, Representative Roberts worked very, very hard on this legislation. We had public hearings in our committee. We had the Menarcheck family there. Their story was very, very compelling, and I also would urge a "yes" vote on HB 1304.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Washington County, Mr. Daley.

Mr. DALEY. Thank you, Madam Speaker.

Representative Roberts did not go into the details of the situation that brought about this legislation. But all of us remember Flight 427; it crashed in Pittsburgh, and this family's son, father, member of the family, was on that flight, and he was in the process of going through a divorce, which was supposed to be final the day after the crash. Unfortunately, he did not make it back to have that decree signed and adjudicated to final resolution, and his then-to-be ex-wife refused to provide to his mother, to his sister, to his family, any of his worldly goods that were provided to them by USAir.

Like Representative Roberts said, this was a tragedy and a travesty. The mother would sit at the window every day waiting for her son to come home, not believing he was actually on that plane that crashed in Beaver County, believing that he may be doing

something else. They could never have closure, because they could not have the documents that USAir provided to his then soon-to-be-divorced wife so that she could show the family that he actually was on that plane.

This bill is necessary, this law is necessary for closure on this issue, and I also ask for an affirmative vote. Thank you, Madam Speaker.

COURT CASE SUBMITTED FOR THE RECORD

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Roberts, for the second time.

Mr. ROBERTS. Thank you, Madam Speaker.

I also have a copy of the court case that brought rise to this legislation that I would like to have interjected into the record.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Mr. ROBERTS submitted a court case for the Legislative Journal.

(For copy of court case, see Appendix.)

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-200

Adolph	DiGirolamo	Maitland	Saylor
Allen	Donatucci	Major	Schroder
Argall	Druce	Manderino	Schuler
Armstrong	Eachus	Markosek	Scrimenti
Baker	Egolf	Marsico	Semmel
Bard	Evans	Masland	Serafini
Barley	Fairchild	Mayernik	Seyfert
Barrar	Fargo	McCall	Shaner
Battisto	Feese	McGeehan	Smith, B.
Bebko-Jones	Fichter	McGill	Smith, S. H.
Belardi	Fleagle	McIlhattan	Snyder, D. W.
Belfanti	Flick	McNaughton	Staback
Benninghoff	Gannon	Mejio	Stairs
Birmelin	Geist	Michlovic	Steelman
Bishop	George	Micozzie	Steil
Blaum	Gigliotti	Mihalich	Stern
Boscola	Gladeck	Miller	Stetler
Boyes	Godshall	Mundy	Stevenson
Brown	Gordner	Myers	Strittmatter
Browne	Gruitza	Nailor	Sturla
Bunt	Gruppo	Nickol	Surra
Butkovitz	Habay	O'Brien	Tangretti
Buxton	Haluska	Olasz	Taylor, E. Z.
Caltagirone	Hanna	Oliver	Taylor, J.
Cappabianca	Harhart	Orie	Thomas
Carn	Hasay	Perzel	Tigue
Carone	Hennessey	Pesci	Travaglio
Casorio	Herman	Petrarca	Trello
Cawley	Hershey	Petrone	Trich
Chadwick	Hess	Phillips	True
Civera	Horsey	Pippy	Tulli
Clark	Hutchinson	Pistella	Vance
Clymer	Itkin	Platts	Van Horne
Cohen, L. I.	Jadlowiec	Preston	Veon
Cohen, M.	James	Ramos	Vitali
Colafrilla	Jarolin	Raymond	Walko
Colaizzo	Josephs	Readshaw	Waugh
Conti	Kaiser	Reber	Williams, A. H.
Cornell	Keller	Reinard	Williams, C.
Corpora	Kenney	Rieger	Wilt

Corrigan	Krebs	Roberts	Wogan
Cowell	LaGrotta	Robinson	Wojnaroski
Coy	Laughlin	Roebuck	Wright, M. N.
Curry	Lawless	Rohrer	Yewcic
Daley	Lederer	Rooney	Youngblood
Dally	Leh	Ross	Zimmerman
DeLuca	Lescovitz	Rubley	Zug
Dempsey	Levdansky	Sainato	
Dent	Lloyd	Santoni	Ryan,
Dermody	Lucyk	Sather	Speaker
DeWeese	Lynch		

NAYS-0

NOT VOTING-0

EXCUSED-2

Kirkland Washington

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 635, PN 667, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for the definition of the offense of assault by prisoner; providing for consecutive sentences in certain aggravated assault cases and in cases involving assaults by prisoners and for aggravated harassment by prisoner; and further providing for assault by life prisoner.

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

Mr. MASLAND offered the following amendment No. A2645:

Amend Title, page 1, line 6, by striking out "and" Amend Title, page 1, line 7, by removing the period after "prisoner" and inserting

; and providing for a Special Independent Prosecutor's Panel.

Amend Bill, page 3, line 22, by striking out all of said line and inserting

Section 4. Title 18 is amended by adding a chapter to read:

CHAPTER 93

SPECIAL INDEPENDENT PROSECUTOR'S PANEL

Subchapter

- A. Preliminary Provisions
- B. General Provisions
- C. Authority and Duties of Independent Counsel
- D. Miscellaneous Provisions

SUBCHAPTER A PRELIMINARY PROVISIONS

Sec.

- 9301. Short title of chapter.
- 9302. Definitions.
- § 9301. Short title of chapter.

This chapter shall be known and may be cited as the Independent Counsel Authorization Act.

§ 9302. Definitions.

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

"General Counsel." The General Counsel of the Commonwealth.

"Grounds to investigate." Information which would lead a reasonable person to suspect that a crime is being or has been committed.

"Independent counsel." A person appointed by the Special Independent Prosecutor's Panel upon the request of a special investigative counsel.

"Panel." The Special Independent Prosecutor's Panel established under this chapter.

"Special investigative counsel." A person appointed by the General Counsel to conduct a preliminary investigation under this chapter.

SUBCHAPTER B GENERAL PROVISIONS

Sec.

- 9311. Organization of panel.
- 9312. Preliminary investigation.
- 9313. Conduct of preliminary investigation.
- 9314. Determination that further investigation not warranted.
- 9315. Determination that further investigation is warranted.
- 9316. Contents of application.
- 9317. Disclosure of information.
- 9318. Limitation on judicial review.
- 9319. Duties of panel.

§ 9311. Organization of panel.

(a) Composition and selection.—The Special Independent Prosecutor's Panel shall be composed of one judge of the Commonwealth Court and two judges, including senior judges, of the courts of common pleas of the Commonwealth. The members of the panel shall be chosen by lot. The procedure shall be determined by and supervised by the Court Administrator of Pennsylvania in the Administrative Office of Pennsylvania Courts. The Administrative Office of Pennsylvania Courts shall disclose to the public the membership of the panel.

(b) Term of members.—Each member of the panel shall hold office for a term of three years. Judges who are members of the panel and are required to retire under section 16 of Article V of the Constitution of Pennsylvania shall also vacate their positions on the panel unless assigned under Chapter 7 of the Rules of Judicial Administration. A judge who is otherwise removed from office shall automatically forfeit the position held by that judge on the panel.

(c) Vacancies.—Any vacancy in the panel shall be filled only for the remainder of the three-year period in which the vacancy occurs and in the same manner as initial assignments to the panel were made.

(d) Decisions by majority vote.—All decisions of the panel shall be by majority vote of the members.

(e) Clerk.—The Prothonotary of Commonwealth Court shall serve as the clerk of the panel and shall provide such services as are needed by the panel.

(f) Restriction.—No member of the panel who participated in a function conferred on the panel under this chapter involving an independent counsel shall be eligible to participate in any judicial proceeding concerning a matter which involves the independent counsel and which involves the exercise of the independent counsel's official duties, regardless of whether the independent counsel is still serving in that office.

§ 9312. Preliminary investigation.

(a) Preliminary investigation with respect to certain covered persons.—The General Counsel shall appoint a special investigative counsel to conduct a preliminary investigation in accordance with this chapter whenever the General Counsel receives information sufficient to constitute grounds to investigate whether any person described in subsection (c) may have committed any of the following:

(1) An offense which is classified higher than a misdemeanor of the second degree.

(2) An offense which is classified higher than a summary offense and which involves a breach of the public trust. This paragraph includes a violation of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, or the act of October 4, 1978 (P.L.883, No.170), referred to as the Public Official and Employee Ethics Law.

(b) Preliminary investigation with respect to persons not listed in subsection (c).—The Attorney General shall request the General Counsel to appoint a special investigative counsel to conduct a preliminary investigation under the jurisdiction established or conferred under section 205(b) of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, and where the Attorney General determines that an investigation or prosecution of the person, with respect to the information received, by the Attorney General or other officer of the Attorney General's office may result in a personal, financial or political conflict of interest. In addition, the Attorney General may request the General Counsel to appoint a special investigative counsel to conduct a preliminary investigation where the Attorney General determines that an investigation or prosecution of the person, with respect to the information received, by the Attorney General or other officer of the Attorney General's office may result in a personal, financial or political conflict of interest.

(c) Persons to whom subsection (a) applies.—The persons referred to in subsection (a) are as follows:

(1) The Attorney General, any Deputy Attorney General or any individual working in the Attorney General's office who is defined as a "public employee" under the Public Official and Employee Ethics Law.

(2) Any individual who leaves any office or position described in paragraph (1) during the incumbency of the Attorney General with or under whom such individual served in the office or position, plus one year after such incumbency, but in no event longer than a period of three years after the individual leaves the office or position.

(3) Any individual who held an office or position described in paragraph (1) during the incumbency of one Attorney General and who continued to hold the office or position for not more than 90 days into the term of the next Attorney General, during the one-year period after the individual leaves the office or position.

(4) The chairman and treasurer of the principal campaign committee seeking the election or reelection of the Attorney General, and any officer of that committee exercising authority at the State level, during the incumbency of the elected Attorney General.

(d) Examination of information to determine need for preliminary investigation.—In determining under subsection (a) whether grounds to investigate exist, the General Counsel shall consider only the specificity of the information received and the credibility of the source of the information. The General Counsel shall determine whether grounds to investigate exist no later than 30 days after the information is first received. If within that 30-day period the General Counsel determines that the information is not specific or is not from a credible source, then the General Counsel shall close the matter. If within that 30-day period the General Counsel determines that the information is specific and from a credible source, the General Counsel shall, upon making that determination, appoint a special investigative counsel to commence a preliminary investigation with respect to that information. If the General Counsel is unable to determine, within that 30-day period, whether the information is specific and from a credible source, the General Counsel shall, at the end of that 30-day period, appoint a special investigative counsel to commence a preliminary investigation with respect to that information. If a special investigative counsel is appointed, the special investigative counsel may only accept the appointment when such

appointment would not conflict with the rules governing professional conduct.

§ 9313. Conduct of preliminary investigation.

(a) In general.—A preliminary investigation conducted under this chapter shall be of matters as the special investigative counsel considers appropriate in order to make a determination under this section or section 9314 (relating to determination that further investigation not warranted) of whether further investigation is warranted with respect to each potential violation or allegation of a violation of criminal law. The special investigative counsel shall make the determination no later than 90 days after the preliminary investigation is commenced. The special investigative counsel shall promptly notify the panel of the date of the commencement of the preliminary investigation.

(b) Limited authority of special investigative counsel.—

(1) In conducting preliminary investigations under this chapter, the special investigative counsel shall have no authority to convene grand juries, plea bargain, grant immunity or issue subpoenas.

(2) The special investigative counsel shall not base a determination under this chapter that information with respect to a violation of criminal law by a person is not specific and from a credible source upon a determination that the person lacked the state of mind required for the violation of criminal law. The special investigative counsel shall not base a determination under this chapter that there are no reasonable grounds to believe that further investigation is warranted upon a determination that the person lacked the state of mind required for the violation of criminal law involved unless there is clear and convincing evidence that the person lacked the required state of mind.

(c) Extension of time for preliminary investigation.—The special investigative counsel may apply to the panel for a single extension, for a period of no more than 60 days, of the 90-day period referred to in subsection (a). The panel may, upon a showing of good cause, grant the extension.

§ 9314. Determination that further investigation not warranted.

(a) Notification of panel.—If the special investigative counsel upon completion of a preliminary investigation under this chapter determines that there are no reasonable grounds to believe that further investigation is warranted, the special investigative counsel shall promptly so notify the panel, and the panel shall have no power to appoint an independent counsel with respect to the matters involved.

(b) Form of notification.—The notification shall contain a summary of the information received and a summary of the results of the preliminary investigation. The summary shall be confidential and not subject to public disclosure, except that the person who was the subject of the investigation may request a copy of the summary from the panel.

§ 9315. Determination that further investigation is warranted.

(a) Application for appointment of independent counsel.—The special investigative counsel shall apply to the panel for the appointment of an independent counsel if:

(1) the special investigative counsel, upon completion of a preliminary investigation under this chapter, determines that there are reasonable grounds to believe that further investigation is warranted; or

(2) the 90-day period referred to in section 9313(a) (relating to conduct of preliminary investigation) and any extension granted under section 9313(c) have elapsed and the special investigative counsel has not filed a notification with the panel under section 9314(a) (relating to determination that further investigation not warranted).

(b) Receipt of additional information.—If after submitting a notification under section 9314(a) the special investigative counsel receives additional information sufficient to constitute grounds to investigate the matters to which the notification related, the special investigative counsel shall:

(1) Conduct an additional preliminary investigation as the special investigative counsel considers appropriate for a period of no more than 90 days after the date on which the additional information is received.

(2) Otherwise comply with the provisions of this subchapter with respect to the additional preliminary investigation to the same extent as any other preliminary investigation under this chapter.

§ 9316. Contents of application.

Any application for the appointment of an independent counsel under this chapter shall contain sufficient information to assist the panel in selecting an independent counsel and in defining that independent counsel's prosecutorial jurisdiction so that the independent counsel has adequate authority to fully investigate and prosecute the subject matter and all matters related to that subject matter.

§ 9317. Disclosure of information.

Except as otherwise provided in this chapter, no officer or employee of the office of special investigative counsel or the office of independent counsel may, without leave of the panel, disclose to any individual outside the office of special investigative counsel or office of independent counsel any notification, application or any other document, material or memorandum supplied to the panel under this chapter. Nothing in this chapter shall be construed as authorizing the withholding of information from the General Assembly.

§ 9318. Limitation on judicial review.

The determination of the special investigative counsel under this chapter to apply to the panel for the appointment of an independent counsel shall not be reviewable in any court.

§ 9319. Duties of panel.

(a) Appointment and jurisdiction of independent counsel.—

(1) Upon receipt of an application, the panel shall appoint an appropriate independent counsel and shall define that independent counsel's prosecutorial jurisdiction. The appointment shall occur no later than 30 days after the receipt of the application.

(2) The panel shall appoint as independent counsel an individual who has appropriate experience and who will conduct the investigation and any prosecution in a prompt, responsible and cost-effective manner. The panel shall seek to appoint as independent counsel an individual who will serve to the extent necessary to complete the investigation and any prosecution without undue delay. The panel may not appoint as an independent counsel any person who holds any office of profit or trust with the Commonwealth. No person who is serving as a special investigative counsel may be appointed or serve as an independent counsel in the matter for which they had been appointed to investigate as special investigative counsel. If an independent counsel is appointed, the independent counsel may only accept the appointment when such appointment would not conflict with the rules governing professional conduct.

(3) In defining the independent counsel's prosecutorial jurisdiction, the panel shall assure that the independent counsel has adequate authority to fully investigate and prosecute the subject matter with respect to which the special investigative counsel has requested the appointment of the independent counsel and all matters related to that subject matter. Jurisdiction shall also include the authority to investigate and prosecute the following offenses which may arise out of the investigation with respect to which the special investigative counsel's request was made:

(i) An offense classified higher than a misdemeanor of the second degree.

(ii) An offense which is classified higher than a summary offense and which involves a breach of the public trust. This paragraph includes a violation of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, or the act of October 4, 1978 (P.L.883, No.170), referred to as the Public Official and Employee Ethics Law.

(4) The panel shall disclose the identity of the independent counsel upon appointment.

(b) Expansion of jurisdiction.—

(1) The panel upon the request of the General Counsel may expand the prosecutorial jurisdiction of an independent counsel. The expansion may be in lieu of the appointment of another independent counsel.

(2) If the independent counsel discovers or receives information about possible violations of criminal law by persons as provided in section 9312 (relating to preliminary investigation) which are not covered by the prosecutorial jurisdiction of the independent counsel, the independent counsel may submit the information to the General Counsel. In accordance with this subchapter, the General Counsel shall appoint a special investigative counsel to conduct a preliminary investigation of the information, except that the preliminary investigation shall not exceed 30 days from the date the information is received. In making the determinations required by this subchapter, the special investigative counsel shall give great weight to any recommendations of the independent counsel.

(3) If the special investigative counsel determines, after according great weight to the recommendations of the independent counsel, that there are no reasonable grounds to believe that further investigation is warranted, the special investigative counsel shall promptly so notify the panel, and the panel shall have no power to expand the jurisdiction of the independent counsel or to appoint another independent counsel with respect to the matters involved.

(4) The panel shall expand the jurisdiction of the appropriate independent counsel to include the matters involved or shall appoint another independent counsel to investigate the matters if:

(i) the special investigative counsel determines that there are reasonable grounds to believe that further investigation is warranted; or

(ii) the 30-day period referred to in paragraph (2) elapses without a notification to the panel that no further investigation is warranted.

(5) If the independent counsel discovers or receives information about possible violations of criminal law by persons other than those provided for in section 9312 and which are not covered by the prosecutorial jurisdiction of the independent counsel and a request for expansion under this subsection has not been made by the General Counsel or the request for expansion under this subsection has been denied by the panel, the independent counsel shall submit the information to the appropriate law enforcement authority.

(c) Return for further explanation.—Upon receipt of a notification under this subchapter that there are no reasonable grounds to believe that further investigation is warranted with respect to information received under this chapter, the panel shall have no authority to overrule this determination but may return the matter to the special investigative counsel for further explanation of the reasons for the determination.

(d) Vacancies.—If a vacancy in office arises by reason of the resignation, death or removal of an independent counsel, the panel shall appoint an independent counsel to complete the work of the independent counsel whose resignation, death or removal caused the vacancy, except that, in the case of a vacancy arising by reason of the removal of an independent counsel, the panel may appoint an acting independent counsel to serve until any judicial review of the removal is completed.

SUBCHAPTER C

AUTHORITY AND DUTIES OF INDEPENDENT COUNSEL

Sec.

9331. Authorities.

9332. Compensation and travel expenses.

9333. Additional personnel.

9334. Assistance of Pennsylvania State Police.

9335. Referral of other matters to independent counsel.

9336. Dismissal of matters.

9337. Reports by independent counsel.

9338. Independence from Office of Attorney General.

9339. Standards of conduct applicable to independent counsel, persons serving in office of independent counsel and

their law firms.

- 9340. Custody of records of independent counsel.
- 9341. Cost controls and administrative support.
- 9342. Legislative oversight.
- 9343. Removal of independent counsel and termination of office.
- 9344. Audits.
- 9345. Relationship with Office of Attorney General.
- 9346. Venue.
- § 9331. Authorities.

Notwithstanding any other provision of law, an independent counsel appointed under this chapter shall have, with respect to all matters in the independent counsel's prosecutorial jurisdiction established under this chapter, full power and independent authority to exercise all investigative and prosecutorial functions and powers of the Office of Attorney General, the Attorney General and any other officer or employee of the Office of Attorney General. Investigative and prosecutorial functions and powers shall include, but are not limited to:

- (1) Conducting proceedings before grand juries and other investigations.
- (2) Participating in court proceedings and engaging in any litigation, including civil and criminal matters, that the independent counsel considers necessary.
- (3) Appealing any decision of a court in any case or proceeding in which the independent counsel participates in an official capacity.
- (4) Reviewing all documentary evidence available from any source.
- (5) Determining whether to contest the assertion of any testimonial privilege.
- (6) Receiving appropriate security clearances and, if necessary, contesting in court, including, where appropriate, participating in an in camera proceeding, any claim of privilege or attempt to withhold evidence on grounds of security.
- (7) Making applications to any State court for a grant of immunity to any witness, consistent with applicable statutory requirements, or for warrants, subpoenas or other court orders, and exercising the authority vested in the Attorney General or a district attorney.
- (8) Inspecting, obtaining or using the original or a copy of any tax return in accordance with applicable statutes and regulations.
- (9) Initiating and conducting prosecutions in any court of competent jurisdiction, framing and signing indictments, filing information and handling all aspects of any case in the name of the Commonwealth.
- (10) Consulting with the district attorney for the county in which any violation of law with respect to which the independent counsel is appointed was alleged to have occurred.

§ 9332. Compensation and travel expenses.

An independent counsel appointed under this chapter shall receive compensation at the per diem rate equal to the annual rate of basic pay payable to the Attorney General. An independent counsel and persons appointed under section 9333 (additional personnel) shall be entitled to the payment of travel expenses.

§ 9333. Additional personnel.

For the purposes of carrying out the duties of the office of independent counsel, the independent counsel may appoint, fix the compensation and assign the duties of the employees the independent counsel considers necessary, including, but not limited to, investigators, attorneys and necessary experts to assist with the criminal investigation. The positions of these employees are exempted from the competitive service. Employees shall be compensated at levels not to exceed those payable for comparable positions in the Office of Attorney General.

§ 9334. Assistance of Pennsylvania State Police.

(a) Carrying out functions.—An independent counsel may request assistance from the Pennsylvania State Police in carrying out the functions of the independent counsel, and the Pennsylvania State Police shall provide that assistance, which may include the use of the resources and personnel necessary to perform the independent counsel's duties.

(b) Payment of and reports on expenditures of independent counsel.—Upon the request of the Governor, the General Assembly shall appropriate the necessary funds to the State Treasurer for the use and operation in executing the duties and responsibilities of the position of independent counsel. Upon the request of the Governor, the General Assembly shall appropriate the necessary funds to the Pennsylvania State Police for costs incurred when rendering assistance to the independent counsel as provided for under subsection (a). The State Treasurer shall submit to the General Assembly, no later than 30 days after the end of each fiscal year, a report on amounts paid during that fiscal year for expenses of investigations and prosecutions by independent counsel. Each report shall include a statement of all payments made for activities of independent counsel.

§ 9335. Referral of other matters to independent counsel.

An independent counsel may ask the panel to refer to the independent counsel matters related to the independent counsel's prosecutorial jurisdiction, and the panel may refer these matters. If the Attorney General refers a matter to an independent counsel on the Attorney General's own initiative, the independent counsel may accept the referral if the matter relates to the independent counsel's prosecutorial jurisdiction.

§ 9336. Dismissal of matters.

The independent counsel shall have full authority to dismiss matters within the independent counsel's prosecutorial jurisdiction without conducting an investigation or at any subsequent time before prosecution.

§ 9337. Reports by independent counsel.

(a) Required reports.—An independent counsel shall:

(1) File with the panel, with respect to the six-month period beginning on the date of his appointment and with respect to each six-month period thereafter until the office of that independent counsel terminates, a report which identifies and explains major expenses, summarizes all other expenses incurred by that office during the six-month period with respect to which the report is filed and estimates future expenses of that office.

(2) Before the termination of the independent counsel's office under section 9343(b) (relating to removal of independent counsel and termination of office), file a final report with the panel, setting forth fully and completely a description of all prosecutions. All other information shall be confidential and not subject to public disclosure.

(b) Disclosure of information in reports.—The panel may release to the General Assembly, the Governor, the State Treasurer, the public or any appropriate person the portions of a report made under this section as the panel considers appropriate. The panel shall make any orders as are appropriate to protect the rights of any individual named in the report and to prevent undue interference with any pending prosecution. The panel may make any portion of a final report filed under subsection (a)(2) available to any individual named in the report for the purposes of receiving within a time limit set by the panel any comments or factual information that the individual may submit. The comments and factual information, in whole or in part, may in the discretion of the panel be included as an appendix to the final report.

§ 9338. Independence from Office of Attorney General.

Each independent counsel appointed under this chapter and the persons appointed by that independent counsel under section 9333 (relating to additional personnel) are separate from and independent of the Office of Attorney General.

§ 9339. Standards of conduct applicable to independent counsel, persons serving in office of independent counsel and their law firms.

(a) Restrictions on employment while independent counsel and appointees are serving.—During the period in which an independent counsel is serving under this chapter, the independent counsel and any person associated with a firm with which the independent counsel is associated may not represent in any matter any person involved in any

investigation or prosecution under this chapter. During the period in which any person appointed by an independent counsel under section 9333 (relating to additional personnel) is serving in the office of independent counsel, the person may not represent in any matter any person involved in any investigation or prosecution under this chapter.

(b) Postemployment restrictions on independent counsel and appointees.—

(1) Each independent counsel and each person appointed by that independent counsel under section 9333 may not for three years following the termination of service under this chapter of that independent counsel or appointed person, as the case may be, represent any person in any matter if that individual was the subject of an investigation or prosecution conducted by that independent counsel under this chapter.

(2) Each independent counsel and each person appointed by that independent counsel under section 9333 may not for one year following the termination of service under this chapter of that independent counsel or appointed person, as the case may be, represent any person in any matter involving any investigation or prosecution under this chapter.

(c) One-year ban on representation by members of firms of independent counsel.—Any person who is associated with a firm with which an independent counsel is associated or becomes associated after termination of service of that independent counsel under this chapter may not for one year following the termination represent any person in any matter involving any investigation or prosecution under this chapter.

(d) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Associated with a firm.” A person who is an officer, director, partner or other member or employee of a law firm.

“Firm.” A law firm, whether organized as a partnership or corporation.

§ 9340. Custody of records of independent counsel.

(a) Transfer of records.—Upon termination of the office of independent counsel, that independent counsel shall transfer to the Bureau of Archives and History of the Pennsylvania Historical and Museum Commission all records which have been created or received by that office. Before this transfer, the independent counsel shall clearly identify which of these records are subject to the Pennsylvania Rules of Criminal Procedure as grand jury materials.

(b) Maintenance, use and disposal of records.—Records transferred to the Bureau of Archives and History under this section shall be maintained, used and disposed of as provided by law.

§ 9341. Cost controls and administrative support.

(a) Cost controls.—An independent counsel shall:

(1) Conduct all activities with due regard for expense.

(2) Authorize only reasonable and lawful expenditures.

(3) Promptly upon taking office assign to a specific employee the duty of certifying that expenditures of the independent counsel are reasonable and made in accordance with law.

(b) Office of Administration policies.—An independent counsel shall comply with the established policies of the Office of Administration of the Governor respecting expenditures of funds, except to the extent that compliance would be inconsistent with the purposes of this chapter.

§ 9342. Legislative oversight.

(a) Oversight of conduct of independent counsel.—An independent counsel appointed under this chapter shall submit to the General Assembly a report detailing all moneys expended as required under section 9337(a)(1) (relating to reports by independent counsel). In addition, the independent counsel shall submit annually a report on the activities of the independent counsel, including a description of the progress of any investigation or prosecution conducted by the independent counsel. The report may omit any matter that in the judgment of the independent counsel should be kept confidential but shall provide information

adequate to justify the expenditures that the office of the independent counsel has made.

(b) Information relating to impeachment.—An independent counsel shall advise the House of Representatives of any substantial and credible information which the independent counsel receives in carrying out the independent counsel’s responsibilities under this chapter that may constitute grounds for an impeachment. Nothing in this chapter shall prevent the General Assembly or either house thereof from obtaining information in the course of an impeachment proceeding.

§ 9343. Removal of independent counsel and termination of office.

(a) Removal, report on removal and termination.—

(1) An independent counsel appointed under this chapter may be removed from office only by the personal action of the General Counsel and only for good cause, physical disability, mental incapacity or any other condition that substantially impairs the performance of the independent counsel’s duties. For purposes of this paragraph, the term “good cause” includes, but is not limited to, violations of any ethical rules governing the independent counsel, the Attorney General or district attorneys.

(2) If an independent counsel is removed from office, the General Counsel shall promptly submit to the panel, the Judiciary Committee of the Senate and the Judiciary Committee of the House of Representatives a report specifying the facts found and the ultimate grounds for the removal. The committees may make available to the public the report, except that each committee may, if necessary to protect the rights of any individual named in the report or to prevent undue interference with any pending prosecution, postpone or refrain from publishing any or all of the report. The panel may release any or all of the report in accordance with section 9337(b) (relating to reports by independent counsel).

(3) An independent counsel removed from office may obtain judicial review of the removal in a civil action commenced in the Commonwealth Court. The independent counsel may be reinstated or granted other appropriate relief by order of the Commonwealth Court. A member of the panel may not hear or determine any such civil action or any appeal of a decision in any such civil action.

(b) Termination of office.—

(1) An office of independent counsel shall terminate when the independent counsel:

(i) notifies the panel that the investigation of all matters within the prosecutorial jurisdiction of the independent counsel or accepted by the independent counsel, and any resulting prosecutions, have been completed; and

(ii) files a final report in compliance with section 9337.

(2) The panel shall determine on its own motion whether termination is appropriate under this subsection no later than two years after the appointment of an independent counsel or the reported expenditures of the independent counsel have reached \$2,000,000, whichever occurs first, and at the end of each succeeding one-year period.

§ 9344. Audits.

By December 31 of each year, an independent counsel shall prepare a statement of expenditures for the fiscal year that ended on the immediately preceding June 30. An independent counsel whose office is terminated prior to the end of the fiscal year shall prepare a statement of expenditures within 90 days of the date on which the office is terminated. The Auditor General shall audit each statement and report the results of each audit to the appropriate committees of the General Assembly no later than March 31 of the year following the submission of the statement.

§ 9345. Relationship with Office of Attorney General.

Whenever a matter is in the prosecutorial jurisdiction of an independent counsel or has been accepted by an independent counsel under section 9335 (relating to referral of other matters to independent counsel), the Office of Attorney General, the Attorney General, all other officers and employees of the Office of Attorney General and any district attorney shall suspend all investigations and proceedings regarding that

matter and shall turn over to the independent counsel all materials, files and other data relating to that matter.

§ 9346. Venue.

The proper venue for all prosecutions conducted by the independent counsel shall be determined in accordance with the Pennsylvania Rules of Criminal Procedure. For the purposes of convenience and fairness, the panel may, however, set the venue in any other county on its own motion or at the request of the independent counsel or on petition of the defendant.

SUBCHAPTER D MISCELLANEOUS PROVISIONS

Sec.

9351. Severability of chapter.

9352. Expiration of chapter.

§ 9351. Severability of chapter.

The provisions of this chapter are severable. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application.

§ 9352. Expiration of chapter.

This chapter shall expire five years after the date of the enactment of this chapter, except with respect to any matters pending before an independent counsel that in the judgment of the independent counsel require continuation. Matters shall be continued until the independent counsel determines the matters are completed.

Section 5. This act shall take effect in 60 days.

On the question,

Will the House agree to the amendment?

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

Mr. MASLAND. Thank you, Madam Speaker.

This is not a new subject for the members of the House. This amendment is in bill form as HB 1378, which is a redraft of HB 981 from last session that was prime-sponsored by then Representative Jeff Piccola. It passed the House 197 to 0 and the Senate 50 to 0 last year. Because of some changes toward the end, it was not able to be voted on again by the House. This amendment is a substantial redraft of that bill, which I have had the privilege of cosponsoring here in the House with Representative Manderino.

I think that if I could just say in a few brief sentences what the bill does, I would be happy to then answer any questions that any individual members would have. But basically what we are doing is we are establishing a manner in which we can investigate situations that arise in the Attorney General's Office or in cases where the Attorney General may have a conflict. And right now we do not have an independent prosecutor here in Pennsylvania like they do at the Federal level. Basically, this would establish an independent counsel who would be able to step in and investigate matters, refer them for trial, basically pursue them just as an Attorney General or a district attorney would whenever there is a situation where there may be a conflict in the Attorney General's Office or when the impropriety may be such that it was done by the Attorney General or by a member of the Attorney General's staff.

We have worked on this legislation with the Attorney General's Office, with former Attorney General Tom Corbett and also with the current Attorney General, and we believe that it is a good bill, it is in good shape, and it will basically provide the people of the Commonwealth the assurance that no one, whether that person be in the Attorney General's Office or otherwise, is above the law.

So with that, I would be happy to answer any questions if any arise, or my colleague from Philadelphia may have a few other words to add to this. Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair recognizes the lady from Philadelphia, Representative Manderino.

Ms. MANDERINO. Thank you, Madam Speaker.

Madam Speaker, I, too, rise and ask the House for an affirmative vote on the Masland amendment.

In general, I think it is fair to look at this bill as a bill that is really about good government and ensuring the integrity of our governmental process. I know we all work hard at what we do, and we also work hard at making sure that the image of public service and the image of our Commonwealth with regard to integrity is above question. And I think it makes a lot of sense, both in light of past instances that happened and just in general for the future, to have a process whereby if there is any potential conflict of interest that involves either the Attorney General himself or somebody within that office, that there is already a process and mechanism in place that could assure that there is no conflict or no self-dealing and that will ensure a fair view of issues on behalf of the Commonwealth and its citizens.

So I ask you, again, for support for the Masland amendment. Thank you.

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

Mr. WILLIAMS. Thank you, Madam Speaker.

I would like to interrogate the maker of the amendment.

The SPEAKER pro tempore. The gentleman agrees. You may proceed.

Mr. WILLIAMS. Thank you.

I want to make sure before we proceed that I understand the logic behind this particular proposal. We currently have an elected Attorney General, and usually at the Federal level, which I guess this is sort of duplicative of or replicative of, you have an independent counsel because everyone else is appointed by the President, and therefore, you have to create some line of independence in the process. But here in the Commonwealth of Pennsylvania we have an elected Attorney General as well as an elected Governor, and at times we have had both from different parties, and certainly from a partisan standpoint, that would provide some level of independence. So why is there a need to create this if you already have an elected Attorney General? And I understand your discussion about conflicts of interest within the Attorney General's Office, but the fact is, he is elected by the people or she is elected by the people.

Mr. MASLAND. Well, I think the main reason — and really, you have kind of answered it in the way you phrased it — if a member of the Attorney General's staff has committed some felony or misdemeanor, it would not be appropriate for the Attorney General to pursue those matters. Likewise, if the Attorney General is investigating something and finds out that a major contributor or supporter of the Attorney General, because he is elected and because he or she must campaign across this State to get support, if there is a situation where some supporter of theirs has been involved in a situation that the Attorney General is investigating, it is best for them to take a step back and give it to someone who will ultimately be able to make a decision without people saying that it was tainted one way or the other.

Mr. WILLIAMS. I guess I can only allude to a prior situation with a prior Attorney General, where there ultimately was a process

of impeachment and ultimately he was implicated, and the process was followed through and he is no longer the Attorney General, and the impact of the law fell upon him. Are we suggesting that based upon that history, there is a concern that would require this independent counsel? Is that why? I mean, is that the history that is leading up to this particular legislation?

Mr. MASLAND. Well, just a couple of the examples that you touched on, let me just answer in this fashion. The situation with the Supreme Court Justice, the Attorney General was in no position to bring charges there because he had in fact acted as a character witness on that case. With respect to the charges regarding the Attorney General himself, Mr. Preate, they were brought federally, and as a practical matter, all the district attorneys across the State had been working with him and I think would have had a difficult time picking up that case against him themselves.

Mr. WILLIAMS. We did go through an impeachment process with the Attorney General. Is there a concern or is there a belief on your part that that is not effective or something was missed in terms of that process?

Mr. MASLAND. Well, actually, we did not go through the impeachment process with the Attorney General. We did with the Supreme Court Justice but not with the Attorney General.

Mr. WILLIAMS. I am sorry; you are right. I am sorry. Correct.

But if we had followed that to its logical conclusion, that is what we would have done in that case, correct? Or we could have done that in that case.

Mr. MASLAND. Yes. Well, I guess we could have. I had not really thought about that. And, of course, he resigned.

Mr. WILLIAMS. Right, but we had spoken in this body ourselves of actually impeaching the Attorney General, and in fact there were different items with regard to legislative movement that had talked about it, and there are people who believed that because he saw the momentum occurring that— Well, I do not want to get into that. But the ability to impeach the Attorney General does exist within this Commonwealth, does it not?

Mr. MASLAND. Yes.

Mr. WILLIAMS. All right.

Mr. MASLAND. Yes; any civil officer can be impeached.

Mr. WILLIAMS. So therefore, as legislators, and while I appreciate and I understand the sensitivity of the D.A.'s across the Commonwealth not necessarily being in the most effective position to do this, we certainly are, and if we create this special counsel, I would assume that that would come from our body to do that. We would have to say, hey, look, we think there is a problem with the Attorney General; let us create this special counsel. Why would we want to have a third party do that as opposed to us having our own direct counsel in the House or in the Senate do it and go through our hearings in terms of the impeachment process and to resolve the matter that way?

Mr. MASLAND. We are talking about a couple different things. I do not think, number one, that grounds for impeachment are going to come from a tainted prosecution, if the Attorney General engages in some prosecution that may be tainted. I do not know that that is going to amount to grounds for impeachment. But the fact is, if there are other grounds for impeachment, I do not know that we want to, and I am not sure I understand your question, but I am not sure that we want to wait to get to the point where we have to impeach this individual when there may be some criminal offenses which we can prosecute him on before that time. Why wait until we get to the point of impeachment? Let us just prosecute—

Mr. WILLIAMS. Because one is consistent with the other. The fact is that if you create the independent counsel and say, hey, investigate this person because they have criminal charges brought against them, involved against them, guess what? That is going to be a matter of public record, and everybody in the Commonwealth of Pennsylvania is going to be saying, hey, why do you not impeach this guy or woman? And to me it suggests that, you know, we think that— I mean, we are creating an independent counsel to do our work, to say, hey, look, we are not going to impeach; let us do the independent counsel; he will find the information that we all need, and then we will do what we need to do, because the independent counsel is only going to prosecute and do the work that we have done anyway. I mean, if we impeach him, then somebody is going to prosecute him. That is going to happen. It happens all— I mean, it has happened here in Pennsylvania.

So, I mean, to me, it seems like we are creating one layer to remove ourselves from the process, and I am not sure that that is good government. To me, that is removal of government and a removal in abdication of our responsibilities. So I am trying to— I am not here saying it is a bad idea or a good idea. I am just trying to understand, on the face of it, it appears that we are removing ourselves one step. The impeachment process is an effective one; it is a clear one. Those charges that you speak about that the independent counsel would investigate, we certainly can investigate, and we would be compelled to investigate. So I am trying to understand a little bit better. That is what I am trying to get to.

Mr. MASLAND. Well, again, the best way to answer that is to look at some of the examples.

In the case of Attorney General Preate, I believe that the acting district attorney here in Dauphin County, John Cherry, did not feel that he was able to get involved in that case, which is why the Federal Government came in. But I do not know that we are really abrogating our responsibility. I do not believe we are abrogating our responsibility to pursue an impeachment if that is necessary. But the impeachment process is a much more involved and difficult process, and we do not always have the investigative skills at our beck and call. We could hire— We do not have them right here ready to go. I think that in terms of a criminal investigation, it makes more sense to have an independent counsel working on this as a D.A. or as an Attorney General would to pursue the criminal charges.

Mr. WILLIAMS. You are aware that in the impeachment process we do hire outside counsel.

Mr. MASLAND. Sure, we can do that, but it is a more involved process to get us to the point where we have to agree on who the outside counsel is and how we are going to do this and how we are going to appropriate it. It makes it a little bit more involved and a much more difficult process than it would be for the special investigative counsel and then the independent counsel to pursue the matter.

Mr. WILLIAMS. I thank the gentleman for standing for a brief period of interrogation. I would like to close with comments.

While I am sensitive and appreciative of the thought and the idea and the concept, I would suggest that the members in this House move very cautiously toward this legislation. It sounds on the surface of it as something we should immediately embrace. It does sound on the surface of it as something that is good government. But the fact is, there are several steps in the independent counsel which does not remove it from the political

process, certainly does not remove it from this chamber, and the gentleman, the example that he gave with regard to a local D.A. trying to prosecute certainly and ultimately is going to come to us as a body anyway and we would have been forced to move upon it, and that discussion was occurring.

So I am very leery of the independent counsel process, because he is not or she is not just appointed just to deal with the Attorney General. That power has been created at the Federal level to investigate several bodies within that process, within the arms of government. And it has not always been considered fair. Frankly, at times it has been viewed as partisan, and I would suggest that both sides of the aisle, you know, one day the Democrats may be in charge, the next day the Republicans may be in charge, and if you are having a problem with a particular entity at that time, you certainly can say, hey, we need to investigate this person. We have seen that, and we have seen the litany of investigations at the Federal level which drag on and on. And I will also tell you this: They are not cheap. Taxpayers pay for this. We hire those people, and they have spent millions of dollars at the Federal level. I am not sure that we would be so inclined to do that at this particular time in the Commonwealth when we are trying to control these dollars.

I think we have a process which is in place; I think we have a fair process which is in place, and I think the process which we have in place is very conservative and moves at a deliberative pace. And I would suggest that when you are considering this legislation, I am not saying I am against it at this point; I am going to listen to more of the debate, but, you know, I am not necessarily swayed by the idea or the concept at this point that it is going to improve upon an environment that needs some correcting, and I am not quite sure this is the way we correct it. Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Masland, for the second time.

Mr. MASLAND. Thank you, Madam Speaker.

Just a few brief points.

There are some safeguards in this whole process that ensure that we are not merely going to be authorizing someone to be running pellmell across the Commonwealth. There has to be an initial preliminary investigation by the General Counsel's Office before that person even appoints a special investigative counsel, who will then conduct another preliminary investigation to see if there are really grounds for these charges before we even get to the independent counsel.

So there are some safeguards here, and I truly believe that this measure is essential to us, and without it, there really is nothing to take its place. So I urge a positive vote. Thank you.

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

Mr. CALTAGIRONE. I would urge my colleagues to please consider a positive vote on this very, very important piece of legislation. I would hope that our companion body in the Senate would pass this legislation, put it into law, so that we have the proper checks and balances finally in this State so that if you have a renegade Attorney General at any time in the future, you would be able to rein that person in, and I think we know from experience only too well that we absolutely need this kind of legislation on the books as a piece of law in this State. Thank you.

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

The following roll call was recorded:

YEAS—200

Adolph	DiGirolamo	Maitland	Saylor
Allen	Donatucci	Major	Schroder
Argall	Druce	Manderino	Schuler
Armstrong	Eachus	Markosek	Scrimenti
Baker	Egolf	Marsico	Semmel
Bard	Evans	Masland	Serafini
Barley	Fairchild	Mayernik	Seyfert
Barrar	Fargo	McCall	Shaner
Battisto	Feese	McGeehan	Smith, B.
Bebko-Jones	Fichter	McGill	Smith, S. H.
Belardi	Fleagle	McIlhattan	Snyder, D. W.
Belfanti	Flick	McNaughton	Staback
Benninghoff	Gannon	Melio	Stairs
Birmelin	Geist	Michlovic	Steelman
Bishop	George	Micozzie	Steil
Blaum	Gigliotti	Mihalich	Stern
Boscola	Gladeck	Miller	Stetler
Boyes	Godshall	Mundy	Stevenson
Brown	Gordner	Myers	Stritmatter
Browne	Gruitza	Nailor	Sturla
Bunt	Gruppo	Nickol	Surra
Butkovitz	Habay	O'Brien	Tangretti
Buxton	Haluska	Olasz	Taylor, E. Z.
Caltagirone	Hanna	Oliver	Taylor, J.
Cappabianca	Harhart	Orie	Thomas
Carn	Hasay	Perzel	Tigue
Carone	Hennessey	Pesci	Travaglio
Casorio	Herman	Petrarca	Trello
Cawley	Hershey	Petrone	Trich
Chadwick	Hess	Phillips	True
Civera	Horsey	Pippy	Tulli
Clark	Hutchinson	Pistella	Vance
Clymer	Itkin	Platts	Van Home
Cohen, L. I.	Jadlowiec	Preston	Veon
Cohen, M.	James	Raymond	Vitali
Colafiglia	Jarolin	Readshaw	Walko
Colaizzo	Josephs	Reber	Waugh
Conti	Kaiser	Reinard	Williams, A. H.
Cornell	Keller	Rieger	Williams, C.
Corpora	Kenney	Roberts	Wilt
Corrigan	Krebs	Robinson	Wogan
Cowell	LaGrotta	Roebuck	Wojnaroski
Coy	Laughlin	Rohrer	Wright, M. N.
Curry	Lawless	Rooney	Yewcic
Daley	Lederer	Ross	Youngblood
Dally	Leh	Rubley	Zimmerman
DeLuca	Lescovitz	Sainato	Zug
Dempsey	Levdansky	Santoni	
Dent	Lloyd	Sather	Ryan, Speaker
Dermody	Lucyk		
DeWeese	Lynch		

NAYS—0

NOT VOTING—0

EXCUSED—2

Kirkland Washington

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

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

Mr. CHADWICK offered the following amendment No. A2767:

Amend Title, page 1, lines 1 through 7, by striking out all of said lines and inserting

Amending Titles 18 (Crimes and Offenses) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for certain assaults by prisoners, for wiretapping and electronic surveillance and for windshield obstructions.

Amend Bill, page 3, line 22, by striking out all of said line and inserting

Section 4. The definitions of "electronic communication," "electronic, mechanical or other device," "intercept," "investigative or law enforcement officer," "judge," "pen register" and "wire communication" in section 5702 of Title 18 are amended and the section is amended by adding definitions to read:

§ 5702. Definitions.

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

"Electronic communication." Any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photo-optical system, except:

(1) The radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit.]

(2) Any wire or oral communication.

(3) Any communication made through a tone-only paging device.

(4) Any communication from a tracking device (as defined in this section).

"Electronic, mechanical or other device." Any device or apparatus, including, but not limited to, an induction coil or a telecommunication identification interception device, that can be used to intercept a wire, electronic or oral communication other than:

(1) Any telephone or telegraph instrument, equipment or facility, or any component thereof, furnished to the subscriber or user by a provider of wire or electronic communication service in the ordinary course of its business, or furnished by such subscriber or user for connection to the facilities of such service and used in the ordinary course of its business, or being used by a communication common carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his duties.

(2) A hearing aid or similar device being used to correct subnormal hearing to not better than normal.

(3) Equipment or devices used to conduct interceptions under section 5704(15) (relating to exceptions to prohibition of interception and disclosure of communications).

"Home." The residence of a nonconsenting party to an interception, provided that access to the residence is not generally permitted to members of the public and the party has a reasonable expectation of privacy in the residence under the circumstances.

"Intercept." Aural or other acquisition of the contents of any wire, electronic or oral communication through the use of any electronic, mechanical or other device. The term shall include the point at which the contents of the communication are monitored by investigative or law enforcement officers.

"Investigative or law enforcement officer." Any officer of the United States, of another state or political subdivision thereof, or of the Commonwealth or political subdivision thereof, who is empowered by law

to conduct investigations of or to make arrests for offenses enumerated in this chapter or an equivalent crime in another jurisdiction, and any attorney authorized by law to prosecute or participate in the prosecution of such offense. [The term shall include, but not be limited to, employees of the Pennsylvania Crime Commission, authorized to investigate crimes enumerated in section 5708 (relating to order authorizing interception of wire or oral communications).]

"Judge." When referring to a judge authorized to receive applications for, and to enter, orders authorizing interceptions of wire, electronic or oral communications pursuant to [this chapter] Subchapter B (relating to wire, electronic or oral communication), any judge of the Superior Court.

"Pen register." A device which [records or decodes] is used to capture, record or decode electronic or other impulses which identify the numbers dialed or otherwise transmitted, with respect to wire or electronic communications, on the targeted telephone [line to which the device is attached]. The term includes a device which is used to record or decode electronic or other impulses which identify the existence of incoming and outgoing wire or electronic communications on the targeted telephone. The term does not include a device used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communication service provided by the provider, or any device used by a provider, or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of business.

"State." Any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any territory or possession of the United States.

"Telecommunication identification interception device." Any equipment or device capable of intercepting any electronic communication which contains any electronic serial number, mobile identification number, personal identification number or other identification number assigned by a telecommunication service provider for activation or operation of a telecommunication device.

"Wire communication." Any aural transfer made in whole or in part through the use of facilities for the transmission of communication by wire, cable or other like connection between the point of origin and the point of reception, including the use of such a connection in a switching station, furnished or operated by a telephone, telegraph or radio company for hire as a communication common carrier. The term [does not include the radio portion of a cordless telephone communication transmitted through the cordless telephone handset and the base unit] includes any electronic storage of such communication.

Section 5. Section 5704 introductory paragraph and (2), (5) and (9) of Title 18, amended December 19, 1996 (P.L.1458, No.186), are amended and the section is amended by adding paragraphs to read:

§ 5704. Exceptions to prohibition of interception and disclosure of communications.

It shall not be unlawful and no prior court approval shall be required under this chapter for:

(2) Any investigative or law enforcement officer or any person acting at the direction or request of an investigative or law enforcement officer to intercept a wire, electronic or oral communication involving suspected criminal activities, including, but not limited to, the crimes enumerated in section 5708 (relating to order authorizing interception of wire, electronic or oral communications), where:

[(i) such officer or person is a party to the communication;]

(ii) one of the parties to the communication has given prior consent to such interception. However, no interception under this paragraph shall be made unless the Attorney General or a deputy attorney general designated in writing by the Attorney General, or the district attorney, or an assistant district attorney designated in writing by the district attorney, of the county wherein the interception is to be made, has reviewed the facts

and is satisfied that the consent is voluntary and has given prior approval for the interception; however such interception shall be subject to the recording and record keeping requirements of section 5714(a) (relating to recording of intercepted communications) and that the Attorney General, deputy attorney general, district attorney or assistant district attorney authorizing the interception shall be the custodian of recorded evidence obtained therefrom; [or]

(iii) the investigative or law enforcement officer meets in person with a suspected felon and wears a concealed electronic or mechanical device capable of intercepting or recording oral communications. However, no interception under this subparagraph may be used in any criminal prosecution except for a prosecution involving harm done to the investigative or law enforcement officer. This subparagraph shall not be construed to limit the interception and disclosure authority provided for in [subparagraph (i).] this subchapter; or

(iv) the requirements of this subparagraph are met. If an oral interception otherwise authorized under this paragraph will take place in the home of a nonconsenting party, then, in addition to the requirements of subparagraph (ii), the interception shall not be conducted until an order is first obtained from the president judge, or his designee who shall also be a judge, of a court of common pleas, authorizing such in-home interception, based upon an affidavit by an investigative or law enforcement officer that establishes probable cause for the issuance of such an order. No such order or affidavit shall be required where probable cause and exigent circumstances exist. For the purposes of this paragraph, an oral interception shall be deemed to take place in the home of a nonconsenting party only if both the consenting and nonconsenting parties are physically present in the home at the time of the interception.

(5) Any investigative or law enforcement officer, or communication common carrier acting at the direction of an investigative or law enforcement officer or in the normal course of its business, to use a pen register [or], trap and trace device, or telecommunication identification interception device as provided in [this chapter] Subchapter E (relating to pen registers, trap and trace devices and telecommunication identification interception devices).

(9) A person or entity providing electronic communication service to the public to divulge the contents of any such communication:

(i) as otherwise authorized in this section or section 5717 (relating to investigative disclosure or use of contents of wire, electronic or oral communications or derivative evidence);

(ii) with the lawful consent of the originator or any addressee or intended recipient of the communication;

(iii) to a person employed or authorized, or whose facilities are used, to forward the communication to its destination; or

(iv) which were inadvertently obtained by the service provider and which appear to pertain to the commission of a crime, if such divulgence is made to a law enforcement agency.

A person or entity providing electronic communication service to the public shall not intentionally divulge the contents of any communication (other than one directed to

the person or entity, or an agent thereof) while in transmission of that service to any person or entity other than an addressee or intended recipient of the communication or an agent of the addressee or intended recipient.

(15) A police officer who has the authority to enforce Title 75 (relating to vehicles) or any other violation of law and who stops a vehicle for a suspected violation of Title 75 while on duty and utilizing an audio intercepting device to intercept the oral communications occurring between that police officer and any other person present at the location of and during the vehicle stop. During the time of the vehicle stop, as soon as practicable, the officer shall notify the driver and other occupants of the vehicle, and any other person identifiably present, that their oral communications are being recorded. Evidence obtained on an audio-intercepting device as a result of a stop under this subparagraph shall not be excluded in any civil or criminal proceeding. A police department, agency or office shall not by order, regulation or otherwise require an officer to activate an audio device mounted or carried in the officer's vehicle except in the following situations:

(A) when the law enforcement officer makes use of the audible warning system authorized by 75 Pa.C.S. § 4571 (relating to visual and audible signals on emergency vehicles);

(B) when the law enforcement officer is making use of the visual signals authorized by 75 Pa.C.S. § 4571;

(C) when the law enforcement officer is making use of the audible warning system and visual signals; or

(D) when a law enforcement officer has reasonable suspicion that a crime has recently been committed, is being or is about to be committed.

(16) The personnel of a business engaged in telephone sales by means of wire, oral or electronic communication to intercept such sales communications where such interception is made for the sole purpose of training, quality control or monitoring by the business. Unless otherwise required by Federal or State law, communications recorded pursuant to this paragraph shall be destroyed no later than one year from the date of recording.

Section 6. Sections 5705, 5706, 5708, 5709(3), 5710(a)(4) and 5711 of Title 18 are amended to read:

§ 5705. Possession, sale, distribution, manufacture or advertisement of electronic, mechanical or other devices and telecommunication identification interception devices.

Except as otherwise specifically provided in section 5706 (relating to exceptions to prohibitions in possession, sale, distribution, manufacture or advertisement of electronic, mechanical or other devices and telecommunication identification interception device), a person is guilty of a felony of the third degree if he does any of the following:

(1) Intentionally possesses an electronic, mechanical or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of a wire, electronic or oral communication.

(2) Intentionally sells, transfers or distributes an electronic, mechanical or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of a wire, electronic or oral communication.

(3) Intentionally manufactures or assembles an electronic, mechanical or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of a wire, electronic or oral communication.

(4) Intentionally places in any newspaper, magazine, handbill, or other publication any advertisement of an electronic, mechanical or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of a wire, electronic or oral communication or of an electronic, mechanical or other device where such

advertisement promotes the use of such device for the purpose of the surreptitious interception of a wire, electronic or oral communication.

(5) Intentionally possesses a telecommunication identification interception device.

§ 5706. Exceptions to prohibitions in possession, sale, distribution, manufacture or advertisement of electronic, mechanical or other devices and telecommunication identification interception device.

(a) Unlawful activities.—It shall not be unlawful under this chapter for:

(1) a provider of wire or electronic communication service or an officer, agent or employee of, or a person under contract with, such a provider, in the normal course of the business of providing the wire or electronic communication service; or

(2) a person under contract with the United States, the Commonwealth or a political subdivision thereof, a state or a political subdivision thereof, or an officer, agent or employee of the United States, the Commonwealth or a political subdivision thereof, or a state or a political subdivision thereof,

to possess, sell, distribute, manufacture, assemble or advertise an electronic, mechanical or other device or telecommunication identification interception device, while acting in furtherance of the appropriate activities of the United States, the Commonwealth or a political subdivision thereof, a state or a political subdivision thereof or a provider of wire or electronic communication service.

(b) Responsibility.—

(1) [The] Except as provided under paragraph (2), the Attorney General and the district attorney or their designees so designated in writing shall have the sole responsibility to buy, possess and loan any electronic, mechanical or other device which is to be used by investigative or law enforcement officers for purposes of interception as authorized under section 5704(2) [and], (5), (12) and (15) (relating to exceptions to prohibition of interception and disclosure of communications), 5712 (relating to issuance of order and effect), 5713 (relating to emergency situations) or 5713.1 (relating to emergency hostage and barricade situations).

(2) The division or bureau or section of the Pennsylvania State Police responsible for conducting the training in the technical aspects of wiretapping and electronic surveillance as required by section 5724 (relating to training) may buy and possess any electronic, mechanical or other device which is to be used by investigative or law enforcement officers for purposes of interception as authorized under section 5704(2), (5), (12) and (15), 5712, 5713 or 5713.1 for the purpose of training. However, any electronic, mechanical or other device bought or possessed under this provision may be loaned to or used by investigative or law enforcement officers for purposes of interception as authorized under section 5704(2), (5), (12) and (15), 5712, 5713 or 5713.1 only upon written approval by the Attorney General or a deputy attorney general designated in writing by the Attorney General, or the district attorney or an assistant district attorney designated in writing by the district attorney of the county wherein the interception is to be made.

(3) With the permission of the Attorney General or a district attorney who has designated any supervising law enforcement officer for purposes of interceptions as authorized under section 5713.1, the law enforcement agency which employs the supervising law enforcement officer may buy, possess, loan or borrow any electronic, mechanical or other device which is to be used by

investigative or law enforcement officers at the direction of the supervising law enforcement officer solely for the purpose of interception as authorized under sections 5704(12) and 5713.1.

§ 5708. Order authorizing interception of wire, electronic or oral communications.

[(a) Authorization.—Except in cases referred to in subsection (b), the] The Attorney General, or, during the absence or incapacity of the Attorney General, a deputy attorney general designated in writing by the Attorney General, or the district attorney or, during the absence or incapacity of the district attorney, an assistant district attorney designated in writing by the district attorney of the county wherein the interception is to be made, may make written application to any Superior Court judge for an order authorizing the interception of a wire, electronic or oral communication by the investigative or law enforcement officers or agency having responsibility for an investigation involving suspected criminal activities when such interception may provide evidence of the commission of any of the following offenses, or may provide evidence aiding in the apprehension of the perpetrator or perpetrators of any of the following offenses:

(1) Under this title:

Section 911 (relating to corrupt organizations)

Section 2501 (relating to criminal homicide)

Section 2502 (relating to murder)

Section 2503 (relating to voluntary manslaughter)

Section 2702 (relating to aggravated assault)

Section 2706 (relating to terroristic threats)

Section 2709(b) (relating to harassment and stalking)

Section 2901 (relating to kidnapping)

Section 3121 (relating to rape)

Section 3123 (relating to involuntary deviate sexual intercourse)

Section 3124.1 (relating to sexual assault)

Section 3125 (relating to aggravated indecent assault)

Section 3301 (relating to arson and related offenses)

Section 3302 (relating to causing or risking catastrophe)

Section 3502 (relating to burglary)

Section 3701 (relating to robbery)

Section 3921 (relating to theft by unlawful taking or disposition)

Section 3922 (relating to theft by deception)

Section 3923 (relating to theft by extortion)

Section 4701 (relating to bribery in official and political matters)

Section 4702 (relating to threats and other improper influence in official and political matters)

Section 5512 (relating to lotteries, etc.)

Section 5513 (relating to gambling devices, gambling, etc.)

Section 5514 (relating to pool selling and bookmaking)

Section 6106 (relating to firearms not to be carried without a license)

(2) Under this title, where such offense is dangerous to life, limb or property and punishable by imprisonment for more than one year:

Section 910 (relating to manufacture, distribution or possession of devices for theft of telecommunication services)

Section 3925 (relating to receiving stolen property)

Section 3926 (relating to theft of services)

Section 3927 (relating to theft by failure to make required disposition of funds received)

Section 3933 (relating to unlawful use of computer)

Section 4108 (relating to commercial bribery and breach of duty to act disinterestedly)

Section 4109 (relating to rigging publicly exhibited contest)

Section 4117 (relating to insurance fraud)

Section 4305 (relating to dealing in infant children)

Section 4902 (relating to perjury)

Section 4909 (relating to witness or informant taking bribe)

Section 4911 (relating to tampering with public records or information)

Section 4952 (relating to intimidation of witnesses or victims)

Section 4953 (relating to retaliation against witness or victim)

Section 5101 (relating to obstructing administration of law or other governmental function)

Section 5111 (relating to dealing in proceeds of unlawful activities)

Section 5121 (relating to escape)

Section 5504 (relating to harassment by communication or address)

Section 5902 (relating to prostitution and related offenses)

Section 5903 (relating to obscene and other sexual materials and performances)

Section 7313 (relating to buying or exchanging Federal food order coupons, stamps, authorization cards or access devices)

(3) Under the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, where such offense is dangerous to life, limb or property and punishable by imprisonment for more than one year:

Section 1272 (relating to sales of unstamped cigarettes)

Section 1273 (relating to possession of unstamped cigarettes)

Section 1274 (relating to counterfeiting)

(4) Any offense set forth under section 13(a) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, not including the offense described in clause (31) of section 13(a).

(5) Any offense set forth under the act of November 15, 1972 (P.L.1227, No.272).

(6) Any conspiracy to commit any of the offenses set forth in this section.

[(b) Exception.—Whenever the interception of wire, electronic or oral communication is to be made by an *investigative officer employed by the Pennsylvania Crime Commission*, the application for the authorizing order shall be made by the Attorney General or, during the absence or incapacity of the Attorney General, a deputy attorney general designated in writing by the Attorney General.]

§ 5709. Application for order.

Each application for an order of authorization to intercept a wire, electronic or oral communication shall be made in writing upon the personal oath or affirmation of the Attorney General or a district attorney of the county wherein the interception is to be made and shall contain all of the following:

(3) A sworn statement by the investigative or law enforcement officer who has knowledge of relevant information justifying the application, which shall include:

(i) The identity of the particular person, if known, committing the offense and whose communications are to be intercepted.

(ii) The details as to the particular offense that has been, is being, or is about to be committed.

(iii) The particular type of communication to be intercepted.

(iv) [A] Except as provided in section 5712(h) (relating to issuance of order and effect), a showing that there is probable cause to believe that such communication will be communicated on the wire communication facility involved or at the particular place where the oral communication is to be intercepted.

(v) [The] Except as provided in section 5712(h), the character and location of the particular wire communication facility involved or the particular place where the oral communication is to be intercepted.

(vi) A statement of the period of time for which the interception is required to be maintained, and, if the character of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, a particular statement of facts establishing probable cause to believe that additional communications of the same type will occur thereafter.

(vii) A particular statement of facts showing that other normal investigative procedures with respect to the offense have been tried and have failed, or reasonably appear to be unlikely to succeed if tried or are too dangerous to employ.

§ 5710. Grounds for entry of order.

(a) Application.—Upon consideration of an application, the judge may enter an ex parte order, as requested or as modified, authorizing the interception of wire, electronic or oral communications anywhere within the Commonwealth, if the judge determines on the basis of the facts submitted by the applicant that there is probable cause for belief that all the following conditions exist:

(4) except as provided in section 5712(h) (relating to issuance of order and effect), the facility from which, or the place where, the wire, electronic or oral communications are to be intercepted, is, has been, or is about to be used, in connection with the commission of such offense, or is leased to, listed in the name of, or commonly used by, such person;

§ 5711. Privileged communications.

No otherwise privileged communication intercepted in accordance with, or in violation of, the provisions of this [chapter] subchapter shall lose its privileged character.

Section 7. Section 5712(e), (f) and (g) of Title 18 are amended and the section is amended by adding a subsection to read:

§ 5712. Issuance of order and effect.

(e) Final report.—Whenever an interception is authorized pursuant to this section, a complete written list of names of participants and evidence of offenses discovered, including those not stated in the application for order, shall be filed with the court [at the time] as soon as practicable after the authorized interception is terminated.

(f) Assistance.—An order authorizing the interception of a wire, electronic or oral communication shall, upon request of the applicant, direct that a provider of electronic communication service shall furnish the applicant forthwith all information, facilities and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that such service provider is affording the person whose communications are to be intercepted. The obligation of a provider of electronic communication service under such an order may include, but is not limited to, installation of a pen register or trap and trace device and disclosure of a record or other information otherwise available under section 5743 (relating to requirements for governmental access), including conducting an in-progress trace during an interception, provided that such obligation of a provider of electronic communications service is technologically feasible. Any provider of electronic communication service furnishing such facilities or technical assistance shall be compensated therefor by the applicant for reasonable expenses incurred in providing the facilities or assistance. The service provider shall be immune from civil and criminal liability for any assistance rendered to the applicant pursuant to this section.

(g) Entry by law enforcement officers.—An order authorizing the interception of a wire, electronic or oral communication shall, if requested, authorize the entry of premises or facilities specified in subsection (a)(3), or premises necessary to obtain access to the premises or facilities

specified in subsection (a)(3), by the law enforcement officers specified in subsection (a)(1), as often as necessary solely for the purposes of installing, maintaining or removing an electronic, mechanical or other device or devices provided that such entry is reasonably necessary to accomplish the purposes of this [chapter] subchapter and provided that the judge who issues the order shall be notified of the time and method of each such entry prior to entry if practical and, in any case, within 48 hours of entry.

(h) Roving wiretaps.—The requirements of subsection (a)(3) relating to the specification of the facilities from which, or the place where, the communication is to be intercepted do not apply if:

(1) In the case of an application with respect to the interception of an oral communication:

(i) the application is made by the Attorney General or a deputy attorney general designated in writing by the Attorney General or the district attorney or a deputy or assistant district attorney designated in writing by the district attorney;

(ii) the application contains a full and complete statement as to why such specification is not practical and identifies the person committing the offense and whose communications are to be intercepted; and

(iii) the judge finds that such specification is not practical.

(2) In the case of an application with respect to a wire or electronic communication:

(i) the application is made by the Attorney General or a deputy attorney general designated in writing by the Attorney General or the district attorney or a deputy or assistant district attorney designated in writing by the district attorney;

(ii) the application identifies the person believed to be committing the offense and whose communications are to be intercepted and the applicant makes a showing of a purpose, on the part of that person, to thwart interception by changing facilities; and

(iii) the judge finds that such purpose has been adequately shown.

Section 8. Sections 5713(a), 5713.1(b) and (c), 5714, 5715, 5717, 5718, 5719 and 5720 of Title 18 are amended to read:

§ 5713. Emergency situations.

(a) Application.—Whenever, upon informal application by the Attorney General or a designated deputy attorney general authorized in writing by the Attorney General or a district attorney or an assistant district attorney authorized in writing by the district attorney of a county wherein the interception is to be made, a judge determines there are grounds upon which an order could be issued pursuant to this chapter, and that an emergency situation exists with respect to the investigation of an offense designated in section 5708 (relating to order authorizing interception of wire, electronic or oral communications), and involving conspiratorial activities characteristic of organized crime or a substantial danger to life or limb, dictating authorization for immediate interception of wire, electronic or oral communications before an application for an order could with due diligence be submitted to him and acted upon, the judge may grant oral approval for such interception without an order, conditioned upon the filing with him, within 48 hours thereafter, of an application for an order which, if granted, shall recite the oral approval and be retroactive to the time of such oral approval. Such interception shall immediately terminate when the communication sought is obtained or when the application for an order is denied, whichever is earlier. In the event no application for an order is made, the content of any wire, electronic or oral communication intercepted shall be treated as having been obtained in violation of this [chapter] subchapter.

§ 5713.1. Emergency hostage and barricade situations.

(b) Procedure.—A supervising law enforcement officer who reasonably determines that an emergency situation exists that requires a wire or oral communication to be intercepted before an order authorizing such interception can, with due diligence, be obtained, and who determines that there are grounds upon which an order could be entered under this chapter to authorize such interception, may intercept such wire or oral communication. An application for an order approving the interception must be made by the supervising law enforcement officer in accordance with section 5709 (relating to application for order) within 48 hours after the interception has occurred or begins to occur. Interceptions pursuant to this section shall be conducted in accordance with the procedures of this [chapter] subchapter. Upon request of the supervising law enforcement officer who determines to authorize interceptions of wire communications under this section, a provider of electronic communication service shall provide assistance and be compensated therefor as provided in section 5712(f) (relating to issuance of order and effect). In the absence of an order, such interception shall immediately terminate when the situation giving rise to the hostage or barricade situation ends or when the application for the order is denied, whichever is earlier. In the event such application for approval is denied or in any other case where the interception is terminated without an order having been issued, the contents of any wire or oral communication intercepted shall be treated as having been obtained in violation of this [chapter] subchapter, and an inventory shall be served as provided in section 5716 (relating to service of inventory and inspection of intercepted communications). Thereafter, the supervising law enforcement officer shall follow the procedures set forth in section 5713(b) (relating to emergency situations).

(c) Defense.—A good faith reliance on the provisions of this section shall be a complete defense to any civil or criminal action brought under this [chapter] subchapter or any other statute against any law enforcement officer or agency conducting any interceptions pursuant to this section as well as a provider of electronic communication service who is required to provide assistance in conducting such interceptions upon request of a supervising law enforcement officer.

§ 5714. Recording of intercepted communications.

(a) Recording and monitoring.—Any wire, electronic or oral communication intercepted in accordance with this [chapter] subchapter shall, if practicable, be recorded by tape or other comparable method. The recording shall be done in such a way as will protect it from editing or other alteration. Whenever an interception is being monitored, the monitor shall be an investigative or law enforcement officer certified under section 5724 (relating to training), and where practicable, keep a signed, written record which shall include the following:

- (1) The date and hours of surveillance.
- (2) The time and duration of each intercepted communication.
- (3) The participant, if known, in each intercepted conversation.
- (4) A summary of the content of each intercepted communication.

(b) Sealing of recordings.—Immediately upon the expiration of the order or extensions or renewals thereof, all monitor's records, tapes and other recordings shall be transferred to the judge issuing the order and sealed under his direction. Custody of the tapes, or other recordings shall be maintained wherever the court directs. They shall not be destroyed except upon an order of the court and in any event shall be kept for ten years. Duplicate tapes, or other recordings may be made for disclosure or use pursuant to section 5717 (relating to investigative disclosure or use of contents of wire, electronic or oral communications or derivative evidence). The presence of the seal provided by this section, or a satisfactory explanation for its absence, shall be a prerequisite for the disclosure of the contents of any wire, electronic or oral communication, or evidence derived therefrom, under section 5717(b).

§ 5715. Sealing of applications, orders and supporting papers.

Applications made, final reports, and orders granted pursuant to this [chapter] subchapter and supporting papers and monitor's records shall be sealed by the court and shall be held in custody as the court shall direct

and shall not be destroyed except on order of the court and in any event shall be kept for ten years. They may be disclosed only upon a showing of good cause before a court of competent jurisdiction except that any investigative or law enforcement officer may disclose such applications, orders and supporting papers and monitor's records to investigative or law enforcement officers of this or another state, any of its political subdivisions, or of the United States to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure. In addition to any remedies and penalties provided by this [chapter] subchapter, any violation of the provisions of this section may be punished as contempt of the court.

§ 5717. [Disclosure] Investigative disclosure or use of contents of wire, electronic or oral communications or derivative evidence.

(a) Investigative activities.—Law enforcement personnel.—Any investigative or law enforcement officer who, [by any means authorized by this chapter,] under subsection (a.1), (a.2) or (b), has obtained knowledge of the contents of any wire, electronic or oral communication, or evidence derived therefrom, may disclose such contents or evidence to another investigative or law enforcement officer[, including another investigative or law enforcement officer of another state or political subdivision thereof, or make use of such contents or evidence] to the extent that such disclosure [or use] is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

(a.1) Use of information.—Any investigative or law enforcement officer who, by any means authorized by this subchapter, has obtained knowledge of the contents of any wire, electronic or oral communication or evidence derived therefrom may use such contents or evidence to the extent such use is appropriate to the proper performance of his official duties.

(a.2) Civilians.—Any person other than an investigative or law enforcement officer who as a party to the communication has obtained knowledge of the contents of any wire, electronic or oral communication, or evidence derived therefrom, may disclose such contents or evidence to an investigative or law enforcement officer.

(b) Evidence.—Any person who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, electronic or oral communication, or evidence derived therefrom, may disclose such contents or evidence to an investigative or law enforcement officer and may disclose such contents or evidence while giving testimony under oath or affirmation in any criminal proceeding in any court of this Commonwealth or of another state or of the United States or before any state or Federal grand jury or investigating grand jury.

(c) Otherwise authorized personnel.—Any person who, by any means authorized by the laws of another state or the Federal Government, has obtained knowledge of the contents of any wire, electronic or oral communication, or evidence derived therefrom, may disclose such contents or evidence to an investigative or law enforcement officer and may disclose such contents or evidence where otherwise admissible while giving testimony under oath or affirmation in any proceeding in any court of this Commonwealth.]

§ 5718. Interception of communications relating to other offenses.

When an investigative or law enforcement officer, while engaged in court authorized interceptions of wire, electronic or oral communications in the manner authorized herein, intercepts wire, electronic or oral communications relating to offenses other than those specified in the order of authorization, the contents thereof, and evidence derived therefrom, may be disclosed or used as provided in section 5717(a) (relating to investigative disclosure or use of contents of wire, electronic or oral communications or derivative evidence). Such contents and evidence may be disclosed in testimony under oath or affirmation in any criminal proceeding in any court of this Commonwealth or of another state or of the United States or before any state or Federal grand jury when authorized by a judge who finds on subsequent application that the contents were otherwise intercepted in accordance with the provisions of this [chapter] subchapter. Such application shall be made as soon as practicable.

§ 5719. Unlawful use or disclosure of existence of order concerning intercepted communication.

Except as specifically authorized pursuant to this [chapter] subchapter any person who willfully uses or discloses the existence of an order authorizing interception of a wire, electronic or oral communication is guilty of a misdemeanor of the second degree.

§ 5720. Service of copy of order and application before disclosure of intercepted communication in trial, hearing or proceeding.

The contents of any wire, electronic or oral communication intercepted in accordance with the provisions of this [chapter] subchapter, or evidence derived therefrom, shall not be disclosed in any trial, hearing, or other adversary proceeding before any court of the Commonwealth unless, not less than ten days before the trial, hearing or proceeding the parties to the action have been served with a copy of the order, the accompanying application and the final report under which the interception was authorized or, in the case of an interception under section 5704 (relating to exceptions to prohibition of interception and disclosure of communications), notice of the fact and nature of the interception. The service of inventory, order, application, and final report required by this section may be waived by the court only where it finds that the service is not feasible and that the parties will not be prejudiced by the failure to make the service.

Section 9. Section 5721 of Title 18 is repealed.

Section 10. Title 18 is amended by adding a section to read:

§ 5721.1. Evidentiary disclosure of contents of intercepted communication or derivative evidence.

(a) Disclosure in evidence generally.—

(1) Except as provided in paragraph (2), no person shall disclose the contents of any wire, electronic or oral communication, or evidence derived therefrom, in any proceeding in any court, board or agency of this Commonwealth.

(2) Any person who has obtained knowledge of the contents of any wire, electronic or oral communication, or evidence derived therefrom, which is properly subject to disclosure under section 5717 (relating to investigative disclosure or use of contents of wire, electronic or oral communications or derivative evidence), may also disclose such contents or evidence in any matter relating to any criminal, quasi-criminal, forfeiture, administrative enforcement or professional disciplinary proceedings in any court, board or agency of this Commonwealth or of another state or of the United States or before any state or Federal grand jury or investigating grand jury. Once such disclosure has been made, then any person may disclose the contents or evidence in any such proceeding.

(3) Notwithstanding the provisions of paragraph (2), no disclosure in any such proceeding shall be made so long as any order excluding such contents or evidence pursuant to the provisions of subsection (b) is in effect.

(b) Motion to exclude.—Any aggrieved person who is a party to any proceeding in any court, board or agency of this Commonwealth may move to exclude the contents of any wire, electronic or oral communication, or evidence derived therefrom, on any of the following grounds:

(1) Unless intercepted pursuant to an exception set forth in section 5704 (relating to exceptions to prohibition of interception and disclosure of communications), the interception was made without prior procurement of an order of authorization under section 5712 (relating to issuance of order and effect) or an order of approval under section 5713(a) (relating to emergency situations) or 5713.1(b) (relating to emergency hostage and barricade situations).

(2) The order of authorization issued under section 5712 or the order of approval issued under section 5713(a) or 5713.1(b) was not supported by probable cause with respect to the matters set forth in section 5710(a)(1) and (2) (relating to grounds for entry of order).

(3) The order of authorization issued under section 5712 is materially insufficient on its face.

(4) The interception materially deviated from the requirements of the order of authorization.

(5) With respect to interceptions pursuant to section 5704(2), the consent to the interception was coerced by the Commonwealth.

(6) Where required pursuant to section 5704(2)(iv), the interception was made without prior procurement of a court order, or without probable cause.

(c) Procedure.—

(1) The motion shall be made in accordance with the applicable rules of procedure governing such proceedings. The court, board or agency, upon the filing of such motion, shall make available to the movant or his counsel the intercepted communication and evidence derived therefrom.

(2) In considering a motion to exclude under subsection (b)(2), both the written application under section 5710(a) and all matters that were presented to the judge under section 5710(b) shall be admissible.

(3) The movant shall bear the burden of proving by a preponderance of the evidence the grounds for exclusion asserted under subsection (b)(3) and (4).

(4) With respect to exclusion claims under subsection (b)(1), (2) and (5), the respondent shall bear the burden of proof by a preponderance of the evidence.

(5) With respect to exclusion claims under subsection (b)(6), the movant shall have the initial burden of demonstrating by a preponderance of the evidence that the interception took place in his home. Once he meets this burden, the burden shall shift to the respondent to demonstrate by a preponderance of the evidence that the interception was in accordance with section 5704(2)(iv).

(6) Evidence shall not be deemed to have been derived from communications excludable under subsection (b) if the respondent can demonstrate by a preponderance of the evidence that the Commonwealth or the respondent had a basis independent of the excluded communication for discovering such evidence, or that such evidence would have been inevitably discovered by the Commonwealth or the respondent absent the excluded communication.

(d) Appeal.—In addition to any other right of appeal, the Commonwealth shall have the right to appeal from an order granting a motion to exclude if the official to whom the order authorizing the intercept was granted shall certify to the court that the appeal is not taken for purposes of delay. The appeal shall be taken in accordance with the provisions of Title 42 (relating to judiciary and judicial procedure).

(e) Exclusiveness of remedies and sanctions.—The remedies and sanctions described in this subchapter with respect to the interception of wire, electronic or oral communications are the only judicial remedies and sanctions for nonconstitutional violations of this subchapter involving such communications.

Section 11. Sections 5722, 5724, 5725, 5726, 5743(d) and (e), 5744(b) and 5747(d) of Title 18 are amended to read:

§ 5722. Report by issuing or denying judge.

Within 30 days after the expiration of an order or an extension or renewal thereof entered under this [chapter] subchapter or the denial of an order confirming verbal approval of interception, the issuing or denying judge shall make a report to the Administrative Office of Pennsylvania Courts stating the following:

- (1) That an order, extension or renewal was applied for.
- (2) The kind of order applied for.
- (3) That the order was granted as applied for, was modified, or was denied.
- (4) The period of the interceptions authorized by the order, and the number and duration of any extensions or renewals of the order.
- (5) The offense specified in the order, or extension or renewal of an order.

(6) The name and official identity of the person making the application and of the investigative or law enforcement officer and agency for whom it was made.

(7) The character of the facilities from which or the place where the communications were to be intercepted.

§ 5724. Training.

The Attorney General and the Commissioner of the Pennsylvania State Police shall establish a course of training in the legal and technical aspects of wiretapping and electronic surveillance as allowed or permitted by this [chapter] subchapter, shall establish such regulations as they find necessary and proper for such training program and shall establish minimum standards for certification and periodic recertification of Commonwealth investigative or law enforcement officers as eligible to conduct wiretapping or electronic surveillance under this chapter. The Pennsylvania State Police shall charge each investigative or law enforcement officer who enrolls in this training program a reasonable enrollment fee to offset the costs of such training.

§ 5725. Civil action for unlawful interception, disclosure or use of wire, electronic or oral communication.

(a) Cause of action.—Any person whose wire, electronic or oral communication is intercepted, disclosed or used in violation of this [chapter] subchapter shall have a civil cause of action against any person who intercepts, discloses or uses or procures any other person to intercept, disclose or use, such communication; and shall be entitled to recover from any such person:

(1) Actual damages, but not less than liquidated damages computed at the rate of \$100 a day for each day of violation, or \$1,000, whichever is higher.

(2) Punitive damages.

(3) A reasonable attorney's fee and other litigation costs reasonably incurred.

(b) Waiver of sovereign immunity.—To the extent that the Commonwealth and any of its officers, officials or employees would be shielded from liability under this section by the doctrine of sovereign immunity, such immunity is hereby waived for the purposes of this section.

(c) Defense.—It is a defense to an action brought pursuant to subsection (a) that the actor acted in good faith reliance on a court order or the provisions of this [chapter] subchapter.

§ 5726. Action for removal from office or employment.

(a) Cause of action.—Any aggrieved person shall have the right to bring an action in Commonwealth Court against any investigative or law enforcement officer, public official or public employee seeking the officer's, official's or employee's removal from office or employment on the grounds that the officer, official or employee has intentionally violated the provisions of this [chapter] subchapter. If the court shall conclude that such officer, official or employee has in fact intentionally violated the provisions of this [chapter] subchapter, the court shall order the dismissal or removal from office of said officer, official or employee.

(b) Defense.—It is a defense to an action brought pursuant to subsection (a) that the actor acted in good faith reliance on a court order or the provisions of this [chapter] subchapter.

§ 5743. Requirements for governmental access.

(d) Requirements for court order.—A court order for disclosure under subsection (b) or (c) shall be issued only if the investigative or law enforcement officer shows that there [is reason to believe] are specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication, or the records or other information sought, are relevant and material to [a legitimate investigative or law enforcement inquiry] an ongoing criminal investigation. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify the order if the information or records requested are unusually voluminous in nature or compliance with the order would otherwise cause an undue burden on the provider.

(e) No cause of action against a provider disclosing information under this [chapter] subchapter.—No cause of action shall lie against any provider

of wire or electronic communication service, its officers, employees, agents or other specified persons for providing information, facilities or assistance in accordance with the terms of a court order, warrant, subpoena or certification under this [chapter] subchapter.

§ 5744. Backup preservation.

(b) Customer challenges.—

(1) Within 14 days after notice by the investigative or law enforcement officer to the subscriber or customer under subsection (a)(2), the subscriber or customer may file a motion to quash the subpoena or vacate the court order, copies to be served upon the officer and written notice of the challenge to be given to the service provider. A motion to vacate a court order shall be filed in the court which issued the order. A motion to quash a subpoena shall be filed in the court which has authority to enforce the subpoena. The motion or application shall contain an affidavit or sworn statement:

(i) stating that the applicant is a customer of or subscriber to the service from which the contents of electronic communications maintained for the applicant have been sought; and

(ii) containing the applicant's reasons for believing that the records sought are not relevant to a legitimate investigative or law enforcement inquiry or that there has not been substantial compliance with the provisions of this subchapter in some other respect.

(2) Service shall be made under this section upon the investigative or law enforcement officer by delivering or mailing by registered or certified mail a copy of the papers to the person, office or department specified in the notice which the customer has received pursuant to this [chapter] subchapter. For the purposes of this section, the term "delivery" has the meaning given that term in the Pennsylvania Rules of Civil Procedure.

(3) If the court finds that the customer has complied with paragraphs (1) and (2), the court shall order the investigative or law enforcement officer to file a sworn response, which may be filed in camera if the investigative or law enforcement officer includes in its response the reasons which make in camera review appropriate. If the court is unable to determine the motion or application on the basis of the parties' initial allegations and responses, the court may conduct such additional proceedings as it deems appropriate. All such proceedings shall be completed and the motion or application decided as soon as practicable after the filing of the officer's response.

(4) If the court finds that the applicant is not the subscriber or customer for whom the communications sought by the investigative or law enforcement officer are maintained, or that there is reason to believe that the investigative or law enforcement inquiry is legitimate and that the communications sought are relevant to that inquiry, it shall deny the motion or application and order the process enforced. If the court finds that the applicant is the subscriber or customer for whom the communications sought by the governmental entity are maintained, and that there is not reason to believe that the communications sought are relevant to a legitimate investigative or law enforcement inquiry, or that there has not been substantial compliance with the provisions of this [chapter] subchapter, it shall order the process quashed.

(5) A court order denying a motion or application under this section shall not be deemed a final order, and no interlocutory appeal may be taken therefrom. The Commonwealth or investigative or law enforcement officer

shall have the right to appeal from an order granting a motion or application under this section.

§ 5747. Civil action.

(d) Defense.—A good faith reliance on:

(1) a court warrant or order, a grand jury subpoena, a legislative authorization or a statutory authorization;

(2) a request of an investigative or law enforcement officer under section 5713 (relating to emergency situations); or

(3) a good faith determination that section 5704(10) (relating to exceptions to prohibitions of interception and disclosure of communications) permitted the conduct complained of; is a complete defense to any civil or criminal action brought under this [chapter] subchapter or any other law.

Section 12. The heading of Subchapter E of Chapter 57 of Title 18 is amended to read:

SUBCHAPTER E
PEN REGISTERS, TRAP AND TRACE DEVICES,
AND TELECOMMUNICATION IDENTIFICATION
INTERCEPTION DEVICES

Section 13. Sections 5771, 5772 heading and (a), 5773, 5774, 5775 and 5781 of Title 18 are amended to read:

§ 5771. General prohibition [of pen register and trap and trace device use; exception] on use of certain devices and exception.

(a) General rule.—Except as provided in this section, no person may install or use a pen register or a trap and trace device or a telecommunication identification interception device without first obtaining a court order under section 5773 (relating to issuance of an order for [a pen register or a trap and trace device] use of certain devices).

(b) Exception.—The prohibition of subsection (a) does not apply with respect to the use of a pen register [or], a trap and trace device or a telecommunication identification interception device by a provider of electronic or wire communication service:

(1) relating to the operation, maintenance and testing of a wire or electronic communication service or to the protection of the rights or property of the provider, or to the protection of users of the service from abuse of service or unlawful use of service; [or]

(2) to record the fact that a wire or electronic communication was initiated or completed in order to protect the provider, another provider furnishing service toward the completion of the wire communication or a user of the service from fraudulent, unlawful or abusive use of service[, or]; or

(3) with the consent of the user of the service.

(b.1) Limitation.—A government agency authorized to install and use a pen register under this chapter shall use technology reasonably available to it that restricts the recording or decoding of electronic or other impulses to the dialing and signaling information utilized in call processing.

(c) Penalty.—Whoever intentionally and knowingly violates subsection (a) is guilty of a misdemeanor of the third degree.

§ 5772. Application for an order for [pen registers and trap and trace devices] use of certain devices.

(a) Application.—The Attorney General or a deputy attorney general designated in writing by the Attorney General or a district attorney or an assistant district attorney designated in writing by the district attorney may make application for an order or an extension of an order under section 5773 (relating to issuance of an order for [a pen register or a trap and trace device] use of certain devices) authorizing or approving the installation and use of a pen register [or], a trap and trace device or a telecommunication identification interception device under this [chapter] subchapter, in writing, under oath or equivalent affirmation, to a court of common pleas[.] or to any Superior Court judge when an application for an order authorizing interception of wire or electronic communications is or has been made for the targeted telephone or another application for interception under this subchapter has been made involving the same investigation.

* * *

§ 5773. Issuance of an order for [a pen register or a trap and trace device] use of certain devices.

(a) In general.—Upon an application made under section 5772 (relating to application for an order for [pen registers and trap and trace devices] use of certain devices), the court [of common pleas] shall enter an ex parte order authorizing the installation and use of a pen register [or], a trap and trace device or a telecommunication identification interception device within the jurisdiction of the court if the court finds that there is probable cause to believe that information relevant to an ongoing criminal investigation will be obtained by such installation and use on the targeted telephone [line to which the pen register is to be attached].

(b) Contents of order.—An order issued under this section shall:

(1) Specify:

(i) That there is probable cause to believe that information relevant to an ongoing criminal investigation will be obtained [on the telephone line to which the pen register or trap and trace device is to be attached] from the targeted telephone.

(ii) The identity, if known, of the person to whom is leased or in whose name is listed the [telephone line to which the pen register or trap and trace device is to be attached.] targeted telephone, or in the case of the use of a telecommunication identification interception device, the identity, if known, of the person or persons using the targeted telephone.

(iii) The identity, if known, of the person who is the subject of the criminal investigation.

(iv) [The number and, if known,] In the use of pen registers and trap and trace devices only, the physical location of the [telephone line to which the pen register or trap and trace device is to be attached, and, in the case of a trap and trace device, the geographical limits of the trap and trace order] targeted telephone.

(v) A statement of the offense to which the information likely to be obtained by the pen register [or], trap and trace device or the telecommunication identification interception device relates.

(2) Direct, upon the request of the applicant, the furnishing of information, facilities and technical assistance necessary to accomplish the installation of the pen register under section 5771 (relating to general prohibition [of pen register and trap and trace device use; exception].) on use of certain devices and exception).

(3) In the case of a telecommunication identification interception device, direct that all interceptions be recorded and monitored in accordance with section 5714(a)(1) and (2) and (b) (relating to recording of intercepted communications).

(c) Time period and extensions.—

(1) An order issued under this section shall authorize the installation and use of a pen register [or], trap and trace device or a telecommunication identification interception device for a period not to exceed 30 days.

(2) Extensions of such an order may be granted but only upon an application for an order under section 5772 and upon the judicial finding required by

subsection (a). The period of each extension shall be for a period not to exceed 30 days.

(d) Nondisclosure of existence of pen register [or], trap and trace device or a telecommunication identification interception device.—An order authorizing or approving the installation and use of a pen register [or], a trap and trace device or a telecommunication identification interception device shall direct that:

(1) The order be sealed until otherwise ordered by the court.

(2) The person owning or leasing the [line to which the pen register or a trap and trace device is attached] targeted telephone, or who has been ordered by the court to provide assistance to the applicant, not disclose the existence of the pen register [or], trap and trace device or telecommunication identification interception device or the existence of the investigation to the listed subscriber, or to any other person, unless or until otherwise ordered by the court.

§ 5774. Assistance in installation and use of [pen registers or trap and trace devices] certain devices.

(a) Pen [registers] register.—Upon the request of an applicant under this subchapter, a provider of wire or electronic communication service, landlord, custodian or other person shall forthwith provide all information, facilities and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if assistance is directed by a court order as provided in section 5773(b)(2) (relating to issuance of an order for [a pen register or a trap and trace device] use of certain devices).

(b) Trap and trace device.—Upon the request of an applicant under this subchapter, a provider of a wire or electronic communication service, landlord, custodian or other person shall install the device forthwith on the appropriate line and shall furnish all additional information, facilities and technical assistance, including installation and operation of the device unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if installation and assistance are directed by a court order as provided in section 5773. Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished to the applicant designated in the court order at reasonable intervals during regular business hours for the duration of the order.

(c) Compensation.—A provider of wire or electronic communication service, landlord, custodian or other person who furnishes facilities or technical assistance pursuant to this section shall be reasonably compensated for reasonable expenses incurred in providing the facilities and assistance.

(d) No cause of action against a provider disclosing information under this [chapter] subchapter.—No cause of action shall lie in any court against any provider of a wire or electronic communication service, its officers, employees, agents or other specified persons for providing information, facilities or assistance in accordance with the terms of a court order under this subchapter.

(e) Defense.—A good faith reliance on a court order or a statutory authorization is a complete defense against any civil or criminal action brought under this subchapter or any other law.

§ 5775. Reports concerning [pen registers] certain devices.

(a) Attorney General.—The Attorney General shall annually report to the Administrative Office of Pennsylvania Courts on the number of orders for pen registers [and], trap and trace devices and telecommunication identification interception devices applied for by investigative or law enforcement agencies of the Commonwealth or its political subdivisions.

(b) District attorney.—Each district attorney shall annually provide to the Attorney General information on the number of orders for pen registers [and], trap and trace devices, and telecommunication identification interception devices applied for on forms prescribed by the Attorney General.

§ 5781. Expiration of chapter.

This chapter expires December 31, [1999] 2004, unless extended by statute.

Section 14. Section 4524 of Title 75 is amended by adding a subsection to read:

§ 4524. Windshield obstructions and wipers.

(f) Exception for video equipment in police or sheriff vehicles.—This section does not prevent the installation or use of video recording or projection equipment, that has been approved by the department, upon the windshield or any window of a police or sheriff vehicle used exclusively for official purposes.

Section 15. This act shall take effect immediately.

On the question,

Will the House agree to the amendment?

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

Mr. CHADWICK. Thank you, Madam Speaker.

Pennsylvania's wiretap law is badly out of date. It was drafted at a time when we were not—

The SPEAKER pro tempore. Would the gentleman come to the desk for one moment, please.

(Conference held at Speaker's podium.)

AMENDMENT WITHDRAWN

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

Mr. CHADWICK. Thank you, Madam Speaker.

After a discussion with the Chair, I am going to withdraw this amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,

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

Mr. CALTAGIRONE offered the following amendment No. A2835:

Amend Title, page 1, line 6, by striking out "and"

Amend Title, page 1, line 7, by removing the period after "prisoner" and inserting

and for arson and related offenses.

Amend Bill, page 3, by inserting between lines 21 and 22

Section 4. Section 3301(d), (h) and (i) of Title 18 are amended and the section is amended by adding a subsection to read:

§ 3301. Arson and related offenses.

(d) Reckless burning or exploding.—A person commits a felony of the third degree if he intentionally starts a fire or causes an explosion, or if he aids, counsels, pays or agrees to pay another to cause a fire or explosion, whether on his own property or on that of another, and thereby recklessly:

(1) places an uninhabited building or unoccupied structure of another in danger of damage or destruction; or

(2) [places any personal property of another having a value of \$5,000 or more] places any personal property of another having a value that exceeds \$5,000, or if the property is an automobile, airplane, motorcycle,

motorboat or other motor-propelled vehicle in danger of damage or destruction.

(d.1) Dangerous burning.—A person commits a summary offense if he intentionally or recklessly starts a fire to endanger any person or property of another, whether or not any damage to person or property actually occurs.

(h) Limitations on liability.—The provisions of subsections (a), (b), (c), (d), (d.1) and (e) shall not be construed to establish criminal liability upon any volunteer or paid firefighter or volunteer or paid-firefighting company or association if said company or association endangers a participating firefighter or real or personal property in the course of an approved, controlled fire training program or fire evolution, provided that said company or association has complied with the following:

(1) a sworn statement from the owner of any real or personal property involved in such program or evolution that there is no fire insurance policy or no lien or encumbrance exists which applies to such real or personal property;

(2) approval or permits from the appropriate local government or State officials, if necessary, to conduct such program or exercise have been received;

(3) precautions have been taken so that the program or evolution does not affect any other persons or real or personal property; and

(4) participation of firefighters in the program or exercise if voluntary.

(i) Defenses.—It is a defense to prosecution under subsections (c) [and (d)], (d) and (d.1) where a person is charged with destroying a vehicle, lawful title to which is vested in him, if the vehicle is free of any encumbrances, there is no insurance covering loss by fire or explosion or both on the vehicle and the person delivers to the nearest State Police station at least 48 hours in advance of the planned destruction a written sworn statement certifying that the person is the lawful titleholder, that the vehicle is free of any encumbrances and that there is no insurance covering loss by fire or explosion or both on the vehicle.

Amend Sec. 4, page 3, line 22, by striking out "4" and inserting

5

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Berks County, Mr. Caltagirone.

Mr. CALTAGIRONE. Thank you.

Madam Speaker, this amendment has been agreed to. Basically what it would do is allow for a fire that starts in a car that is less than \$5,000 and any attached property thereto that would exceed the \$5,000 would allow then a summary offense to be committed for a person who intentionally or recklessly starts that fire.

This is a loophole in the law that we wanted to plug, and I would appreciate your affirmative vote. Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—200

Adolph
Allen
Argall

DiGirolamo
Donatucci
Druce

Maitland
Major
Manderino

Saylor
Schroder
Schuler

Armstrong	Eachus	Markosek	Scrimenti
Baker	Egolf	Marsico	Semmel
Bard	Evans	Masland	Serafini
Barley	Fairchild	Mayernik	Seyfert
Barrar	Fargo	McCall	Shaner
Battisto	Feese	McGeehan	Smith, B.
Bebko-Jones	Fichter	McGill	Smith, S. H.
Belardi	Fleagle	McIlhattan	Snyder, D. W.
Belfanti	Flick	McNaughton	Staback
Benninghoff	Gannon	Melio	Stairs
Birmelin	Geist	Michlovic	Steelman
Bishop	George	Micozzie	Steil
Blaum	Gigliotti	Mihalich	Stern
Boscola	Gladeck	Miller	Stetler
Boyes	Godshall	Mundy	Stevenson
Brown	Gordner	Myers	Strittmatter
Browne	Gruitza	Nailor	Sturla
Bunt	Gruppo	Nickol	Surra
Butkovitz	Habay	O'Brien	Tangretti
Buxton	Haluska	Olasz	Taylor, E. Z.
Caltagirone	Hanna	Oliver	Taylor, J.
Cappabianca	Harhart	Orie	Thomas
Carn	Hasay	Perzel	Tigue
Carone	Hennessey	Pesci	Travaglio
Casorio	Herman	Petrarca	Trello
Cawley	Hershey	Petrone	Trich
Chadwick	Hess	Phillips	True
Civera	Horsey	Pippy	Tulli
Clark	Hutchinson	Pistella	Vance
Clymer	Itkin	Platts	Van Horne
Cohen, L. I.	Jadlowiec	Preston	Veon
Cohen, M.	James	Ramos	Vitali
Colafella	Jarolin	Raymond	Walko
Colaizzo	Josephs	Readshaw	Waugh
Conti	Kaiser	Reber	Williams, A. H.
Cornell	Keller	Reinard	Williams, C.
Corpora	Kenney	Rieger	Wilt
Corrigan	Krebs	Roberts	Wogan
Cowell	LaGrotta	Robinson	Wojnaroski
Coy	Laughlin	Roebuck	Wright, M. N.
Curry	Lawless	Rohrer	Yewcic
Daley	Lederer	Rooney	Youngblood
Dally	Leh	Ross	Zimmerman
DeLuca	Lescovitz	Rubley	Zug
Dempsey	Levdansky	Sainato	
Dent	Lloyd	Santoni	Ryan,
Dermody	Lucyk	Sather	Speaker
DeWeese	Lynch		

NAYS-0

NOT VOTING-0

EXCUSED-2

Kirkland Washington

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

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

Mr. HALUSKA offered the following amendment No. A1675:

Amend Title, page 1, line 6, by striking out "and"
Amend Title, page 1, line 7, by removing the period after "prisoner" and inserting

; and prohibiting the furnishing of free postage to prison inmates.

Amend Bill, page 3, by inserting between lines 21 and 22 Section 4. A State or county prison shall not furnish postage free of charge to any inmate.
Amend Sec. 4, page 3, line 22, by striking out "4" and inserting 5

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

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

Mr. MIHALICH. Madam Speaker, Representative Haluska had to step out to the Governor's Office for a few moments. Can you temporarily go over his amendment? He will be back shortly. Thank you.

BILL PASSED OVER TEMPORARILY

The SPEAKER pro tempore. The bill will be over temporarily.

GUESTS INTRODUCED

The SPEAKER pro tempore. The Chair welcomes to the hall of the House Melinda Maitland, wife of Representative Steve Maitland, and Michael George, Adams County district attorney, who are guests of Representative Maitland from Adams County. They are located to the left of the Speaker.

SUPPLEMENTAL CALENDAR A CONTINUED

BILL ON CONCURRENCE
IN SENATE AMENDMENTS
TO HOUSE AMENDMENTS

The House proceeded to consideration of concurrence in Senate amendments to House amendments to SB 870, PN 1157, entitled:

An Act amending the act of May 6, 1997 (P.L. , No.4A), entitled General Appropriations Act of 1997, adding and amending certain Federal and State appropriations made to certain agencies within the Executive Department of the Commonwealth.

On the question,
Will the House concur in Senate amendments to House amendments?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Columbia County, Mr. Gordner.

Mr. GORDNER. Thank you, Madam Speaker.

Madam Speaker, I represent the House Democratic Caucus on the Ben Franklin/Industrial Resource Center Partnership Board, and on that board, we have been approached recently about needing some additional moneys for a new initiative for the Governor called Technology 21. Unfortunately, the Governor did not provide moneys for that program in this budget that we recently enacted for the 1997-98 fiscal year, and so the representatives from the Department of Community and Economic Development have asked us to withhold some moneys from our Ben Franklin and IRC centers in order to fund this initiative entitled "Technology 21."

Many of you have had dealings with the Ben Franklin and the industrial resource centers and know that they do an outstanding

job in our State, and it is something that is actually emulated in other States. And I think it would be unfortunate to ask these programs to withhold some moneys from their efforts in order to fund a Technology 21 program that is also worthwhile, but it seems like, in this year, when we have a surplus of \$589 million, that we could take some of that surplus and provide it in the budget for a Tech 21 initiative.

MOTION TO SUSPEND RULES

Mr. GORDNER. Therefore, Madam Speaker, at this time I have prepared an amendment, amendment 3070, which I would like to offer in order to provide 4 million additional dollars to the Ben Franklin/Industrial Resource Center Partnership Fund for Governor Ridge's proposed Technology 21 program, and I would hereby move to suspend the rules in order to offer amendment 3070.

The SPEAKER pro tempore. The gentleman has moved to suspend the rules to offer amendment 3070.

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

The SPEAKER pro tempore. On that question, the Chair recognizes the majority leader, from Philadelphia, Mr. Perzel.

Mr. PERZEL. Thank you, Madam Speaker.
At this time we would oppose the motion to suspend the rules.

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

The following roll call was recorded:

YEAS-95

Battisto	Dent	Manderino	Sainato
Bebko-Jones	Dermody	Markosek	Santoni
Belardi	DeWeese	Mayernik	Scrimenti
Belfanti	Donatucci	McCall	Shaner
Bishop	Eachus	McGeehan	Staback
Blaum	Evans	Melio	Stetler
Boscola	George	Michlovic	Sturla
Butkovitz	Gigliotti	Micozzie	Surra
Buxton	Gordner	Mihalich	Tangretti
Caltagirone	Gruitza	Mundy	Thomas
Cappabianca	Haluska	Myers	Tigue
Carn	Horsey	Olasz	Travaglio
Casorio	Itkin	Oliver	Trello
Cawley	James	Pesci	Trich
Cohen, M.	Jarolin	Petrarca	Van Horne
Colafella	Josephs	Petrone	Veon
Colaizzo	Keller	Pistella	Vitali
Corpora	LaGrotta	Preston	Walko
Corrigan	Laughlin	Ramos	Williams, A. H.
Cowell	Lederer	Readshaw	Williams, C.
Coy	Lescovitz	Rieger	Wojnarowski
Curry	Levdansky	Roberts	Yewcic
Daley	Lloyd	Roebuck	Youngblood
DeLuca	Lucy	Rooney	

NAYS-103

Adolph	Fairchild	Maitland	Semmel
Allen	Fargo	Major	Seraffini
Argall	Feese	Marsico	Seyfert
Armstrong	Fichter	Masland	Smith, B.
Baker	Fleagle	McGill	Smith, S. H.
Bard	Flick	McIlhattan	Snyder, D. W.
Barley	Gannon	McNaughton	Stairs

Barrar	Geist	Miller	Steelman
Benninghoff	Gladeck	Nailor	Steil
Birmelin	Godshall	Nickol	Stern
Boyes	Gruppo	O'Brien	Stevenson
Brown	Habay	Orie	Strittmatter
Browne	Hanna	Perzel	Taylor, E. Z.
Bunt	Harhart	Phillips	Taylor, J.
Carone	Hasay	Pippy	True
Chadwick	Hennessey	Platts	Tulli
Civera	Herman	Raymond	Vance
Clark	Hershey	Reber	Waugh
Clymer	Hess	Reinard	Wilt
Cohen, L. I.	Hutchinson	Rohrer	Wogan
Conti	Jadlowiec	Ross	Wright, M. N.
Cornell	Kenney	Rubley	Zimmerman
Dally	Krebs	Sather	Zug
Dempsey	Lawless	Saylor	
DiGirolo	Leh	Schroder	Ryan,
Druce	Lynch	Schuler	Speaker
Egolf			

NOT VOTING-2

Kaiser	Robinson
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EXCUSED-2

Kirkland	Washington
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Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,
Will the House concur in Senate amendments to House amendments?

MOTION TO SUSPEND RULES

The SPEAKER pro tempore. The Chair recognizes the minority leader, Mr. DeWeese.

Mr. DeWEESE. Thank you, Madam Speaker.

I would move at this time that we suspend the rules for the offering of amendment A3120. A3120 would restore full funding to the Office of Auditor General.

The SPEAKER pro tempore. The gentleman moves for suspension of the rules in order to offer amendment 3120.

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

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Philadelphia, Mr. Perzel.

Mr. PERZEL. Thank you, Madam Speaker.

I would like to remind the members that it was the Senate Democrats that blocked the appropriation for the Auditor General, so I do not see adding this to a bill that is going back to the Senate, where they have already taken this out in the past with Democrat support. Putting it back in would be foolish. So I would oppose the motion.

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

Mr. DeWEESE. Again, the majority leader seems to kowtow to the Senate. I really wonder why we even have this chamber sometimes, when we seem to accede to the juggernaut of the State

Senate. Now, just because the State Senate, in its inestimable wisdom, has seen fit to scarify this process in the way that it has does not mean that it is right.

I am told that in next year's budget, Madam Speaker, the Attorney General, Mr. Fisher, will receive a 6½-percent increase. That seems appropriate. Treasurer Hafer, formerly General Hafer — I love to call her General Hafer — will receive 8 percent. So General Hafer gets 8 percent, General Fisher gets 6½ percent, and young Bob Casey, from the hardscrabble coalfields of Lackawanna, is maltreated by the Assembly — the Auditor General, the Auditor General.

We have all of this surplus, we have need of more audits, and General Casey, due to some mischief in the Senate that the Republican leadership seems to acquiesce to, is getting 3 percent. Now, 8 percent, 6 percent, 3 percent; it does not make sense to me. General Casey is a Democrat. We have a chance to remedy the situation. We have a lot of money in the bank. We have several days before the end of June. It seems like good-government policy to me.

A suspension of the rules; inject \$2½ million. Everybody can go to Ryan's Roundup. We will have done a good job on the floor of the House. It is your choice.

Mr. VITALI. Madam Speaker?

The SPEAKER pro tempore. The gentleman is not permitted to speak on suspension.

Mr. DeWEESE. Madam Speaker?

The SPEAKER pro tempore. For what purpose does the gentleman, Mr. DeWeese, rise?

Mr. DeWEESE. To speak on suspension.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. DeWEESE. Thank you, Madam Speaker.

Due to some happy, telepathic coincidence, I have been able to monitor the brain of the gentleman from Delaware, and I think, I think if he had had the chance to go to the microphone, he might have tried to equate a very unhappy circumstance within our body politic, and that is that young Bobby Casey, with his team of auditors, is right now panting at the Governor's door, ready to take his auditing team in to look at the CRAP grants, the community revitalization assistance program. I think, Madam Speaker, that with General Casey and his auditors being held at bay by the Governor and by this parsimonious appropriation, the gentleman from Delaware wanted to share his consternation, his perplexity.

Bob Casey needs the money; the Auditor General of Pennsylvania needs the money. We have the money. Show us the money; sure. "Show me the money" — "Jerry Maguire." "Show me the money." I wish I would have thought of that. That was probably Walko. I know I am not allowed to use names.

Thank you very much, Madam Speaker, for your indulgence.

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

The following roll call was recorded:

YEAS-96

Battisto	Dermody	Markosek	Santoni
Bebko-Jones	DeWeese	Mayernik	Scrimenti
Belardi	Donatucci	McCall	Serafini
Belfanti	Eachus	McGeehan	Shaner
Bishop	Evans	Melio	Staback
Blaum	George	Michlovic	Steelman

Boscola	Gigliotti	Mihalich	Stetler
Butkovitz	Gordner	Mundy	Sturla
Buxton	Gruitza	Myers	Surra
Caltagirone	Haluska	Olasz	Tangretti
Cappabianca	Hanna	Oliver	Thomas
Carn	Itkin	Pesci	Tigue
Casorio	James	Petrarca	Travaglio
Cawley	Jarolin	Petrone	Trello
Cohen, M.	Josephs	Pistella	Trich
Colafella	Keller	Preston	Van Home
Colaizzo	LaGrotta	Ramos	Veon
Corpora	Laughlin	Readshaw	Vitali
Corrigan	Lederer	Rieger	Walko
Cowell	Lescovitz	Roberts	Williams, A. H.
Coy	Levdansky	Robinson	Williams, C.
Curry	Lloyd	Roebuck	Wojnarowski
Daley	Lucyk	Rooney	Yewcic
DeLuca	Manderino	Sainato	Youngblood

NAYS-102

Adolph	Druce	Lynch	Schroder
Allen	Egolf	Maitland	Schuler
Argall	Fairchild	Major	Semmel
Armstrong	Fargo	Marsico	Seyfert
Baker	Feese	Masland	Smith, B.
Bard	Fichter	McGill	Smith, S. H.
Barley	Fleagle	McIlhattan	Snyder, D. W.
Barrar	Flick	McNaughton	Stairs
Benninghoff	Gannon	Micozzie	Steil
Birmelin	Geist	Miller	Stern
Boyes	Gladeck	Nailor	Stevenson
Brown	Godshall	Nickol	Strittmatter
Browne	Gruppo	O'Brien	Taylor, E. Z.
Bunt	Habay	Orie	Taylor, J.
Carone	Harhart	Perzel	True
Chadwick	Hasay	Phillips	Tulli
Civera	Hennessey	Pippy	Vance
Clark	Herman	Platts	Waugh
Clymer	Hershey	Raymond	Wilt
Cohen, L. I.	Hess	Reber	Wogan
Conti	Hutchinson	Reinard	Wright, M. N.
Cornell	Jadlowiec	Rohrer	Zimmerman
Dally	Kenney	Ross	Zug
Dempsey	Krebs	Rubley	
Dent	Lawless	Sather	Ryan, Speaker
DiGirolamo	Leh	Saylor	

NOT VOTING-2

Horsley	Kaiser
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EXCUSED-2

Kirkland	Washington
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Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,
Will the House concur in Senate amendments to House amendments?

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

YEAS-199

Adolph	DiGirolamo	Lynch	Saylor
Allen	Donatucci	Maitland	Schroder
Argall	Druce	Major	Schuler

Armstrong	Eachus	Manderino	Scrimenti
Baker	Egolf	Markosek	Semmel
Bard	Evans	Marsico	Serafini
Barley	Fairchild	Masland	Seyfert
Barrar	Fargo	Mayernik	Shaner
Battisto	Feese	McCall	Smith, B.
Bebko-Jones	Fichter	McGeehan	Smith, S. H.
Belardi	Fleagle	McGill	Snyder, D. W.
Belfanti	Flick	McIlhattan	Staback
Benninghoff	Gannon	McNaughton	Stairs
Birmelin	Geist	Melio	Steelman
Bishop	George	Michlovic	Steil
Blaum	Gigliotti	Micozzie	Stern
Boscola	Gladeck	Mihalich	Stetler
Boyes	Godshall	Miller	Stevenson
Brown	Gordner	Mundy	Strittmatter
Browne	Gruitzza	Myers	Sturla
Bunt	Gruppo	Nailor	Surra
Butkovitz	Habay	Nickol	Tangretti
Buxton	Haluska	O'Brien	Taylor, E. Z.
Caltagirone	Hanna	Olasz	Taylor, J.
Cappabianca	Harhart	Oliver	Thomas
Carn	Hasay	Orie	Tigue
Carone	Hennessey	Perzel	Travaglio
Casorio	Herman	Pesci	Trello
Cawley	Hershey	Petrarca	Trich
Chadwick	Hess	Petrone	True
Civera	Horshey	Phillips	Tulli
Clark	Hutchinson	Pippy	Vance
Clymer	Itkin	Pistella	Van Horne
Cohen, L. I.	Jadlowiec	Platts	Veon
Cohen, M.	James	Preston	Vitali
Colafella	Jarolin	Ramos	Walko
Colaizzo	Josephs	Raymond	Waugh
Conti	Kaiser	Readshaw	Williams, A. H.
Cornell	Keller	Reber	Williams, C.
Corpora	Kenney	Reinard	Wilt
Corrigan	Krebs	Rieger	Wogan
Cowell	LaGrotta	Robinson	Wojnaroski
Coy	Laughlin	Roebuck	Wright, M. N.
Curry	Lawless	Rohrer	Yewcic
Daley	Lederer	Rooney	Youngblood
Dally	Leh	Ross	Zimmerman
DeLuca	Lescovitz	Rubley	Zug
Dempsey	Levdansky	Sainato	
Dent	Lloyd	Santoni	Ryan,
Dermody	Lucyk	Sather	Speaker
DeWeese			

NAYS-0

NOT VOTING-1

Roberts

EXCUSED-2

Kirkland

Washington

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments to House amendments were concurred in.

Ordered, That the clerk inform the Senate accordingly.

SUPPLEMENTAL CALENDAR G

RESOLUTION PURSUANT TO RULE 35

Mr. McCALL called up HR 213, PN 2013, entitled:

A Resolution congratulating the congregation of the Ben Salem United Church of Christ, East Penn Township, Carbon County, Pennsylvania, on the church's 200th anniversary.

On the question,
Will the House adopt the resolution ?

The following roll call was recorded:

YEAS-199

Adolph	DiGirolamo	Lynch	Saylor
Allen	Donatucci	Maitland	Schroder
Argall	Druce	Major	Schuler
Armstrong	Eachus	Manderino	Scrimenti
Baker	Egolf	Markosek	Semmel
Bard	Evans	Marsico	Serafini
Barley	Fairchild	Masland	Seyfert
Barrar	Fargo	Mayernik	Shaner
Battisto	Feese	McCall	Smith, B.
Bebko-Jones	Fichter	McGeehan	Smith, S. H.
Belardi	Fleagle	McGill	Snyder, D. W.
Belfanti	Flick	McIlhattan	Staback
Benninghoff	Gannon	McNaughton	Stairs
Birmelin	Geist	Melio	Steelman
Bishop	George	Michlovic	Steil
Blaum	Gigliotti	Micozzie	Stern
Boscola	Gladeck	Mihalich	Stetler
Boyes	Godshall	Miller	Stevenson
Brown	Gordner	Mundy	Strittmatter
Browne	Gruitzza	Myers	Sturla
Bunt	Gruppo	Nailor	Surra
Butkovitz	Habay	Nickol	Tangretti
Buxton	Haluska	O'Brien	Taylor, E. Z.
Caltagirone	Hanna	Olasz	Taylor, J.
Cappabianca	Harhart	Oliver	Thomas
Carn	Hasay	Orie	Tigue
Carone	Hennessey	Perzel	Travaglio
Casorio	Herman	Pesci	Trello
Cawley	Hershey	Petrarca	Trich
Chadwick	Hess	Petrone	True
Civera	Horshey	Phillips	Tulli
Clark	Hutchinson	Pippy	Vance
Clymer	Itkin	Pistella	Van Horne
Cohen, L. I.	Jadlowiec	Platts	Veon
Cohen, M.	James	Preston	Vitali
Colafella	Jarolin	Ramos	Walko
Colaizzo	Josephs	Raymond	Waugh
Conti	Kaiser	Readshaw	Williams, A. H.
Cornell	Keller	Reber	Williams, C.
Corpora	Kenney	Rieger	Wilt
Corrigan	Krebs	Roberts	Wogan
Cowell	LaGrotta	Robinson	Wojnaroski
Coy	Laughlin	Roebuck	Wright, M. N.
Curry	Lawless	Rohrer	Yewcic
Daley	Lederer	Rooney	Youngblood
Dally	Leh	Ross	Zimmerman
DeLuca	Lescovitz	Rubley	Zug
Dempsey	Levdansky	Sainato	
Dent	Lloyd	Santoni	Ryan,
Dermody	Lucyk	Sather	Speaker
DeWeese			

NAYS-0

NOT VOTING-1

Reinard

EXCUSED-2

Kirkland

Washington

The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

CALENDAR CONTINUED

BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of SB 423, PN 1124, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for sentencing for murder of the first degree.

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

Mr. GEORGE offered the following amendment No. A2635:

Amend Title, page 1, line 3, by inserting after “@AESunday-” providing for immunity from suit in connection with certain actions related to environmental law or regulation; and

Amend Bill, page 2, lines 11 and 12, by striking out all of said lines and inserting

Section 1. Title 42 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:

§ 8340.1. Environmental law or regulation.

(a) General rule.—A person who acts in furtherance of the person’s right of petition or free speech under the Constitution of the United States or the Constitution of Pennsylvania in connection with an issue related to enforcement or implementation of environmental law or regulation shall be immune from civil liability in any action regardless of intent or purpose except where the communication to the government agency is not genuinely aimed at procuring a favorable governmental action, result or outcome. A communication is not genuinely aimed at procuring a favorable governmental action, result or outcome if it is not material or relevant to the enforcement or implementation of environmental law or regulation.

(b) Motion to strike.—

(1) A cause of action against a person arising from any act of that person in furtherance of the person’s right of petition or free speech under the Constitution of the United States or the Constitution of Pennsylvania in connection with a public issue shall be subject to a special motion to strike unless the court determines that the plaintiff has established that there is a substantial likelihood that the plaintiff will prevail on the claim. In making its determination, the court shall consider the pleadings and supporting and opposing affidavits stating the facts upon which the liability or defense is based. The court shall advance any motion to strike so that it may be heard and determined with as little delay as possible.

(2) The court shall stay all discovery proceedings in the action upon the filing of a motion to strike, provided, however, that the court, on motion and after a hearing and for good cause shown, may order that specified discovery be conducted. The stay of discovery shall remain in effect until notice of the entry of the order ruling on the motion to strike.

(3) If the court determines that the plaintiff has established that there is a substantial likelihood that he will prevail on the claim, neither that determination nor the fact of that determination shall be admissible in evidence at any later stage of the case, and no burden of proof or degree of proof otherwise applicable shall be affected by that determination.

(4) The special motion may be filed within 60 days of the service of the complaint or, in the court’s discretion, at any later time upon terms it deems proper.

(c) Attorney fees.—If a person successfully defends against an action under this section, that person shall be awarded reasonable attorney fees and the costs of litigation. If the person prevails in part, the court may award reasonable attorney fees and costs of litigation or an appropriate portion thereof. A person successfully defends against an action if the person prevails on a motion to strike a cause of action under subsection (b) or later prevails on the merits in the action.

(d) Intervention of government agency.—The government agency involved in the furtherance of a person’s right of petition or free speech under the Constitution of the United States or the Constitution of Pennsylvania in connection with a public issue shall have the right to intervene or otherwise participate as an amicus curiae in the action involving public petition and participation.

(e) Abuse of legal process.—In addition to other costs allowable by general rule or statute, the Environmental Hearing Board may award costs, including reasonable counsel fees if the board determines that an appeal is frivolous or taken solely for delay or that the conduct of the appellant is dilatory or vexatious.

(f) Construction.—Nothing in this section shall be construed to limit any constitutional, statutory or common-law protections of defendants to actions involving public petition and participation.

(g) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Act in furtherance of a person’s right of petition or free speech under the Constitution of the United States or the Constitution of Pennsylvania in connection with a public issue.” Any written or oral statement or writing made before a legislative, executive or judicial proceeding, or any other official proceeding authorized by law; any written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive or judicial body, or any other official proceeding authorized by law; any written or oral statement or writing made in a place open to the public or a public forum in connection with an issue of public interest; or any written or oral statement or writing made to a government agency in connection with the implementation and enforcement of environmental law and regulations.

“Enforcement of environmental law and regulations.” Any activity related to the identification and elimination of violations of environmental laws and regulations, including investigations of alleged violations, inspections of activities subject to regulation under environmental law and regulations and responses taken to produce correction of the violations.

“Government agency.” The Federal Government, the Commonwealth and all of its departments, commissions, boards, agencies and authorities, and all political subdivisions and their authorities.

“Implementation of environmental law and regulations.” Any activity related to the development and administration of environmental programs developed under environmental law and regulations.

Section 2. Section 9711(h) of Title 42 is amended to read:

Amend Sec. 2, page 3, line 14, by striking out “2” and inserting

3

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

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

Mr. GEORGE. Thank you, Madam Speaker.

Madam Speaker, this is the same language that was contained in HB 394 that passed this House by 198 to 0.

SLAPP suits (strategic lawsuits against public participation), Madam Speaker, are a tool used by companies to silence environmental complaints. The First Amendment guarantees the right to free speech; SLAPP suits take that very right away. Often the threat of a costly lawsuit is enough for any concerned citizen to drop their complaint.

This bill does not provide immunity for people exercising the right to free speech. It only provides protection for those making accusations based on fact.

The bill does not provide for a motion to strike these suits, as some would insist. This bill gives judges a chance to get these frivolous lawsuits out of our court system before they begin.

We need to stop pretending, Madam Speaker, that SLAPP's are not a serious issue, because they really are. People are being intimidated all over the State by companies with a battery of high-powered attorneys.

You can put a stop to this practice today. We have had a number of hearings on this bill, but for whatever reason, the DEP (Department of Environmental Protection) and the administration have remained silent. If the department and this administration are not going to act, then it is time for this chamber to act.

A vote for this amendment is a vote to protect the U.S. Constitution and the right to speak out. There should not be any one individual in this body that would be against legislation that would allow people to protect their homes, their domiciles, and their personal property. Only those who have a special interest would dare to vote against this legislation. This is meaningful legislation that responsible legislators should support completely.

I thank you.

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

Mr. GANNON. Thank you, Madam Speaker.

Madam Speaker, I rise in opposition to this amendment.

First, the amendment is just overly broad. It is beyond our constitutional guarantees. Basically, what this says is, anybody can say anything about anyone. Now, we have free speech in this country, but there is also another element to that free speech, and that is responsibility. And what this amendment does is it takes away all accountability and all responsibility for whatever a person says.

Now, that may be all well and good, and this amendment says, oh, well, this only applies to those folks who have some environmental agenda. Well, there are lots of other people out there that want the guarantee of free speech, and they are not mentioned in this bill. What about those folks that are against abortions? What about those people that are pro-choice? What about those people, the women's groups, that have a lot to say about what is going on in this State and this country? Why do we not let them into this bill also? Why just single out the environmentalists to say anything about anybody at any time and have absolute immunity?

Irresponsibility, unaccountability — that is what this amendment is all about, Madam Speaker, and I ask for a "no" vote.

The SPEAKER pro tempore. The Chair recognizes the lady from Philadelphia, Representative Manderino.

Ms. MANDERINO. Thank you, Madam Speaker.

I rise to support the George amendment.

This amendment is not broadly drafted, as the prior speaker would lead you to believe. And it also is not an issue of pitting one advocacy group against another advocacy group. It is an issue of pitting common citizens against big-moneyed interests who want to use their money and the court of law and their powerful attorneys to bully John and Joe Q. Citizen into keeping quiet about the environmental hazards that they are complaining about, that are affecting their lives, their children's lives, their property, and their community.

We should not be on the side of allowing special-moneyed interests to throw a lot of money into high-powered attorneys to intimidate our citizens.

Let us not have our citizens be intimidated. Let us stand up for our citizens' right to speak out when they see environmental harm, when they want to protect their children, their children's children. This is a pro-people, pro-citizen, pro-environmental amendment. It deserves everybody's support, and I ask for a "yes" vote.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Delaware County, Mr. Gannon, for the second time.

Mr. GANNON. Thank you, Madam Speaker.

Madam Speaker, with respect to the comments just made, there is an irony here. Under this amendment, anyone, any person, any person, can make a knowingly false statement and have no accountability, and that person includes a corporation, that big corporation with all the big money that the last speaker talked about, because this amendment says "person."

So we have a real unique situation here; we have a real can of worms. That big corporation can make a knowingly false statement about an individual and have no accountability, no responsibility.

There is a serious constitutional flaw in this amendment, Madam Speaker. It goes into the rulemaking authority of the Supreme Court. And the Supreme Court has jealously guarded its rulemaking authority, and rightfully so. It is what the Constitution gives to them. But this amendment says we are going to make those rules for the Supreme Court to make sure they toe the line on this amendment.

So for those two reasons, we do not want people going around this State making false accusations, making false statements, whether it is an individual or the big corporations. Each should be responsible in their free speech, each should be accountable in their free speech, and each should have access to our courts to get the justice that they are entitled to. And I ask for a "no" vote on this amendment.

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

Mr. COHEN. Thank you, Madam Speaker.

Madam Speaker, the question was raised originally, why does this act not protect other advocacy groups? Why does it not protect groups on both sides of the abortion issue? Because there is simply no problem on either side of the abortion issue. Nobody is filing lawsuits for millions of dollars against advocates of choice; no one is filing millions of dollars' worth of lawsuits against pro-life advocates. It is a problem that does not exist.

What this amendment does is seeks to solve a real problem that really does exist, that people are being hindered in their advocacy of environmental measures by corporations who have millions of dollars to throw around in legal fees, and that is a serious problem that has been recognized as a problem by many national organizations. Temple University Press published a widely received and well-received book about this subject. This is a national issue that exists in Pennsylvania and exists in a lot of other places.

Now, should anybody have the right to say things without being subject to libel suits? We on the floor of the House have a right to say whatever we want and nobody can sue us, as long as we are speaking on the floor of the House, and the public has lived with this very well, and we have exercised that right very responsibly. People are concerned with environmental issues because of threats

to their health, safety. They are threats to the health and safety of their family. They, too, are capable of exercising that immunity in a very responsible manner.

I think we ought to try to solve the problems that really exist by passing this amendment and sending a very, very clear message to those groups that want to pollute the environment in order to make a greater profit that we support the right of citizen advocacy, we will actively defend the right of citizen advocacy, and we are not going to let citizens with modest net worths, modest incomes, be bogged down in false and phony lawsuits that have no real merit and whose only purpose is to harass citizens by forcing them to go and spend their hard-earned money hiring a lawyer.

I would urge passage of this very, very important amendment.

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

Mr. WILLIAMS. Thank you, Madam Speaker.

I followed this discussion today, and for those who think this is theory, there is a reality to it. It is called 61st and Passyunk in southwest Philadelphia that resides in Representative Donatucci's district and borders mine.

We have a large amount of refineries in southwest Philadelphia, and on this issue alone, I joined the Environmental Resources Committee. And it certainly was not from the standpoint that we felt that refineries and petroleum companies do not have a right to do their work or make a profit or operate correctly. The problem is, when they do not operate correctly, in our community, they do not affect the mayor, they do not affect those of us who have large enough resources to protect ourselves; they affect Mom and Joe Pop Citizen who live in row houses that surround that area, and they have modest means by which to protect their rights. They, over the several years that I have participated in these groups, had been brought into court — brought into court — by large, large companies, and sued.

As previous speakers have described the circumstances, and in particular, Representative Manderino, she is absolutely correct. We are today creating an avenue not of irresponsible speech but protected rights of citizens who do not have the resources and protections that we have. I think it is ironic that prior to this discussion we talked about an independent counsel to protect the rights of us from an overzealous Attorney General, because we recognize that his powers can be quite aggressive in their approach.

Sunoco, Texaco, any of those entities, are public in terms of the course which happens, and it is clear, all of us have been through campaigns, all of us have been through campaigns where people say things about us which are not true, and guess what? Not one of us is able to sue anybody in that process because we are public, public people, and those are very public entities.

So when somebody describes Texaco in a fashion that they do not particularly care for, it does not impugn their ability to make profits; it does not stop them from building another drilling-off-sea port; it does not stop them from going into South Africa or Africa or the Middle East. What it does do though is allow for hundreds of thousands of people in southwest Philadelphia to die, as they have died in over decades, and they have had to suffer in silence because they have been called up in court, their rights have been stripped from them, and they are scared to speak out, and they are scared to speak out because they are afraid that they live in a little \$30,000, \$40,000, \$50,000 house that is going to be taken from them by some large corporate giant, because all this stuff that is going around the air, they do not have a scientist to protect them;

they do not have a chemist to diagnose it; they do not have a lawyer to protect them. All they know is, something is wrong, and all they know is that something that is wrong resides in the area that they go home to every night, that they have to raise their children in.

And by the way, this is not dramatic. It is proven in Federal studies. It has been proven over the years, and what has also been proven is we do not have the will nor the compassion nor the desire to do a doggone thing about it. And not only do we want to not do something about it, now we want to shut them up. Now, when they want to speak up and want us to protect them at least to stand at a mike someplace in southwest Philadelphia and say, hey, something is wrong, please pay attention to it, we want to persecute them for it. That is crazy. That is not only crazy, it is irresponsible. Not only is it irresponsible, it is heartless. Not only is it heartless, it is just beyond all fathomable thought that government, that government would want to strip that right from somebody.

This is a small step, this particular amendment, a small step, because the reality is, if we were serious about it, not only would we do this amendment but we would support them with dollars. We would even the playing field. We would say, if there is something going on in southwest Philadelphia and people are dying in the record numbers that they are dying and children are affected in education, in the manner that they are educated, that they are, that we would fund the studies to prove it; we would give them the chemist, the scientist, the lawyers. But we are not even asking for that. We are simply asking that when ma and Joe pop stand up and express their perspective, whether it is right or wrong, that it does not interfere with Texaco making its millions of dollars. So you can take your PAC (political action committee) checks, stuff them in your pocket, do your job, and do not worry about mom and pop, because that is what this is all about.

There is not a person in this hall who could tell me that somebody from Texaco has been impugned by this particular amendment; not one. But what you can tell me, what you can tell me is that you are turning your back on what you are put here for. You are not put here to legislate for corporate entities. We are put here for one man, one vote. And they live in those little houses; they live in those little houses all across Pennsylvania. And for those of you who have not read about the Superfund sites, Pennsylvania is not too far down that list, are they? We have a problem in Pennsylvania, and our telling our constituents to shut up about it and suffer with it is wrong, and that is what you are doing.

So you go back home; you go back home. I will tell you what you do though. When you go back home, release your campaign report after this vote; release it. No, you do not have to release it because I am going to find it, and when we find it, those of you who want to be in their back pockets, go ahead and do your business, and that dirty little conversation which goes on every day up here — dealmaking; shuffling this, shuffling that; and compromising the values that we are sent here for — will be public. And when the studies prove that millions of Pennsylvanians are dying because of toxic problems in Pennsylvania, consider this vote; consider this little, small vote today as a tribute, as a tribute, that you are building for corporate greed. Thank you.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Philadelphia, Mr. Perzel.

Mr. PERZEL. Thank you, Madam Speaker.

I did not know millions of people were dying in Pennsylvania because of this, Madam Speaker.

But I was thinking about the statement about the PAC checks. I never even saw this amendment until a few minutes ago. This bill is about the death penalty. This bill was not meant to be about anything but the death penalty. So as far as PAC checks and groups out there, it is an amendment that was filed yesterday. So I do not know what we are talking about, Madam Speaker. This is about the death penalty.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Elk County, Mr. Surra.

Mr. SURRA. Thank you, Madam Speaker.

I am really confused now. I thought this bill was about SLAPP suits.

This amendment is about SLAPP suits. That is a strategic lawsuit against public participation.

Madam Speaker, it is a fact that all across this country and in Pennsylvania and in your areas, when citizens are faced with a problem and they try to go through the regulatory processes and the hearings that the Department of Environmental Protection has, fighting an unwanted land use in their area, companies use as a tool to squelch them, to shut them up, a lawsuit. It happens all the time. In my colleague from Clearfield County's district, a township supervisor had mine acid drainage from a deep mine running through his basement, through his house, and when he complained about that, the company brought a massive lawsuit against him.

Now, the gentleman said that this allows anybody to say anything. Well, you can sue anybody for anything also. What this prevents are people using their constitutional right to speak out, in their opinion, of something that is harming their health and safety and to protect them from some huge corporation coming in and slapping a \$10-million lawsuit against them and their family for the sole reason of making them shut up.

This is a very simple amendment, and it is a good amendment, and it is an issue that this General Assembly passed in the not too distant past. This House passed it unanimously. We all voted for it, this same amendment. It was a good idea then; it is a good idea now, Madam Speaker. And if you are really for trying to protect some of your people back home, I encourage you to vote in the affirmative. Thank you.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Westmoreland County, Mr. Mihalich.

Mr. MIHALICH. Thank you, Madam Speaker.

A previous speaker pointed out that this bill was not about SLAPP suits, it was about the death penalty. Well, what is the difference? These SLAPP suits will alleviate or give the people an opportunity to legally complain about things that are threatening their lives. This is about the death penalty.

And let me further point out another manifestation of the intimidation of SLAPP suits.

In my district I have had a problem for many, many years with a hazardous waste facility. The people there have been complaining for many, many years, and recently they have gotten a little more sophisticated. Some of them, out of their own pockets, are getting attorneys. But they are being threatened with SLAPP suits. Here is what the psychology of that community is today. I think it was Sunday's Pittsburgh paper that had a big article there, and I think it was the business section, where the KKK, the Ku Klux Klan, is moving into that community — and I suspect some militia types are with them — telling the people that, look; your Federal government is against you; the State government is against you; this company that is polluting your water, causing you illness, they are against

you; they are all your enemies and they are in there, and we want to help you and we want to become a part of your community. That is what this can lead to when you take away the right for people to complain in a responsible manner. And these people are trying to complain in a responsible manner. They are being threatened with SLAPP suits. And it is just bad business when you do not give people the opportunity to go to their courts or in whatever manner they want to bring attention to their plight.

So I strongly urge, I strongly urge that this Assembly protect the rights of people throughout this Commonwealth to cry out for help whenever they think they need it. Please vote "yes" for the George amendment.

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

Mr. McNAUGHTON. Thank you, Madam Speaker.

Madam Speaker, I am sitting here listening to this debate, and I hear this debate being pegged as the small individual citizen against big business, but as I read this amendment, I do not view it that way. In fact, it does not even read that way. It reads "implementation of environmental law or regulation," Madam Speaker.

Madam Speaker, nearly every business and every industry in the State of Pennsylvania is affected by environmental law or regulation. A few that come to mind are the building industry, the timber industry, the dry-cleaning industry, the automotive industry, the restaurant industry, the hotel industry. I can go on and on, Madam Speaker. Madam Speaker, these are not big businesses; these are small businesses. These are the individual entrepreneurs whom we all stand for here in this great hall of the House and we try to defend.

And what we are doing, Madam Speaker, is we are allowing any citizen to slander any business in the Commonwealth of Pennsylvania, Madam Speaker. I do not believe that is what this House of Representatives is about, I do not believe that this amendment is a good amendment, and I would ask that the members of the House vote against this amendment. Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Franklin County, Mr. Coy.

Mr. COY. Thank you, Madam Speaker.

Madam Speaker, I support the amendment, and I think as we support it, we do so in a manner of simply trying to level the playing field. In any debate, in any matter of which there are two opposing sides, many times one side just has such an extent of resources, and we are talking here primarily about legal resources, about access to lawyers and about access to the best lawyers. Many times large, large corporations or large, large development plans have access to high-powered groups that the average citizen does not.

And with respect to the last speaker, small businesses are not the ones that are intimidating the average citizen, because they do not have the resources to do that either. They do not have the resources to even think of doing that. But large land developers, people that might want to build and install landfills, people that might want to have a large and great effect on the future and the environment of an area, on the entire living conditions of an area, will have the resources to try to intimidate the small person, even the small business owner, the small business owner who might not want to be intimidated by a large corporation.

These are the various things that I think you have to think about when making a judgment about this bill. It is simply about leveling the playing field. It is simply about saying, should we allow people to be intimidated? I think if you vote for this amendment, you are making a statement about not allowing for intimidation and allowing the average person some sort of equal access to the courts, equal access to regulatory procedures, and an equal say when matters truly count and often the average citizen does not or is intimidated by simply the cost of entering the legal fray or the regulatory fray.

I think a vote for this amendment, in the long run, is a make-sense vote, a vote to simply level the playing field. I think it makes good sense, and I encourage a positive vote.

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

Mr. SERAFINI. Thank you, Madam Speaker.

Madam Speaker, as I read this legislation, it appears to me that we have a serious problem with the court system if we have to go to the extreme to allow a person the right to slander another person and that individual have no recourse. This legislation obviously should not be in amendment form but in bill form so that we could all have an opportunity to change a system that I am hearing so many complaints about.

However, if you are an individual who was slandered by another individual in a public forum and a prejudiced and biased and politically prejudiced newspaper were to pick up that statement and slander your name without you having equal right to justice, that is a disgrace, and that is what happens very frequently. And this legislation as it stands would breed that irresponsibility out of the mouths of those people who have no other intention but to slander. Perhaps it might have a good point in certain cases, but it is extremely liberal. And to ruin a person's good name and not allow them to have recourse through the judicial system is also a disgrace, and it should not be allowed.

And it is my opinion that we cannot support this legislation in this form. It should be analyzed, researched, and certainly not put into a piece of legislation in amendment form. This should be a bill. Thank you.

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

Mr. LLOYD. Thank you, Madam Speaker.

It appears to me that we are losing sight of two protections which are in this amendment. If you look on page 1 of the amendment, starting on line 24, there is created a motion to strike, and that is a motion to protect the person that the sponsor of the amendment wants to protect, to protect him from a lawsuit, and his procedural course of action is to move to strike the lawsuit or the claim against him. But he does not have that right, if you start on line 29, if the court determines that the plaintiff has established that there is a substantial likelihood that the plaintiff is going to ultimately prevail.

So the judge decides, is there enough evidence that I believe, based on the pleadings of both sides, that the landfill operator is going to win this lawsuit? And if the judge determines that the landfill operator is going to win the lawsuit, then the judge will not strike the action against the citizen and will allow it to go forward, and that seems to be what the opponents of this amendment think ought to happen, and that is what the language of the amendment says will happen.

On the other hand, if the judge decides that there is not a likelihood that the landfill operator is going to prevail on the merits, then the landfill operator, it seems to me, at least arguably, is filing a lawsuit solely for the purpose of trying to intimidate, and in that instance, the judge has the power to grant the motion to strike and to throw out the lawsuit. But this is not something that happens willy-nilly. This is a standard somewhat similar to what is involved when someone is trying to get an injunction, trying to get injunctive relief.

Madam Speaker, it also indicates on the second page of the amendment, if I can find the language— There is a provision on the second page of the amendment, at lines 29 through 34, which deals with "Abuse of legal process," and that is a door which swings both ways, and that says that the Environmental Hearing Board has the right to award costs, including reasonable counsel fees, if any appeal, whether that is an appeal by the landfill operator or an appeal by a citizen, is found to be frivolous or is taken solely for delay. And it seems to me that that once again is a protection against the kind of irresponsible behavior that the opponents of this amendment are talking about.

And I guess my final observation, Madam Speaker, is that I heard that this should be dealt with as a separate piece of legislation, and I think that the maker of this amendment probably agrees with that, because I remember a couple years ago when we had a bill on the floor which he was sponsoring that would have done this, and the majority said, oh, no, no, no, we do not want to deal with that, and they recommitted it. So I do not know what recourse the gentleman has other than to offer the amendment.

It seems to me that there are protections in this amendment and that we ought to vote for it. Thank you, Madam Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Clearfield, Mr. George, for the second time.

Mr. GEORGE. Madam Speaker, I thank you for this opportunity, I thank the gentleman from Somerset who properly described the amendment, and I also give credence and credit to those that I knew most understood the amendment but nevertheless stood up to take issue with it, only for the reason to protect those who continue to violate the rights of these little folks who, through no fault of their own, face a situation that was brought about by someone who nevertheless working with a permit established by the Department of Environmental Protection, that that same department gave little case or little cause or concern to look into a matter that was not only troubling but financially disruptive, such as the case that Mr. Surra mentioned with that little lady on Social Security who simply complained to DEP about 5 foot of water in her basement, and she did not complain to anybody but DEP.

And, Madam Speaker, if those people will accept my apology in that I am not a rousing speaker and cannot get their attention, maybe your gavel will.

The SPEAKER pro tempore. The gentleman is correct. He deserves to have our attention. Could we have quiet, please, in the hall of the House.

Mr. GEORGE. I thank you, Madam Speaker.

Madam Speaker, this lady I am talking about was my constituent, but it could be yours. That basement that was flooded could even be yours. And all she did was ask for help, and when I called then DER and the paper picked it up, sometime later she was notified that she was being sued, and a lady on Social Security, like the lady next door to you, had to go out and find a way to Pittsburgh to that court and spend over \$7,000 that she did not have, trying to defend

herself in a manner of saying to DEP, why is there 5 foot of water in my basement ?

And so if you want, and I am a businessman, but if you want to turn everything over and say that no one else has rights and no one should dare to stand up to protect their property, at least for those that stood up to argue against this bill, tell it like it is, please. You know it does not say that, what you said it did, and you know it has been around for a couple days, and it might be troubling to you that want to protect the landfills and the biodegradable sludge areas and all of these areas where you go back home and tell these people it is somebody else's fault and you hope that somebody takes care of it.

Let me say this to you; Bill Lloyd explained it most appropriately: If it has to be done legally and legislatively, that is the way to do it, the way we are doing it now. If in fact you want to do something right, have the courage to tell those big entrepreneurs, whether they be landfills or contractors, hey, look; you worked under a permit and you avoided or you absolutely violated the premise, and the end result is, you ruined somebody's property; do not go out there intimidating them by getting a barrage of high-priced attorneys like Mr. Gannon to fight your case.

Let us do what is right. I have a feeling that there are Republicans over there that just want to help as much as I do and the Democrats want to do, so let us do the right thing, and let us vote for it.

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

The following roll call was recorded:

YEAS-98

Battisto	Dermody	Manderino	Sainato
Bebko-Jones	DeWeese	Markosek	Santoni
Belardi	Donatucci	Mayernik	Scrimenti
Belfanti	Eachus	McCall	Shaner
Bishop	Evans	McGeehan	Staback
Blaum	Fairchild	Melio	Steelman
Butkovitz	George	Michlovic	Stetler
Buxton	Gigliotti	Mihalich	Sturla
Caltagirone	Gordner	Mundy	Surra
Cappabianca	Gruitza	Myers	Tangretti
Carn	Haluska	Olasz	Thomas
Carone	Hanna	Oliver	Tigue
Casorio	Horsey	Pesci	Travaglio
Cawley	Itkin	Petrarca	Trello
Clark	James	Petrone	Trich
Cohen, M.	Jarolin	Pistella	Van Horne
Colafella	Josephs	Preston	Veon
Colaizzo	Keller	Ramos	Vitali
Corpora	LaGrotta	Readshaw	Walko
Corrigan	Laughlin	Rieger	Williams, A. H.
Cowell	Lederer	Roberts	Williams, C.
Coy	Lescovitz	Robinson	Wojnaroski
Curry	Levdansky	Roebuck	Yewcic
Daley	Lloyd	Rooney	Youngblood
DeLuca	Lucyk		

NAYS-100

Adolph	Fargo	Marsico	Semmel
Allen	Feese	Masland	Serafini
Argall	Fichter	McGill	Seyfert
Armstrong	Fleagle	McIlhattan	Smith, B.
Baker	Flick	McNaughton	Smith, S. H.
Bard	Gannon	Micozzie	Snyder, D. W.
Barley	Geist	Miller	Stairs

Barrar	Gladeck	Nailor	Steil
Benninghoff	Godshall	Nickol	Stern
Birmelin	Gruppo	O'Brien	Stevenson
Boyes	Habay	Orie	Strittmatter
Brown	Harhart	Perzel	Taylor, E. Z.
Browne	Hasay	Phillips	Taylor, J.
Bunt	Hennessey	Pippy	True
Chadwick	Herman	Platts	Tulli
Civera	Hershey	Raymond	Vance
Clymer	Hess	Reber	Waugh
Cohen, L. I.	Hutchinson	Reinard	Wilt
Conti	Jadlowiec	Rohrer	Wogan
Cornell	Kenney	Ross	Wright, M. N.
Dally	Krebs	Rubley	Zimmerman
Dempsey	Lawless	Sather	Zug
Dent	Leh	Saylor	
DiGirolamo	Lynch	Schroder	Ryan, Speaker
Druce	Maitland	Schuler	
Egolf	Major		

NOT VOTING-2

Boscola Kaiser

EXCUSED-2

Kirkland Washington

Less than the majority having voted in the affirmative, 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 ?

Mr. JAMES offered the following amendment No. A2637:

- Amend Sec. 1 (Sec. 9711), page 2, line 26, by striking out "OR"
- Amend Sec. 1 (Sec. 9711), page 2, line 29, by striking out the bracket before "; OR"
- Amend Sec. 1 (Sec. 9711), page 3, line 3, by striking out the bracket after "DEFENDANT"

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

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

Mr. JAMES. Thank you, Madam Speaker.

Madam Speaker, I rise to offer this amendment on proportionality review.

When the General Assembly enacted Pennsylvania's current death penalty statute, it included proportionality review as a method for safeguarding against the arbitrary or unfair application of the death penalty. Proportionality review assists the State's Supreme Court in discovering those sentences which are the product of prejudice or capriciousness. It acts as a check against sentencing aberrations.

While the U.S. Supreme Court has indicated that States do not need to have proportionality review if their death penalty procedures are otherwise adequate in checking arbitrary sentences, the Pennsylvania Supreme Court has not yet decided whether proportionality review is required under the Pennsylvania Constitution.

This bill interferes with a pending case before the court. The legislature should not be interfering or presuming what the court will do. The General Assembly screams about the court interfering in its business, and the General Assembly should not be hypocritical by intervening into the court's business.

The majority of States that have the death penalty require proportionality review, and Pennsylvania should not be among the minority of States that do not require it. States with the death penalty statute that require proportionality review include Connecticut, Delaware, Georgia, Idaho, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, South Carolina, South Dakota, Pennsylvania, Tennessee, Virginia, and Washington.

Madam Speaker, eliminating proportionality review will make us more like the State of Texas, where 11 people are scheduled for execution this month. We do not need to follow this example, and I would urge the members to support this amendment. Thank you.

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

Mr. GANNON. Thank you, Madam Speaker.

Madam Speaker, I rise in opposition to this amendment and ask for a "no" vote. This amendment just guts the bill and totally voids the purpose.

But one statement I think is very important: This absolutely does not involve us in the court's procedure. This is a legislative function under the Constitution, and the legislature has every right — every right — to pass this legislation, and I urge a "no" vote on this amendment that guts the bill entirely.

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

The following roll call was recorded:

YEAS—91

Bebko-Jones	Donatucci	Markosek	Sainato
Belardi	Eachus	Mayernik	Santoni
Belfanti	Evans	McCall	Shaner
Bishop	George	McGeehan	Staback
Blaum	Gigliotti	Melio	Steelman
Boscola	Gordner	Michlovic	Stetler
Butkovitz	Gruitza	Mihalich	Sturla
Buxton	Haluska	Mundy	Surra
Caltagirone	Hanna	Myers	Tangretti
Cappabianca	Horsey	Olasz	Thomas
Cam	Itkin	Oliver	Tigue
Casorio	James	Pesci	Travaglio
Cawley	Jarolin	Petrarca	Trello
Cohen, M.	Josephs	Petrone	Trich
Colafiglia	Kaiser	Pistella	Van Home
Colaizzo	Keller	Preston	Veon
Corpora	LaGrotta	Ramos	Vitali
Cowell	Laughlin	Readshaw	Walko
Curry	Lederer	Rieger	Williams, A. H.
Daley	Lescovitz	Roberts	Williams, C.
DeLuca	Levdansky	Robinson	Wojnaroski
Dermody	Lucyk	Roebuck	Youngblood
DeWeese	Manderino	Rooney	

NAYS—105

Adolph	Druce	Maitland	Semmel
Allen	Egolf	Major	Serafini
Argall	Fairchild	Masland	Seyfert
Armstrong	Fargo	McGill	Smith, B.

Baker	Feese	McIlhattan	Smith, S. H.
Bard	Fichter	McNaughton	Snyder, D. W.
Barley	Fleagle	Micozzie	Stairs
Barrar	Flick	Miller	Steil
Battisto	Gannon	Nailor	Stern
Benninghoff	Geist	Nickol	Stevenson
Boyes	Gladeck	O'Brien	Strittmatter
Brown	Godshall	Orie	Taylor, E. Z.
Browne	Gruppo	Perzel	Taylor, J.
Bunt	Habay	Phillips	True
Carone	Harhart	Pippy	Tulli
Chadwick	Hasay	Platts	Vance
Civera	Hennessey	Raymond	Waugh
Clark	Herman	Reber	Wilt
Clymer	Hershey	Reinard	Wogan
Cohen, L. I.	Hess	Rohrer	Wright, M. N.
Conti	Hutchinson	Ross	Yewcic
Cornell	Jadlowiec	Rublely	Zimmerman
Corrigan	Kenney	Sather	Zug
Dally	Krebs	Saylor	
Dempsey	Lawless	Schroder	Ryan,
Dent	Leh	Schuler	Speaker
DiGirolamo	Lloyd	Scrimenti	

NOT VOTING—4

Birmelin	Coy	Lynch	Marsico
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EXCUSED—2

Kirkland	Washington
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Less than the majority having voted in the affirmative, 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?

Mr. JAMES offered the following amendment No. A2641:

Amend Sec. 1 (Sec. 9711), page 3, lines 6 and 8, by striking out the brackets before "OR" in line 6 and after "CASES," in line 8

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

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Philadelphia, Mr. James.

Mr. JAMES. Thank you, Madam Speaker.

Madam Speaker, this amendment would provide that if the Supreme Court overturned a death sentence as being disproportionate to the sentence imposed in similar cases, then the defendant would automatically be sentenced to a term of life imprisonment. This is currently the law but will be changed if the current language in SB 423 is upheld and this amendment is not in there. Thank you.

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

Mr. GANNON. Thank you, Madam Speaker.

Once again, I urge a "no" vote on this amendment. It does exactly what the prior amendment did in another way; it guts the bill. I urge a "no" vote.

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

The following roll call was recorded:

YEAS—88

Battisto	DeWeese	Markosek	Rooney
Bebko-Jones	Donatucci	Mayernik	Sainato
Belardi	Eachus	McCall	Shaner
Belfanti	Evans	McGeehan	Staback
Bishop	Gigliotti	Melio	Stelman
Boscola	Gordner	Michlovic	Stetler
Butkovitz	Gruitza	Mihalich	Sturla
Buxton	Haluska	Mundy	Surra
Caltagirone	Horsey	Myers	Tangretti
Cappabianca	Itkin	Olasz	Thomas
Carn	James	Oliver	Tigue
Casorio	Jarolin	Pesci	Travaglio
Cawley	Josephs	Petrarca	Trello
Cohen, M.	Kaiser	Petrone	Trich
Colafella	Keller	Pistella	Van Horne
Colaizzo	LaGrotta	Preston	Veon
Corpora	Laughlin	Ramos	Vitali
Cowell	Lederer	Readshaw	Walko
Curry	Lescovitz	Rieger	Williams, A. H.
Daley	Levdansky	Roberts	Williams, C.
DeLuca	Lucyk	Robinson	Wojnaroski
Dermody	Manderino	Roebuck	Youngblood

NAYS—112

Adolph	Druce	Lynch	Schuler
Allen	Egolf	Maitland	Scrimenti
Argall	Fairchild	Major	Semmel
Armstrong	Fargo	Marsico	Serafini
Baker	Feece	Masland	Seyfert
Bard	Fichter	McGill	Smith, B.
Barley	Fleagle	McIlhattan	Smith, S. H.
Barrar	Flick	McNaughton	Snyder, D. W.
Benninghoff	Gannon	Micozzie	Stairs
Birmelin	Geist	Miller	Steil
Blaum	George	Nailor	Stern
Boyes	Gladeck	Nickol	Stevenson
Brown	Godshall	O'Brien	Strittmatter
Browne	Gruppo	Orie	Taylor, E. Z.
Bunt	Habay	Perzel	Taylor, J.
Carone	Hanna	Phillips	True
Chadwick	Harhart	Pippy	Tulli
Civera	Hasay	Platts	Vance
Clark	Hennessey	Raymond	Waugh
Clymer	Herman	Reber	Wilt
Cohen, L. I.	Hershey	Reinard	Wogan
Conti	Hess	Rohrer	Wright, M. N.
Cornell	Hutchinson	Ross	Yewcic
Corrigan	Jadlowiec	Ruble	Zimmerman
Coy	Kenney	Santoni	Zug
Dally	Krebs	Sather	
Dempsey	Lawless	Saylor	Ryan,
Dent	Leh	Schroder	Speaker
DiGirolamo	Lloyd		

NOT VOTING—0

EXCUSED—2

Kirkland	Washington
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Less than the majority having voted in the affirmative, 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?

Ms. JOSEPHS offered the following amendment No. A2734:

Amend Sec. 1, page 2, line 12, by inserting after "AMENDED"
and the section is amended by adding subsections
Amend Sec. 1 (Sec. 9711), page 2, by inserting between lines 14 and 15

(e.1) Mental retardation.—A sentence of death shall not be imposed upon any person who establishes by a preponderance of the evidence that he was, at the time the offense was committed, a person with mental retardation.

Amend Bill, page 3, lines 14 and 15, by striking out all of said lines and inserting

(p) Definition.—As used in this section, the term "a person with mental retardation" means the individual has significantly subaverage intellectual functioning as evidenced by an intelligence quotient of 70 or below on an individually administered intelligence quotient test and impairment in adaptive behavior, and the mental retardation is manifested before the individual attains 22 years of age.

Section 2. This act shall apply to persons who are sentenced on or after the effective date of this act.

Section 3. This act shall take effect in 60 days.

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

The SPEAKER pro tempore. On that question, the Chair recognizes the lady, Ms. Josephs.

Ms. JOSEPHS. Thank you, Madam Speaker.

This amendment defines mental retardation as someone who has an IQ below 70, has a significantly subaverage intellectual functioning, and says that we may not execute someone who had that IQ when the crime was committed.

I have done a little research on this. There are— Excuse me, Madam Speaker; I, like one of the speakers before, am perhaps not the most eloquent person in the world, but I do think I would appreciate a little quiet, nevertheless.

The SPEAKER pro tempore. The lady is correct. She deserves our attention. Could we have quiet, please.

Ms. JOSEPHS. Thank you, Madam Speaker.

There are a number of States who do not execute people who are mentally retarded — Arkansas, California, Georgia, Kansas, Kentucky, Maryland, New Jersey, New York, New Mexico, South Carolina, Tennessee, and Washington.

My bill will not upset any death sentences that have already been rendered, and none of my research shows that there are any death sentences, capital cases, in which the defendant is mentally retarded in the pipeline.

When you vote for my amendment, you are showing that this very serious punishment ought to be meted out to people who are responsible for the crimes that they commit, not to those whose intelligence is so subnormal that they cannot be called responsible.

I ask you for an affirmative vote on this amendment. Thank you, Madam Speaker.

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

Mr. GANNON. Thank you, Madam Speaker.

Madam Speaker, I rise in opposition to this amendment and ask for a "no" vote for several good reasons.

First of all, the amendment is overly broad. This quotient of 70 is the highest, the highest level that you can have for someone who would be characterized as mentally retarded; that would go so high as a mild retardation. So what this amendment is saying, no matter how heinous the crime, no matter what the impact is on the victim and the victim's family, if this person is at the highest level, the court on its own cannot make an independent determination as to what the punishment should be for this individual.

Additionally, it is out of line with the American Association of Mental Retardation guidelines as far as age is concerned. That association's guideline is 18 years of age or older; this says 22 years of age or older.

Third, the United States Constitution, under the Eighth Amendment, as determined by the United States Supreme Court, does not prohibit a State from executing someone who alleges or establishes somehow that they have a mental retardation.

Finally, this gives a defendant a second bite at the insanity defense, and we know how controversial that defense has been in this Commonwealth. This gives a defendant a second bite at that defense.

For those reasons and, finally, for the one final reason, we must leave this determination with the court where it belongs — those people that saw the defendant, that heard the testimony, that know the full characteristics of the crime, the characteristics of the defendant, and impose the sentence. This is not something that the legislature should go into the courtroom and preempt, preempt the court and the jury of peers that heard the case.

I ask for a "no" vote.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Northampton County, Mr. Rooney.

Mr. ROONEY. Thank you, Madam Speaker.

I would like to ask the lady from Philadelphia to stand for a brief interrogation.

The SPEAKER pro tempore. The lady agrees. You may proceed.

Mr. ROONEY. Thank you, Madam Speaker.

In the past, I know a number of groups have advocated support for amendments like yours, including the Catholic Conference. Could you tell me, Madam Speaker, if any such groups have embraced your amendment?

Ms. JOSEPHS. We did this amendment, Madam Speaker, we did the bill standing on the back of the floor. We did not even sit down in a room last week. Had I had time, I certainly would have reached out to groups that are likely to support it. I cannot tell you of any because of the time problem.

Mr. ROONEY. To the best of your knowledge, Madam Speaker, am I correct in asserting that in the past, the Catholic Conference and other groups have been supportive of this type of language?

Ms. JOSEPHS. That is my understanding.

Mr. ROONEY. Thank you, Madam Speaker.

THE SPEAKER (MATTHEW J. RYAN) PRESIDING

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

The following roll call was recorded:

YEAS—78

Bebko-Jones	DeWeese	McCall	Roebuck
Belardi	Donatucci	McGeehan	Rooney
Belfanti	Evans	Melio	Shaner
Bishop	Gigliotti	Michlovic	Steelman
Boscola	Gruitza	Mihalich	Stetler
Butkovitz	Horsey	Mundy	Sturla
Buxton	Itkin	Myers	Tangretti
Caltagirone	James	Olasz	Thomas
Cappabianca	Jarolin	Oliver	Tigue
Carn	Josephs	Pesci	Travaglio
Casorio	Kaiser	Petrarca	Trello
Cawley	Keller	Petrone	Trich
Cohen, M.	Laughlin	Pistella	Van Horne
Colafella	Lederer	Preston	Veon
Colaizzo	Lescovitz	Ramos	Vitali
Corpora	Levdansky	Readshaw	Walko
Corrigan	Lucyk	Rieger	Williams, A. H.
Cowell	Manderino	Roberts	Wojnaroski
Curry	Markosek	Robinson	Youngblood
DeLuca	Mayernik		

NAYS—122

Adolph	Druce	Leh	Schuler
Allen	Eachus	Lloyd	Serimenti
Argall	Egolf	Lynch	Semmel
Armstrong	Fairchild	Maitland	Serafini
Baker	Fargo	Major	Seyfert
Bard	Feese	Marsico	Smith, B.
Barley	Fichter	Masland	Smith, S. H.
Barrar	Fleagle	McGill	Snyder, D. W.
Battisto	Flick	McIlhattan	Staback
Benninghoff	Gannon	McNaughton	Stairs
Birmelin	Geist	Micozzie	Steil
Blaum	George	Miller	Stern
Boyes	Gladeck	Nailor	Stevenson
Brown	Godshall	Nickol	Strittmatter
Browne	Gordner	O'Brien	Surra
Bunt	Gruppo	Orie	Taylor, E. Z.
Carone	Habay	Perzel	Taylor, J.
Chadwick	Haluska	Phillips	True
Civera	Hanna	Pippy	Tulli
Clark	Harhart	Platts	Vance
Clymer	Hasay	Raymond	Waugh
Cohen, L. I.	Hennessey	Reber	Williams, C.
Conti	Herman	Reinard	Wilt
Cornell	Hershey	Rohrer	Wogan
Coy	Hess	Ross	Wright, M. N.
Daley	Hutchinson	Rublely	Yewcic
Dally	Jadlowiec	Sainato	Zimmerman
Dempsey	Kenney	Santoni	Zug
Dent	Krebs	Sather	
Dermody	LaGrotta	Saylor	Ryan, Speaker
DiGirolamo	Lawless	Schroder	

NOT VOTING—0

EXCUSED—2

Kirkland Washington

Less than the majority having voted in the affirmative, 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?

Ms. JOSEPHS offered the following amendment No. A2857:

Amend Title, page 1, lines 1 through 4, by striking out all of said lines and inserting

Amending the act of November 22, 1978 (P.L.1166, No.274), entitled "An act establishing the Pennsylvania Commission on Crime and Delinquency, providing for its powers and duties establishing several advisory committees within the commission and providing for their powers and duties," further providing for powers and duties of the Pennsylvania Commission on Crime and Delinquency.

Amend Bill, page 2, lines 11 through 30; page 3, lines 1 through 15, by striking out all of said lines on said pages and inserting

Section 1. Section 3 of the act of November 22, 1978 (P.L.1166, No.274), referred to as the Pennsylvania Commission on Crime and Delinquency Law, is amended by adding a paragraph to read:

Section 3. Powers and duties of the commission.

The commission shall have the power and its duty shall be:

(17) To establish and administratively support a correctional population projections committee which shall prepare and present to the Governor and to the General Assembly an analysis of any bill introduced in the General Assembly that would have an impact on prison or jail systems as well as on State and local probation and parole populations and programs. The committee's membership shall include representatives of the commission, one of whom shall serve as chairperson, the Office of the Budget, the Department of Corrections, the Pennsylvania Board of Probation and Parole, the Pennsylvania Sentencing Commission, the chairman and minority chairman of the Appropriations Committee of the Senate and the chairman and minority chairman of the Appropriations Committee of the House of Representatives, or their designees, and any other agencies whose participation is considered necessary by the committee.

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

Section 9.1. Impact analysis utilization by General Assembly.

(a) Note required for bills.—Except as otherwise provided in subsection (d)(1), no bill which shall have an impact on prison or jail systems as well as on State and local probation and parole populations shall be given second consideration in either house of the General Assembly until the committee has attached an impact analysis of the proposed change.

(b) Note required for amendments.—Except as otherwise provided in subsection (d)(2), no amendment to any bill which shall have an impact on prison or jail systems as well as on State and local probation and parole populations shall be considered by either house of the General Assembly until the committee has attached an impact analysis.

(c) Contents of note.—The impact analysis shall be factual and shall, if possible, provide a reliable estimate of both the immediate cost and effect of the bill and, if determinable or reasonably foreseeable, the long-range fiscal cost and effect of the bill.

(d) Effect of failure of commission to attach note.—

(1) If the committee fails to attach an impact analysis within 20 legislative days of a bill's first consideration by its house of origin, the bill may be further considered in the same manner as if the impact analysis had been attached to the bill.

(2) If the committee fails to attach an impact analysis within 20 legislative days after an amendment to a bill proposing a change which shall have an impact on prison or jail systems as well as on State and local probation and parole populations, the amendment may be considered in the same manner as if the impact analysis had been attached to the amendment.

Section 3. This act shall take effect immediately.

On the question,

Will the House agree to the amendment?

The SPEAKER. On the question of the adoption of the amendment, the Chair recognizes the lady, Ms. Josephs.

Ms. JOSEPHS. Thank you, Mr. Speaker.

Those of us who have been on the House floor for a while have dealt with this amendment before. This is kind of akin to what the Appropriations Committee will do for us when we are working on legislation which will cost State government or may cost State government some money.

We sit here on the House floor and we create new crimes, new aspects of old crimes; we put people away in prison for longer times; we pass mandatory sentencing. We are pretty tough on crime. I think it is more than that. I think we are really tough on crime, and I think that is appropriate, but I also think it is appropriate that we know what it will cost us to be tough on crime, because as many people in the public are saying and as many of us are saying, being tough on crime is not good enough; we have to be smart and tough.

If we are getting to the point where our prison budget is increasing 500 percent, 550 percent, and our education budget is hardly moving, I think we owe ourselves, as a House and as a General Assembly, to know what our crime legislation is going to cost us. We are getting to the point where we are going to have to go back to our districts and say to people who want a health facility, sorry, we cannot help you with that because we need a prison. We are getting to the point where people say to us, we want education. We say, we are sorry; we have to maintain a prison. We want a hospital. Sorry, we have to maintain a prison. We want to prevent crime. Sorry, we do not have any money; we have to put it into prisons. There are a million ways to attack crime.

We have become, I believe, incarceration junkies, and we could continue, under this legislation, under this amendment, to be incarceration junkies if that is what we want, but at least we will know what the habit is costing us.

I would appreciate an informed and an intelligent affirmative vote on this amendment, which will only give us information and will help us. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the lady.

On the question, the Chair recognizes the gentleman, Mr. Gannon.

Mr. GANNON. Thank you, Mr. Speaker.

Mr. Speaker, I rise in opposition to this amendment and ask for a "no" vote.

This amendment just patently interferes with the process that goes on in this General Assembly. It is absurd for some outside commission to dictate to the General Assembly when it can and cannot bring a bill up on second or third consideration. We could have the absurd result that we could have a bill before this General Assembly that could be vital, vital to our corrections system, and because it is at the end of session and we are going to adjourn sine die, no report is issued, and we find that because of that, we cannot bring this bill up beyond second consideration. I think that is patent interference with the internal process of this body.

I ask for a "no" vote.

The SPEAKER. The gentleman, Mr. Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, this amendment sets up a process which is very similar to the process set up for pensions. In order for us to vote on

a pension bill, we have to get a note from the pension retirement study commission, and we do that for pensions simply because it is very easy, each time a pension comes up, to say, yeah, let us give this bunch of people a higher pension; what does it cost us immediately? And the legislature found out that year after year we were spending a growing percentage of our budget on pensions.

We are now spending a growing percentage of our budget on corrections. When I came here in 1974, we spent \$100 million a year for the State correction system. Now we spend about \$1 billion a year for the State correction system. The inflation over that period of time has gone up roughly three times, so we are spending, as growth for prisons is growing, at a rate three times the rate of inflation. Every time we pass a bill — and we do this frequently — every time we pass a bill creating a new crime or creating additional years served in a sentence, we are making a long-range appropriation. Every time a judge in one of our common pleas courts issues a sentence, he is making a long-term appropriation.

Now, at some point we run into a conflict between a person's desire not to have high taxes and a person's desire to have education, to have health care, to have other publicly provided goods, with a desire to have prisons. Clearly, prison spending has helped reduce crime. Crime has gone down after years of annual increases. But the question is, is it the best way to reduce crime and how much do we want to spend on prisons?

It is very foreseeable that in not too many years, the \$1 billion a year we are spending on prisons will become \$2 billion. It is very conceivable all of us will live to see the day, even if we pass no new sentences and no new crimes, \$3 billion a year is certainly foreseeable, and virtually all of us will live to see that day. Now, at some point we have to take long-range steps to slow down the rate of increase in prison costs.

We attempted earlier today to deal with the rate of increase in transportation costs by setting up an experimental plan to build highways in a manner that they will last longer, and so we will have 45 years before a highway needs major repairs instead of 10 years before a highway needs major repairs. We have to carefully scrutinize prison spending to see that it does not escalate so much that we leave the causes of crime totally unchanged.

New York City has led the nation in reducing crime by beefing up police, by beefing up criminal enforcement. Crime has gone down about 50 percent in New York City over the last 4 or 5 years. Crime has gone down in New York City far faster than it has gone down in Pennsylvania where our approach has been limited to tougher sentences and new crimes.

Mr. Speaker, Representative Josephs' amendment is a very significant amendment for long-range fiscal responsibility for the State of Pennsylvania. The Pennsylvania Economy League is not soft on crime, but the Pennsylvania Economy League has issued reports wondering how the State of Pennsylvania is going to fund other services and have a competitive business environment with the ever-escalating cost of prisons. Other business groups are concerned about the cost of prisons.

Prisons clearly serve to deter crime, but other things also deter crime, and we need a long-range plan and we need short-range regular attention to long-range plans in order to effectively fight crime at a cost we can afford and at a cost which will not force us to take away opportunities for kids in Pennsylvania for PHEAA (Pennsylvania Higher Education Assistance Agency) grants, which

will not take away opportunities for low-income people for health care, which will not take away people's access to basic necessities.

I strongly support the Josephs amendment and urge all members of the House, especially members of the party that bills itself as the party of fiscal responsibility, to support this amendment.

The SPEAKER. The Chair thanks the gentleman.

LEAVE OF ABSENCE

The SPEAKER. The Chair recognizes the gentleman, Mr. Snyder, who asks that the Chair return to leaves of absence and requests leave for the gentleman, Mr. LAWLESS, for the balance of today's session. Without objection, the leave will be granted, and the Chair hears no objection.

GUEST INTRODUCED

The SPEAKER. The Chair takes this opportunity to welcome to the hall of the House a guest of Representative Todd Platts, Ms. Julie Randall, a senior student at Penn State. She is interning in Representative Platts' district office and is seated to the left of the Speaker. Would the lady, Ms. Randall, kindly rise.

CONSIDERATION OF SB 423 CONTINUED

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

Mr. BIRMELIN. Thank you, Mr. Speaker.

As I read the amendment that Representative Josephs has presented and asked for our support for, it would appear to me that it is basically a fiscal note requirement, which I think we already have in our legislature anyway.

As I looked at the section that says what the contents of the note is that this special committee would be preparing, it is basically talking about the reliable estimate of both the immediate and long-term cost of any bill, which to me would be the function of the Appropriations Committee to do that.

I will, however, say that her inclusion of those people that she has in the early part of her amendment is laudable, and that is a good idea to have those people involved in doing that, and I am not sure that they frequently are in most Appropriations fiscal notes. I am not sure, because of the way sometimes our Appropriations Committees can bang out a fiscal note in such a short time, that they have the opportunity to really get the expertise and the input that they could to make those fiscal notes. But essentially, this is requiring a fiscal note for legislation that affects any prison bills or criminal justice bills. And so in that, I see the intent that she has is good in the formation of this committee to help give some better input into it.

I reluctantly will rise to oppose it because of the restraint that she is putting on our legislative body because of giving them a sort of veto power, if you will, or at least a delay power, those of us in the legislature who wish to pass legislation dealing with our prison population in the Criminal Code.

I would encourage Representative Josephs and others who are supportive of this concept — and I am — that there may be a way to do what she is looking to do without putting the tether, if you will, on the legislature in the process.

So I will reluctantly vote "no" on this knowing that a portion of this is an idea, I think, which is worthy of consideration and putting

into practice but perhaps not through this particular process. So I would encourage a "no" vote on this particular amendment.

The SPEAKER. The gentleman, Mr. Thomas.

Mr. THOMAS. Thank you, Mr. Speaker.

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

The question has been raised about whether or not the time or the hour is necessary for restraint, and I think that the facts and current circumstances order that we exercise restraint. And that ordering and those facts and circumstances which give rise to why the Josephs amendment is timely are, number one, Mr. Speaker, we all know that in the 1997-98 budget, we will be spending \$948 million on prison construction. We also know that this figure will be well over \$1 billion by the time you add in all of the collateral costs associated with prison construction. And, Mr. Speaker, we know that when you look at the numbers of people who are standing in line waiting to get into Pennsylvania's correctional institutions, that, Mr. Speaker, we have a metroliner that really has gone out of control.

I am not standing here advocating that we declare a moratorium on prison construction, nor am I standing here advocating that we do not maintain our tough-but-smart posture with respect to crime. But I think that in the best interest of the 12.7 million people that we represent, that it is not only incumbent but it is imperative that we take the path outlined by Representative Josephs and just take a look at the cost associated with our decisionmaking and not take a look at the cost associated with our decisionmaking in order to reach a decision that we not make that decision but at least exercise on behalf of the people that we represent. Mr. Speaker, it is necessary for us to look at that on balance with many of the other issues affecting constituents from rural to suburban to urban Pennsylvania.

Mr. Speaker, we can do something about the major imbalance which exists between corrections and education. We can do something about the major imbalance that exists between corrections and health care. We can do something about the major imbalance that exists between corrections and jobs. We can do something about the major imbalance that exists between corrections and the other needs of Pennsylvanians across this State.

And so, Mr. Speaker, the Josephs amendment is not only the right thing to do but it is the smart thing to do. This is not the wrong place to do it. This is the right place to do it, and if we do not do this now, when are we going to do it? If we do not do it on SB 423, where will we begin to take the step in the right direction? And, Mr. Speaker, if we do not do it on behalf of the people of Pennsylvania, then who are we representing?

I ask my colleagues from both sides of the aisle, the Josephs amendment is the right path to take at this particular time, and we need to take it with haste and take it with an affirmative vote in behalf of amendment 2857. Thank you.

The SPEAKER. The gentleman, Mr. Cohen, for the second time on the issue.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, Mr. Birmelin raised the question, why do we not allow the Appropriations Committee to do this? It just so happened that a short time before he raised the question suggesting that we leave this to the Appropriations Committee, I received a fiscal note. I have an amendment to another bill that prescribes remedies and penalties, and the fiscal note reads as follows: "The enactment of this legislation will have a fiscal impact on Commonwealth funds. The impact would be dependent on the number of violations that

would occur." Let me repeat that in case you wanted to get the fiscal impact of my amendment. This is very, very typical of fiscal notes that we receive generally. "The enactment of this legislation will have a fiscal impact on Commonwealth funds. The impact would be dependent on the number of violations that would occur." Now, that does not seem to me to be very informative information that gives real hard data as to what things cost, and that is the kind of fiscal note that we receive day after day, week after week, year after year, when it comes time to analyzing the cost of crimes.

Now, what we need is the opinion of experts in the criminal justice system about what the trend in crime rates is, how the number of crimes has varied from year to year, reasonable projections as to what the crimes are likely to be, how many people are likely to serve the maximum sentence from past experience, how many people are likely to get out early based on prior experience, and some reasonable facts that give us reasonable numbers as to what the long-term cost is going to be so that when somebody comes up with an amendment, we say, well, this amendment will likely cost, assuming that the crime rate continues at the same level, this amendment will cost \$100,000 this year, \$200,000 next year, \$500,000 in the third year, \$1 million in the fourth year, and so forth. Or assuming that this tougher sentence reduces crime in this area by 25 percent, the cost will be \$75,000 the first year, \$150,000 the second year, and so forth. But we need reasonable projections based on ascertainable facts, and the Appropriations Committee is simply overwhelmed, overwhelmed by the huge amounts of fiscal notes. They lack the time; they lack the expertise.

Now, the vast majority of amendments increasing criminal penalties come from the District Attorneys Association. It will be a very, very simple thing for the District Attorneys Association to, at the start of a session and every month thereafter, every time they come up with a new proposal, to run this by the commission that Representative Josephs creates. This should not appreciably slow down the legislative schedule. It should, however, see that we get an idea of how much the costs are and see that the District Attorneys Association gets an idea how much the costs are, and then over time we can look at the projections that we have and see, do the actual costs exceed the projections, do they match the projections, are they less than the projections? Representative Josephs' amendment gives us a vital fiscal planning tool that we really need to make fiscal decisions.

As the caucus chairman in the Democratic Party, I am keenly aware of the huge percentage of our total agenda that is toughening sentences. Well over one-third of all bills that we pass in the General Assembly are toughening sentences in one way or another; over one-third of the total legislative product is toughening sentences in one way or another, and if we want to be able to live within our budget and meet all the diverse needs of our State, if we want to ever dream successfully of cutting the personal income tax from 2.8 percent back down to where it used to be, around 2.2 percent, we need this amendment in order to deal with the huge cost of ever-expanding prisons and ever-expanding sentences.

I urge the support of this amendment.

The SPEAKER. For the second time, the gentleman from Delaware, Mr. Gannon.

Mr. GANNON. Thank you, Mr. Speaker.

Mr. Speaker, for all of the reasons stated before against this amendment, I ask for a "no" vote.

This would be a patent interference with the legislative process, particularly if we were at the end of session and had to wait 20 days and we did not have 20 days left and we had an important piece of legislation that had to be worked on. We could not bring that to third and final consideration, to bring it to a vote, because of this amendment.

But there is another good example. Last session — last year; excuse me — the Supreme Court invalidated part of our DUI statute; that is, driving under the influence. We had to act very quickly to remedy that Supreme Court decision to take those drunk drivers off the road. This amendment would delay that process.

This does not slow down the legislative process; it brings it to a screeching halt, and I ask for a “no” vote.

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

The following roll call was recorded:

YEAS—78

Battisto	DeWeese	McGeehan	Santoni
Bebko-Jones	Donatucci	Melio	Shaner
Belardi	Evans	Mihalich	Steelman
Belfanti	George	Mundy	Stetler
Bishop	Gigliotti	Myers	Sturla
Boscola	Gruitza	Olasz	Surra
Butkovitz	Haluska	Oliver	Tangretti
Caltagirone	Hanna	Pesci	Thomas
Cappabianca	Horsey	Petrarca	Travaglio
Cam	Itkin	Petrone	Trello
Casorio	James	Pistella	Trich
Cawley	Jarolin	Preston	Van Horne
Cohen, M.	Josephs	Ramos	Veon
Colafella	Keller	Readshaw	Vitali
Colaizzo	Laughlin	Rieger	Walko
Corpora	Lederer	Roberts	Williams, A. H.
Cowell	Lescovitz	Robinson	Williams, C.
Curry	Levdansky	Roebuck	Wojnaroski
DeLuca	Manderino	Rooney	Youngblood
Dermody	McCall		

NAYS—121

Adolph	Druce	Lynch	Schuler,
Allen	Eachus	Maitland	Scrimenti
Argall	Egolf	Major	Semmel
Armstrong	Fairchild	Markosek	Serafini
Baker	Fargo	Marsico	Seyfert
Bard	Feese	Masland	Smith, B.
Barley	Fichter	Mayernik	Smith, S. H.
Barrar	Fleagle	McGill	Snyder, D. W.
Benninghoff	Flick	McIlhattan	Staback
Birmelin	Gannon	McNaughton	Stairs
Blaum	Geist	Michlovic	Steil
Boyes	Gladeck	Micozzie	Stern
Brown	Godshall	Miller	Stevenson
Browne	Gordner	Nailor	Strittmatter
Bunt	Gruppo	Nickol	Taylor, E. Z.
Buxton	Habay	O'Brien	Taylor, J.
Carone	Harhart	Orie	Tigue
Chadwick	Hasay	Perzel	True
Civera	Hennessey	Phillips	Tulli
Clark	Herman	Pippy	Vance
Clymer	Hershey	Platts	Waugh
Cohen, L. I.	Hess	Raymond	Wilt
Conti	Hutchinson	Reber	Wogan
Cornell	Jadlowiec	Reinard	Wright, M. N.
Corrigan	Kaiser	Rohrer	Yewcic
Coy	Kenney	Ross	Zimmerman

Daley	Krebs	Rubley	Zug
Dally	LaGrotta	Sainato	
Dempsey	Leh	Sather	Ryan,
Dent	Lloyd	Saylor	Speaker
DiGirolamo	Lucyk	Schroder	

NOT VOTING—0

EXCUSED—3

Kirkland	Lawless	Washington
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Less than the majority having voted in the affirmative, 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?

The SPEAKER. Ms. Josephs, do you have one more amendment? Ms. Josephs, 2888?

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

Ms. JOSEPHS offered the following amendment No. A2888:

Amend Title, page 1, line 3, by inserting after “PROVIDING”
for court appearances and

Amend Sec. 1, page 2, line 11, by striking out “SECTION” where it appears the second time and inserting
Sections 2502(b) and

Amend Sec. 1, page 2, line 12, by striking out “IS” and inserting
are

Amend Sec. 1, page 2, by inserting between lines 12 and 13
§ 2502. Certain persons not to appear as counsel.

* *

(b) Law clerks.—Except as otherwise prescribed by general rules, a law clerk serving on the personal staff of a judge of a court of common pleas may not appear in the same division of such court as an attorney at law before other judges of such court [notwithstanding the provisions of subsection (a)].

Amend Bill, page 3, lines 14 and 15, by striking out all of said lines and inserting

Section 2. The amendment of 42 Pa.C.S. § 2502(b) shall apply to actions commenced on or after the effective date of this section.

Section 3. This act shall take effect as follows:

(1) The following provisions shall take effect in 60 days:

(i) The amendment of 42 Pa.C.S. § 2502(b).

(ii) Section 2 of this act.

(2) The remainder of this act shall take effect immediately.

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

The SPEAKER. The Chair recognizes the lady from Philadelphia.

Ms. JOSEPHS. Thank you, Mr. Speaker.

I think all of us are probably aware that while government is looked on with a very jaundiced eye by the public, and for good reason many times, people do go into court expecting a fair deal.

My amendment will help those who go into court to get the fair treatment and the justice that they deserve.

What it does is prevent a conflict of interest among law clerks. Generally speaking, law clerks and other kinds of court employees are not permitted to appear as lawyers before the court that employs them. That is very common sense, and it does take care of a conflict of interest and it avoids any appearance of bias or impropriety.

In Pennsylvania we have an exception to that rule in this title. While lawyers employed by a judge of a court of common pleas are not permitted to represent clients before the judge that they work for, they are permitted to represent clients before other judges on the same court even though, in many cases, the judges are sharing chambers, they are using the same library, they are asking each other's clerks for their opinions, and they are accustomed to a kind of collegiality and companionableness. A lawyer who serves on the personal staff of a particular court and then represents clients before his or her boss' colleagues has an inside advantage that is really not fair to other people, and it creates at least an appearance of injustice and inequity and favoritism, and this weakens the judicial system.

My amendment would go to eliminating this unfair advantage and the appearance of bias, and it simply says, unless the court rules to the contrary, that if you are a law clerk and you are employed by a common pleas judge, you cannot practice before a common pleas judge of the same division. I know this is a problem in Philadelphia, but I think it is probably — although I do not know; I have not heard; perhaps after this I will hear some more stories — I think it is probably more of a problem in smaller areas, areas of less population density because there are fewer judges, fewer law clerks, and fewer divisions, and the appearance of bias is probably even more pronounced.

So this amendment does not prevent law clerks from practicing in other divisions of the court of common pleas. For instance, if you were a law clerk and you were employed by a division, by a judge in orphan court, you could still practice before family court, for instance, but you should not be able to practice right in the division where you are employed.

This is an amendment that does not hurt anybody. It is good for our constituents; it is good for the court system, and I ask for an affirmative vote. Thank you, Mr. Speaker.

CONSTITUTIONAL POINT OF ORDER

The SPEAKER. The gentleman from Delaware, Mr. Gannon.
Mr. GANNON. Thank you, Mr. Speaker.

Mr. Speaker, this amendment is patently unconstitutional under the Pennsylvania Constitution, Article V, section 10, paragraph 3, which states that the Supreme Court shall have the power to prescribe general rules governing practice and procedure of all courts. This just patently goes into the practice and procedure of the court, and I would raise the issue of constitutionality and urge that this amendment is unconstitutional.

The SPEAKER. The gentleman, Mr. Gannon, raises the point of order that amendment A2888 is unconstitutional. The Speaker, under rule 4, is required to submit questions affecting the constitutionality of an amendment to the House for decision. The Chair now does that.

On the question,

Will the House sustain the constitutionality of the amendment?

PARLIAMENTARY INQUIRY

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

Mr. GANNON. Mr. Speaker, for a parliamentary inquiry.

Procedurally, how would the vote be to determine that this is unconstitutional?

The SPEAKER. The question will be put, those believing it to be constitutional will vote in the affirmative; those believing it to be unconstitutional will be voting in the negative. You will be seeking a negative vote.

Mr. GANNON. Thank you, Mr. Speaker.

That is correct. I am asking a negative vote on this motion.

As I stated a few moments ago, this amendment violates Article V, section 10, paragraph 3, of our Constitution, which provides that the Supreme Court shall have the power to prescribe general rules governing practice and procedure before all courts as well as for admission to the bar and to the practice of law.

I urge a negative vote. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

Ms. Josephs.

Ms. JOSEPHS. Thank you, Mr. Speaker.

The SPEAKER. On the question of constitutionality.

Ms. JOSEPHS. Yes, Mr. Speaker.

I of course urge a "yes" vote.

I believe this is constitutional. I believe it is constitutional because it is already in law. We have, in section 2502, subsection (b), "Law clerks." It says, "Except as otherwise prescribed by general rules, a law clerk serving on the personal staff of a judge of a court of common pleas may appear in such court as an attorney at law before other judges of such court notwithstanding the provisions of subsection (a)," which is not really before us now.

All I am doing is expanding that a little bit, saying you cannot appear before your own judge who employs you nor can you appear before other judges who are in the same division as your judge who is your boss.

So it seems to me that what the gentleman of Delaware is saying is, we do not want to vote on the substance of this. Well, you know, if those of you who do not want to vote on the substance of this will vote with him, that will be your vote, but let me say, aside from section 2502, if it is impossible, unconstitutional for us to provide general rules of court for governing the courts under Title 42, probably most of Title 42 is unconstitutional, and very many of the bills that the gentleman from Philadelphia was talking about, the third of our bills that say to the court, this is a mandatory sentence, this is the procedure you will follow, this is how we want you to be tough on crime, they are all unconstitutional, but that is all right with me.

I urge a "yes" vote. Save your tough-on-crime stuff. Otherwise, I think you are in trouble.

Mr. COHEN. Mr. Speaker?

The SPEAKER. Mr. Cohen.

Mr. COHEN. Thank you.

Mr. Speaker, I strongly agree with Ms. Josephs.

The chairman of the Judiciary Committee's opinion as to what the language he quoted means is the broadest statement of the power of the Supreme Court that we have ever heard in this House.

It is a far broader statement of the Supreme Court's power to declare legislative enactments unconstitutional than the Supreme Court has ever made. I think we ought to take in the regular give-and-take between the branches. We ought not to be taking a low opinion of our power under the Constitution. We ought not to be giving the Supreme Court the broadest possible interpretation of its power. We ought to be taking a high opinion of our power and the narrowest possible interpretation of the Supreme Court's power.

I think this is institutionally a very, very poor idea for us to come up with this interpretation that is far broader than the Supreme Court has ever come up with. I think the significance of however you vote on the Josephs amendment itself — and it seems to me to be an innocuous amendment — but however you vote on the Josephs amendment itself, the question of constitutionality is of far, far greater importance. We ought not to be taking the position that we basically have no power and the general language that Mr. Gannon quoted overrules all our power.

I think it is strongly in our own institutional interest to vote that this is constitutional.

The SPEAKER. On the question, those voting "aye" will vote to declare the amendment constitutional; those voting "no" will vote to declare the amendment to be unconstitutional.

On the question recurring,

Will the House sustain the constitutionality of the amendment?

The following roll call was recorded:

YEAS—98

Armstrong	DeLuca	Manderino	Sainato
Battisto	Dermody	Markosek	Santoni
Bebko-Jones	DeWeese	Mayernik	Scrimenti
Belardi	Donatucci	McCall	Shaner
Belfanti	Eachus	McGeehan	Staback
Bishop	Evans	Melio	Steelman
Blaum	George	Michlovic	Stetler
Boscola	Gigliotti	Mihalich	Sturla
Butkovitz	Gordner	Mundy	Surra
Buxton	Gruitza	Myers	Tangretti
Caltagirone	Haluska	Olasz	Thomas
Cappabianca	Hanna	Oliver	Tigue
Carn	Horsey	Pesci	Travaglio
Casorio	Itkin	Petrarca	Trello
Cawley	James	Petrone	Trich
Clark	Jarolin	Pistella	Van Horne
Cohen, M.	Josephs	Ramos	Veon
Colaella	Kaiser	Readshaw	Vitali
Colaizzo	Keller	Rieger	Walko
Corpora	Laughlin	Roberts	Williams, A. H.
Corrigan	Lederer	Robinson	Williams, C.
Cowell	Lescovitz	Roebuck	Wojnaroski
Coy	Levdansky	Rohrer	Yewcic
Curry	Lloyd	Rooney	Youngblood
Daley	Lucyk		

NAYS—100

Adolph	Fairchild	Marsico	Semmel
Allen	Fargo	Masland	Serafini
Argall	Feese	McGill	Seyfert
Baker	Fichter	McIlhattan	Smith, B.
Bard	Fleagle	McNaughton	Smith, S. H.
Barley	Flick	Micozzie	Snyder, D. W.
Barrar	Gannon	Miller	Stairs
Benninghoff	Geist	Nailor	Steil
Birmelin	Gladeck	Nickol	Stern
Boyes	Godshall	O'Brien	Stevenson

Brown	Gruppo	Orie	Strittmatter
Browne	Habay	Perzel	Taylor, E. Z.
Bunt	Harhart	Phillips	Taylor, J.
Carone	Hasay	Pippy	True
Chadwick	Hennessey	Platts	Tulli
Civera	Herman	Preston	Vance
Clymer	Hershey	Raymond	Waugh
Cohen, L. I.	Hess	Reber	Wilt
Conti	Hutchinson	Reinard	Wogan
Cornell	Jadlowiec	Ross	Wright, M. N.
Dally	Kenney	Rublely	Zimmerman
Dempsey	Krebs	Sather	Zug
Dent	Leh	Saylor	
DiGirolamo	Lynch	Schroder	Ryan,
Druce	Maitland	Schuler	Speaker
Egolf	Major		

NOT VOTING—1

LaGrotta

EXCUSED—3

Kirkland Lawless Washington

Less than the majority having voted in the affirmative, the question was determined in the negative and the constitutionality of the amendment was not sustained.

On the question recurring,

Will the House agree to the bill on third consideration?

The SPEAKER. The lady, Ms. Josephs, do you have one additional amendment?

On the question recurring,

Will the House agree to the bill on third consideration?

Ms. JOSEPHS offered the following amendment No. A2858:

Amend Title, page 1, lines 1 through 4, by striking out all of said lines and inserting

Amending the act of November 22, 1978 (P.L.1166, No.274), entitled "An act establishing the Pennsylvania Commission on Crime and Delinquency, providing for its powers and duties establishing several advisory committees within the commission and providing for their powers and duties," authorizing a crime prevention program; and providing for technical and financial assistance to law enforcement agencies.

Amend Bill, page 2, lines 11 through 30; page 3, lines 1 through 15, by striking out all of said lines on said pages and inserting

Section 1. The preamble of the act of November 22, 1978 (P.L.1166, No.274), referred to as the Pennsylvania Commission on Crime and Delinquency Law, is amended to read:

The General Assembly finds and declares that:

- (a) crime and delinquency are essentially State and local problems;
- (b) crime and delinquency are complex social phenomena requiring the attention and efforts of the criminal justice system, State and local governments, and private citizens alike;
- (c) the establishment of appropriate goals, objectives and standards for the reduction of crime and delinquency and for the administration of justice must be a priority concern;
- (d) the functions of the criminal justice system must be coordinated more efficiently and effectively;
- (e) the full and effective use of resources affecting State and local criminal justice systems requires the complete cooperation of State and local government agencies; [and]

(f) training, research, evaluation, technical assistance and public education activities must be encouraged and focused on the improvement of the criminal justice system and the generation of new methods for the prevention and reduction of crime and delinquency[.];

(g) the efforts of law enforcement to combat the incidence of crime are enhanced substantially when communities take steps to reduce the opportunity for crime through effective police leadership in crime prevention planning, public education and the responsible organization of community resources; and

(h) it is in the public interest for the Commonwealth to establish a central crime prevention program to provide leadership and technical and financial assistance to law enforcement agencies to develop and maintain community crime prevention initiatives.

Section 2. Section 1 of the act, amended April 30, 1986 (P.L.125, No.38), 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:

"Citizens advisory committee." A group of not less than ten private citizens from a municipality whose duty shall be to assist the servicing law enforcement agency in developing its crime prevention program.

"Commission." The Pennsylvania Commission on Crime and Delinquency.

"Crime prevention." The elimination or reduction of the opportunity for criminal activity through the initiatives of agencies of State and local government undertaken in cooperation with members of the public.

"Governing body." The council in cities, boroughs and incorporated towns, the board of commissioners in townships of the first class, the board of supervisors in townships of the second class, the legislative policymaking body in counties and home rule municipalities or other general purpose units of government which may be created by the General Assembly, including councils of government organized pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation).

"Local law enforcement agency." A law enforcement agency created by a municipality pursuant to statute.

"Municipality." Every city, borough, county, incorporated town, township and home rule municipality or other general purpose unit of government which may be created by the General Assembly, including councils of government organized pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation).

"Private citizen." An individual who is not an elected or appointed official in a branch of government of the United States, the Commonwealth or a political subdivision.

"State law enforcement agency." The Pennsylvania State Police.

Section 3. The act is amended by adding sections to read:

Section 3.1. Duties of commission relative to crime prevention.

The commission shall have the power and its duty shall be:

(1) To develop Statewide strategies to implement crime prevention programs at the State and local level.

(2) To review State agency plans to ensure the coordination of the delivery of crime prevention services.

(3) To develop, coordinate and administer crime prevention-related training programs for State and local law enforcement agency personnel on current issues and techniques in the field of crime prevention.

(4) To provide leadership and on-site technical assistance services to State agencies and local law enforcement agencies in developing and implementing crime prevention programs.

(5) To assure the design, development and availability of crime prevention materials.

(6) To promote the involvement of community organizations in the development and implementation of crime prevention programs.

(7) To submit, on a biennial basis, a report to the Governor and the General Assembly concerning the status of crime prevention programs throughout this Commonwealth.

Section 3.2. Crime prevention financial assistance.

(a) Applications.—The commission shall solicit and receive applications from local law enforcement agencies for financial assistance to implement crime prevention programs and allocate State funds to applicants in accordance with the provisions of applicable statutes and regulations.

(b) Pennsylvania State Police applications.—The Pennsylvania State Police may apply for and receive financial assistance under the provisions of this section for crime prevention programs implemented in those areas of the Commonwealth for which the Pennsylvania State Police serves as the principal law enforcement agency.

(c) Assurances and plan.—An application for financial assistance under the provisions of this section shall contain assurances that the applicant will submit semiannual reports on the progress of its crime prevention activities and will comply with those requirements that the commission may reasonably adopt. The application shall also include a crime prevention services plan containing, as a minimum, all of the following elements:

(1) A project plan which includes a goal statement, specific project objectives, a project budget statement, a description of the quantity and type of resource materials needed and a project evaluation methodology.

(2) A description of the types of crime prevention activities proposed to be conducted by the applicant and a specification of the nature and extent of the direct participation of community organizations in the proposed activities.

(3) A description of the nature and extent of participation by persons representing the business community in the proposed activities and a specification of those proposed activities which are intended to have an impact upon crimes affecting the local business community.

(4) A specific identification of the nature and types of crimes upon which the proposed activities are intended to impact and the level of impact the activities are projected to achieve.

(5) A description of the geographic area within which the proposed activities will be primarily conducted.

(d) Approval of application.—The commission may not approve an application for financial assistance under this section unless:

(1) the application has been duly authorized and approved in writing by the governing body of the municipality served by a local law enforcement agency applicant or by the Commissioner of the Pennsylvania State Police in the case of a State law enforcement agency application; and

(2) the application has been reviewed and commented upon by an advisory committee composed of not less than ten residents of the municipality to be served under the application. The advisory committee referred to in this paragraph shall be appointed by the governing body of the municipality served by a local law enforcement agency applicant or by the Commanding Officer of the Pennsylvania State Police installation for the jurisdiction to be served in the case of a State law enforcement agency application and shall be fairly representative of the interests of residents and business in the municipality.

(e) Allocation of funds.—The commission shall make available not less than 80% of the State funds appropriated annually for the administration of this section for financial assistance to State and local enforcement agencies for the support of municipal, county or regional crime prevention projects. The funds shall be used to pay 50% of an individual project's cost, provided the projects are operated under the guidance of a law enforcement officer or other governmental employee, who has successfully completed those courses of instruction required by the commission. No one project would be eligible to receive more than three years of funding. The remaining 50% of a project's funding shall come from local resources, except that the commission may lower this requirement where the crime prevention program is part of a local economic development initiative and a lower match is deemed necessary for project implementation. The 50% match requirement shall be waived completely for a municipality determined to be distressed under the act of

July 10, 1987 (P.L.246, No.47), known as the "Municipalities Financial Recovery Act." Individual counties or groups of counties acting in concert may apply for funding to support countywide or regional crime prevention plans.

(f) Commission use of funds.—The commission may retain the balance of the State funds appropriated annually for the operation of a centralized crime prevention program and administration of the financial assistance requirements contained in this section.

(g) Grant administration.—Grants of financial assistance made under this section shall be subject to the provisions of section 3(4) and (5).

Section 4. This act shall take effect July 1, 1997, or immediately, whichever is later.

On the question,

Will the House agree to the amendment?

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

Ms. JOSEPHS. Before I start, there has been some confusion about who is sponsoring another amendment, and I think that is why you keep saying one, but there are actually two. There is 2856.

So let me say something about 2858. I suppose this goes back a little bit to some of my arguments on the impact statement.

The SPEAKER. The lady, Ms. Josephs, at this time is offering amendment A2858?

Ms. JOSEPHS. Yes, sir.

The SPEAKER. And your remarks now are addressed to that amendment?

Ms. JOSEPHS. Yes, sir.

The SPEAKER. Thank you.

Ms. JOSEPHS. What I am trying to do here is to help our citizens avoid the suffering, misery, and tragedy of crime. All of us or many, many of us live in neighborhoods, live in areas where crime prevention, either through police activity or through activity of police combined with private citizens, has made the environment safer. There are a whole range of techniques which do help make our quality of life better and do prevent crimes. I think that most of us understand that part of the reason why we have such a problem with crime in industrial modern society is because people do not feel responsible for each other and people do not really work hard, many times do not have the resources to work hard on quality-of-life issues and on real crime prevention.

I am attempting in this amendment to enhance what we do here in terms of punishment, punishment, punishment, by keeping people from committing the crimes. Through the Pennsylvania Commission on Crime and Delinquency, I would allow them to accept applications from law enforcement bodies — only the State Police and only police as they are created by the appropriate governing body — to get grants, and none of those grants can be long or can last for more than 3 years, and all of those grants need some kind of local match, half local match, to prevent crime. There are people out there who can do this, who will do this. They are only asking for the cooperation of their police and the cooperation of their General Assembly, those of us who have the resources and can help them.

This is a people amendment; this is a crime prevention amendment. I daresay, if there would be any way, if we had prison impact statements, it would be very clear that these kinds of amendments are more cost effective and more humane.

I ask for an affirmative vote. Thank you, Mr. Speaker.

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

Mr. GANNON. Thank you, Mr. Speaker.

Mr. Speaker, I rise in opposition to this amendment and ask for a "no" vote.

We already have a commission called the Pennsylvania Commission on Crime and Delinquency. Now, the first thing that this amendment does is it completely undermines the authority, the procedure, the process of that commission. But in addition to that, Mr. Speaker, it creates a whole new bureaucracy as part of our criminal justice system, and, Mr. Speaker, there is one thing we do not need in this State, and that is another whole new bureaucracy as part of our criminal justice system.

I ask for a "no" vote.

The SPEAKER. The lady, Ms. Josephs, for the second time.

Ms. JOSEPHS. Thank you, Mr. Speaker.

I have had the privilege of serving on the Pennsylvania Commission on Crime and Delinquency. It is already a bureaucracy — a good one, I think — but it is a bureaucracy, and they would only be empowered to do something that would actually help our citizens. Of course, perhaps there are people who really do not want that to happen, but I do, and I think most of the rest of you do.

So I urge a "yes" vote. Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—80

Bard	DeLuca	Lucyk	Santoni
Battisto	Dermody	Manderino	Scrimenti
Bebko-Jones	DeWeese	McCall	Shaner
Belardi	Donatucci	McGeehan	Steelman
Belfanti	Eachus	Melio	Stetler
Bishop	Evans	Michlovic	Sturla
Boscola	Gigliotti	Mihalich	Surra
Browne	Gruitza	Myers	Tangretti
Butkovitz	Haluska	Olasz	Thomas
Caltagirone	Harhart	Oliver	Travaglio
Cappabianca	Horsey	Pesci	Trello
Carn	Itkin	Petrarca	Trich
Casorio	James	Petrone	Van Horne
Cawley	Jarolin	Pistella	Veon
Cohen, M.	Josephs	Preston	Vitali
Colafella	Keller	Ramos	Walko
Colaizzo	Laughlin	Rieger	Williams, A. H.
Corpora	Lederer	Roberts	Williams, C.
Cowell	Lescovitz	Robinson	Wojnaroski
Curry	Levdansky	Roebeck	Youngblood

NAYS—118

Adolph	Egolf	Maitland	Saylor
Allen	Fairchild	Major	Schroder
Argall	Fargo	Markosek	Schuler
Armstrong	Feese	Marsico	Semmel
Baker	Fichter	Masland	Serafini
Barley	Fleagle	Mayernik	Seyfert
Barrar	Flick	McGill	Smith, B.
Benninghoff	Gannon	McIlhattan	Smith, S. H.
Birmelin	Geist	McNaughton	Snyder, D. W.
Blaum	George	Micozzie	Staback
Boyes	Gladetk	Miller	Stairs
Brown	Godshall	Mundy	Steil
Bunt	Gordner	Nailor	Stern
Buxton	Gruppo	Nickol	Stevenson
Carone	Habay	O'Brien	Strittmatter
Chadwick	Hanna	Orie	Taylor, E. Z.
Civera	Hasay	Perzel	Taylor, J.
Clark	Hennessey	Phillips	Tigue

Clymer	Herman	Pippy	True
Cohen, L. I.	Hershey	Platts	Tulli
Conti	Hess	Raymond	Vance
Cornell	Hutchinson	Readshaw	Waugh
Corrigan	Jadlowiec	Reber	Wogan
Coy	Kaiser	Reinard	Wright, M. N.
Daley	Kenney	Rohrer	Yewcic
Dally	Krebs	Rooney	Zimmerman
Dempsey	LaGrotta	Ross	Zug
Dent	Leh	Rubley	
DiGirolamo	Lloyd	Sainato	Ryan,
Druce	Lynch	Sather	Speaker

NOT VOTING—1

Wilt

EXCUSED—3

Kirkland Lawless Washington

Less than the majority having voted in the affirmative, 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?

The SPEAKER. Ms. Josephs, is amendment A2856 your other amendment?

Ms. JOSEPHS. Yes, sir.

The SPEAKER. Would you come to the desk, please.

Ms. JOSEPHS. Certainly.

The SPEAKER. And if your staff assistant would come with you, it would be appreciated.

(Conference held at Speaker's podium.)

The SPEAKER. The Chair recognizes the lady, Ms. Josephs, who advises the Chair that amendment A2856 is withdrawn. The Chair thanks the lady.

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

Mr. DeLUCA offered the following amendment No. A2740:

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

; and providing for a mandatory sentence for persons who possess certain quantities of controlled substances.

Amend Bill, page 3, by inserting between lines 13 and 14

Section 2. Title 42 is amended by adding a section to read:

§ 9720.1. Sentencing for large quantities of certain controlled substances.

Notwithstanding the provisions of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, any person convicted of possession of a controlled substance identified as either Schedule I or Schedule II controlled substance in that act, in an amount equal to or greater

than 100 usual dosage amounts as defined by regulation by the Attorney General shall be sentenced to life imprisonment.

Amend Sec. 2, page 3, line 14, by striking out "2" and inserting
3

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

The SPEAKER. On that question, the Chair recognizes the gentleman, Mr. DeLuca.

Mr. DeLUCA. Thank you, Mr. Speaker.

Mr. Speaker, 70 percent, approximately 70 percent of our crimes committed in this Commonwealth and throughout the country are drug-related. Child abuse, domestic violence, drive-by shootings, crime against senior citizens, muggings, murders can be attributed to drugs.

It is time that we stand up in this Commonwealth and in this nation. The drug policies, the war on drugs, has been a disaster. There have been billions and billions of dollars — Federal, State, local dollars — spent, and we continue to have narcotics in our schools, in our communities.

The bloodsuckers who are out there selling these drugs to our teenagers, our youth, are still running wild. They are on the street corners. We pick up the street dealers every day, put them in jail, and other ones take their places while the people who bring them in, bring these large amounts of drugs in, can never get caught; very few get caught, and they become very wealthy. Some of them are pillars of society, who go to church every day, while some of our youths are given a lifetime sentence, a lifetime sentence with agony and addiction.

I think it is time that we say in the Commonwealth of Pennsylvania, if you are going to bring in X amount of narcotics into our Commonwealth, you are going to pay the price and you are going to pay the price with a lifetime sentence. This is what we have to do.

Therefore, I would ask for an affirmative vote on amendment 2740. Thank you, Mr. Speaker.

The SPEAKER. The gentleman, Mr. Gannon.

Mr. GANNON. Thank you, Mr. Speaker.

Mr. Speaker, I rise in opposition to this amendment and ask for a "no" vote.

Mr. Speaker, this is a classic example of where good intentions can lead to a disastrous result. The Supreme Court, Mr. Speaker, the Supreme Court said that a defendant prior to the commission of a crime must know what the prohibited conduct is. In the case of Commonwealth v. Highhawk, we had a situation where a drug dealing resulted in death, and because of the fact that the defendant argued that he did not know the prohibited act specifically, the Supreme Court vacated, vacated and reversed the sentence.

Now, Mr. Speaker, secondly, this is an out-and-out delegation of the legislative function to the Attorney General's Office. I believe that we have the responsibility with respect to establishing that conduct which is prohibited and the punishment for that conduct. It raises a serious, serious question. I do not think we want to see people who are involved in a drug deal where there is a murder walking the streets because we failed to do our job.

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

The SPEAKER. On the question, the Chair recognizes the gentleman, Mr. Dermody.

Mr. DERMODY. Thank you, Mr. Speaker.

Mr. Speaker, I agree with Representative Gannon that this amendment will cause, could cause, a disaster, and the problem was stated by the sponsor, because if you bring X amount into the Commonwealth, well, we need to know X amount before a judge can sentence somebody or what X amount is. We have a sentencing scheme in our statutes right now for possession or possession with attempt to deliver controlled substances. We have severe penalties already in place. We have mandatory sentences. However, that is for an amount certain that is stated in our statute. It is not for us to delegate this responsibility to define a "dose" to the Attorney General.

If we want to send somebody to life imprisonment for possessing a certain amount of drugs, we should indicate what that amount is. This amendment does not do that, and for that reason it should be defeated. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The gentleman, Mr. DeLuca.

Mr. DeLUCA. Thank you, Mr. Speaker.

And I guess these disastrous results, I guess we could also look at our communities and our family structures out there and some of the families that come into my office every month and see how they are destroyed by these disaster drugs.

Let me say to both these gentlemen on both sides of the aisle, the reason we left it up to the Attorney General is because of the fact there is nowhere in the law that I know of where you can define this. Congress at this time is also looking at this type of legislation. It is also looking for the Attorney General of the United States to define what these doses will be.

I also have all the faith in the world in our new Attorney General, who served not only in this House but also was a crimefighter over in the Senate, to represent us, and we are not negating our duty here by leaving it up to the Attorney General to make those decisions.

Therefore, I would ask for an affirmative vote. Thank you, Mr. Speaker.

The SPEAKER. The gentleman, Mr. Gannon, for the second time.

Mr. GANNON. Thank you, Mr. Speaker.

Mr. Speaker, this bill is about the death penalty. This amendment talks about life sentence. We are here about the death penalty, and I ask for a "no" vote.

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

The following roll call was recorded:

YEAS-43

Bebko-Jones	Corrigan	Lucyk	Sainato
Belardi	DeLuca	McCall	Shaner
Belfanti	Donatucci	Melio	Steelman
Bishop	Gigliotti	Mihalich	Tangretti
Blaum	Gruitza	Pesci	Travaglio
Caltagirone	Horsey	Petrarca	Trello
Cappabianca	James	Petrone	Trich
Casorio	LaGrotta	Pistella	Van Horne
Cawley	Laughlin	Rieger	Williams, A. H.
Cohen, M.	Lescovitz	Robinson	Wojnaroski
Colafella	Levdansky	Roebeck	

NAYS-156

Adolph	Eachus	Manderino	Schuler
Allen	Egolf	Markosek	Scrimment
Argall	Evans	Marsico	Semmel
Armstrong	Fairchild	Masland	Serafini
Baker	Fargo	Mayernik	Seyfert
Bard	Feese	McGeehan	Smith, B.
Barley	Fichter	McGill	Smith, S. H.
Barrar	Fleagle	McIlhattan	Snyder, D. W.
Battisto	Flick	McNaughton	Staback
Benninghoff	Gannon	Michlovic	Stairs
Birmelin	Geist	Micozzie	Steil
Boscola	George	Miller	Stern
Boyes	Gladeck	Mundy	Stetler
Brown	Godshall	Myers	Stevenson
Browne	Gordner	Nailor	Strittmatter
Bunt	Gruppo	Nickol	Sturla
Butkovitz	Habay	O'Brien	Surra
Buxton	Haluska	Olasz	Taylor, E. Z.
Carn	Hanna	Oliver	Taylor, J.
Carone	Harhart	Orie	Thomas
Chadwick	Hasay	Perzel	Tigue
Civera	Hennessey	Phillips	True
Clark	Herman	Pippy	Tulli
Clymer	Hershey	Platts	Vance
Cohen, L. I.	Hess	Preston	Veon
Colaizzo	Hutchinson	Ramos	Vitali
Conti	Itkin	Raymond	Walko
Cornell	Jadlowiec	Readshaw	Waugh
Corpora	Jarolin	Reber	Williams, C.
Cowell	Josephs	Reinard	Wilt
Coy	Kaiser	Roberts	Wogan
Curry	Keller	Rohrer	Wright, M. N.
Daley	Kenney	Rooney	Yewcic
Dally	Krebs	Ross	Youngblood
Dempsey	Lederer	Rublely	Zimmerman
Dent	Leh	Santoni	Zug
Dermody	Lloyd	Sather	
DeWeese	Lynch	Saylor	Ryan,
DiGirolamo	Maitland	Schroder	Speaker
Druce	Major		

NOT VOTING-0

EXCUSED-3

Kirkland	Lawless	Washington
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Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

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

BILL PASSED OVER

The SPEAKER. With the concurrence of the majority leader and the Democratic leader, SB 423 with amendments will be held over for the day and will be taken up tomorrow morning.

CONSIDERATION OF SB 635 CONTINUED

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

RULES SUSPENDED

The SPEAKER. The Chair recognizes the majority leader.

Mr. PERZEL. Mr. Speaker, I ask that the rules of the House be suspended to permit the Chadwick amendment, A3127, to be offered.

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

The SPEAKER. Mr. Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, this is a very complex amendment. Mr. Chadwick has just had it redrafted. The hour is getting late.

The SPEAKER. The question, Mr. Cohen, is not on the Chadwick amendment, but rather the question is one of suspension of the rules.

Mr. COHEN. Yes, Mr. Speaker, I am aware of that.

The SPEAKER. Well, then restrict your comments to that.

Mr. COHEN. Okay.

Mr. Speaker, has this amendment been distributed to the members of the House in its current form?

The SPEAKER. The question before the House is suspension of the rules.

Mr. COHEN. Okay. Mr. Speaker, to the best of my knowledge, the members of the House have not seen this amendment. This is a very comprehensive amendment. It is a very complex amendment. It is late in the day. I would urge that we not suspend the rules. By not suspending the rules, that will force us to vote on this tomorrow. We have already passed over SB 423; we ought to pass over SB 635.

I would urge that we vote "no" on suspension of the rules so that we cast much more informative votes, informed votes, that are more likely to be in our long-range interests tomorrow when we have a better chance to see what we are voting on.

I would urge a "no" vote on suspension of the rules.

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

Mr. CHADWICK. Thank you, Mr. Speaker.

In support of the motion to suspend the rules, I simply want to explain to the members that there was a drafting problem with the original version of this amendment. The amendment has been redrafted, and there is nothing new in it. I simply deleted some matters so that the amendment could be properly put before the House.

So I would urge an affirmative vote on the motion to suspend the rules.

The SPEAKER. On the question of suspension of the rules, those in favor will vote "aye"; opposed, "no."

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

The following roll call was recorded:

YEAS-124

Adolph	Egolf	Marsico	Schuler
Allen	Fairchild	Masland	Semmel
Argall	Fargo	McCall	Serafini

Armstrong	Feese	McGeehan	Seyfert
Baker	Fichter	McGill	Smith, B.
Bard	Fleagle	McIlhattan	Smith, S. H.
Barley	Flick	McNaughton	Snyder, D. W.
Barrar	Gannon	Michlovic	Stairs
Benninghoff	Geist	Micozzie	Steil
Birmelin	Gladeck	Miller	Stern
Boscola	Godshall	Nailor	Stevenson
Boyes	Gruppo	Nickol	Strittmatter
Brown	Habay	O'Brien	Taylor, E. Z.
Browne	Haluska	Oliver	Taylor, J.
Bunt	Harhart	Orie	Thomas
Butkovitz	Hasay	Perzel	Travaglio
Cawley	Hennessey	Petrone	Trello
Chadwick	Herman	Phillips	True
Civera	Hershey	Pippy	Tulli
Clark	Hess	Pistella	Vance
Clymer	Horsey	Platts	Waugh
Cohen, L. I.	Hutchinson	Raymond	Wilt
Colafella	Jadlowiec	Readshaw	Wogan
Conti	Kaiser	Reber	Wojnaroski
Cornell	Keller	Reinard	Wright, M. N.
Cowell	Kenney	Rohrer	Youngblood
Dally	Laughlin	Ross	Zimmerman
Dempsey	Lederer	Rubley	Zug
Dent	Leh	Sather	
DiGirolamo	Lescovitz	Saylor	Ryan,
Donatucci	Maitland	Schroder	Speaker
Druce	Major		

NAYS-73

Battisto	Dermody	Lynch	Santoni
Bebko-Jones	DeWeese	Manderingo	Scrimenti
Belardi	Eachus	Markosek	Shaner
Bishop	Evans	Mayernik	Staback
Blaum	George	Melio	Steelman
Buxton	Gigliotti	Mihalich	Stetler
Caltagirone	Gordner	Mundy	Sturla
Cappabianca	Gruitza	Myers	Surra
Carn	Hanna	Olasz	Tangretti
Carone	Itkin	Pesci	Tigue
Casorio	James	Petrarca	Trich
Cohen, M.	Jarolin	Ramos	Van Horne
Colaizzo	Josephs	Rieger	Veon
Corpora	Krebs	Roberts	Vitali
Corrigan	LaGrotta	Robinson	Walko
Coy	Levdansky	Roebuck	Williams, A. H.
Curry	Lloyd	Rooney	Williams, C.
Daley	Lucyk	Sainato	Yewcic
DeLuca			

NOT VOTING-2

Belfanti	Preston
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EXCUSED-3

Kirkland	Lawless	Washington
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A majority of the members required by the rules having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

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

Mr. CHADWICK offered the following amendment No. A3127:

Amend Title, page 1, lines 1 through 7, by striking out all of said lines and inserting

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for certain assaults by prisoners, for wiretapping and electronic surveillance.

Amend Bill, page 3, line 22, by striking out all of said line and inserting

Section 4. The definitions of "electronic communication," "electronic, mechanical or other device," "intercept," "investigative or law enforcement officer," "judge," "pen register" and "wire communication" in section 5702 of Title 18 are amended and the section is amended by adding definitions to read:

§ 5702. Definitions.

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

"Electronic communication." Any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photo-optical system, except:

(1) The radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit.]

(2) Any wire or oral communication.

(3) Any communication made through a tone-only paging device.

(4) Any communication from a tracking device (as defined in this section).

"Electronic, mechanical or other device." Any device or apparatus, including, but not limited to, an induction coil or a telecommunication identification interception device, that can be used to intercept a wire, electronic or oral communication other than:

(1) Any telephone or telegraph instrument, equipment or facility, or any component thereof, furnished to the subscriber or user by a provider of wire or electronic communication service in the ordinary course of its business, or furnished by such subscriber or user for connection to the facilities of such service and used in the ordinary course of its business, or being used by a communication common carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his duties.

(2) A hearing aid or similar device being used to correct subnormal hearing to not better than normal.

(3) Equipment or devices used to conduct interceptions under section 5704(15) (relating to exceptions to prohibition of interception and disclosure of communications).

"Home." The residence of a nonconsenting party to an interception, provided that access to the residence is not generally permitted to members of the public and the party has a reasonable expectation of privacy in the residence under the circumstances.

"Intercept." Aural or other acquisition of the contents of any wire, electronic or oral communication through the use of any electronic, mechanical or other device. The term shall include the point at which the contents of the communication are monitored by investigative or law enforcement officers.

"Investigative or law enforcement officer." Any officer of the United States, of another state or political subdivision thereof, or of the Commonwealth or political subdivision thereof, who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in

this chapter or an equivalent crime in another jurisdiction, and any attorney authorized by law to prosecute or participate in the prosecution of such offense. [The term shall include, but not be limited to, employees of the Pennsylvania Crime Commission, authorized to investigate crimes enumerated in section 5708 (relating to order authorizing interception of wire or oral communications).]

"Judge." When referring to a judge authorized to receive applications for, and to enter, orders authorizing interceptions of wire, electronic or oral communications pursuant to [this chapter] Subchapter B (relating to wire, electronic or oral communication), any judge of the Superior Court.

"Pen register." A device which [records or decodes] is used to capture, record or decode electronic or other impulses which identify the numbers dialed or otherwise transmitted, with respect to wire or electronic communications, on the targeted telephone [line to which the device is attached]. The term includes a device which is used to record or decode electronic or other impulses which identify the existence of incoming and outgoing wire or electronic communications on the targeted telephone. The term does not include a device used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communication service provided by the provider, or any device used by a provider, or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of business.

"State." Any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any territory or possession of the United States.

"Telecommunication identification interception device." Any equipment or device capable of intercepting any electronic communication which contains any electronic serial number, mobile identification number, personal identification number or other identification number assigned by a telecommunication service provider for activation or operation of a telecommunication device.

"Wire communication." Any aural transfer made in whole or in part through the use of facilities for the transmission of communication by wire, cable or other like connection between the point of origin and the point of reception, including the use of such a connection in a switching station, furnished or operated by a telephone, telegraph or radio company for hire as a communication common carrier. The term [does not include the radio portion of a cordless telephone communication transmitted between the cordless telephone handset and the base unit] includes any electronic storage of such communication.

Section 5. Section 5704 introductory paragraph and (2), (5) and (9) of Title 18, amended December 19, 1996 (P.L.1458, No.186), are amended and the section is amended by adding paragraphs to read:

§ 5704. Exceptions to prohibition of interception and disclosure of communications.

It shall not be unlawful and no prior court approval shall be required under this chapter for:

(2) Any investigative or law enforcement officer or any person acting at the direction or request of an investigative or law enforcement officer to intercept a wire, electronic or oral communication involving suspected criminal activities, including, but not limited to, the crimes enumerated in section 5708 (relating to order authorizing interception of wire, electronic or oral communications), where:

(i) such officer or person is a party to the communication;]

(ii) one of the parties to the communication has given prior consent to such interception. However, no interception under this paragraph shall be made unless the Attorney General or a deputy attorney general designated in writing by the Attorney General, or the district attorney, or an assistant district attorney designated in writing by the district attorney, of the county wherein the interception is to be made, has reviewed the facts and is satisfied that the consent is voluntary and has given prior approval for the

interception; however such interception shall be subject to the recording and record keeping requirements of section 5714(a) (relating to recording of intercepted communications) and that the Attorney General, deputy attorney general, district attorney or assistant district attorney authorizing the interception shall be the custodian of recorded evidence obtained therefrom; [or]

(iii) the investigative or law enforcement officer meets in person with a suspected felon and wears a concealed electronic or mechanical device capable of intercepting or recording oral communications. However, no interception under this subparagraph may be used in any criminal prosecution except for a prosecution involving harm done to the investigative or law enforcement officer. This subparagraph shall not be construed to limit the interception and disclosure authority provided for in [subparagraph (i).] this subchapter; or

(iv) the requirements of this subparagraph are met. If an oral interception otherwise authorized under this paragraph will take place in the home of a nonconsenting party, then, in addition to the requirements of subparagraph (ii), the interception shall not be conducted until an order is first obtained from the president judge, or his designee who shall also be a judge, of a court of common pleas, authorizing such in-home interception, based upon an affidavit by an investigative or law enforcement officer that establishes probable cause for the issuance of such an order. No such order or affidavit shall be required where probable cause and exigent circumstances exist. For the purposes of this paragraph, an oral interception shall be deemed to take place in the home of a nonconsenting party only if both the consenting and nonconsenting parties are physically present in the home at the time of the interception.

(5) Any investigative or law enforcement officer, or communication common carrier acting at the direction of an investigative or law enforcement officer or in the normal course of its business, to use a pen register [or], trap and trace device, or telecommunication identification interception device as provided in [this chapter] Subchapter E (relating to pen registers, trap and trace devices and telecommunication identification interception devices).

(9) A person or entity providing electronic communication service to the public to divulge the contents of any such communication:

(i) as otherwise authorized in this section or section 5717 (relating to investigative disclosure or use of contents of wire, electronic or oral communications or derivative evidence);

(ii) with the lawful consent of the originator or any addressee or intended recipient of the communication;

(iii) to a person employed or authorized, or whose facilities are used, to forward the communication to its destination; or

(iv) which were inadvertently obtained by the service provider and which appear to pertain to the commission of a crime, if such divulgence is made to a law enforcement agency.

A person or entity providing electronic communication service to the public shall not intentionally divulge the contents of any communication (other than one directed to the person or entity, or an agent thereof) while in

transmission of that service to any person or entity other than an addressee or intended recipient of the communication or an agent of the addressee or intended recipient.

(15) A police officer who has the authority to enforce Title 75 (relating to vehicles) or any other violation of law and who stops a vehicle for a suspected violation of Title 75 while on duty and utilizing an audio intercepting device to intercept the oral communications occurring between that police officer and any other person present at the location of and during the vehicle stop. During the time of the vehicle stop, as soon as practicable, the officer shall notify the driver and other occupants of the vehicle, and any other person identifiably present, that their oral communications are being recorded. Evidence obtained on an audio-intercepting device as a result of a stop under this subparagraph shall not be excluded in any civil or criminal proceeding. A police department, agency or office shall not by order, regulation or otherwise require an officer to activate an audio device mounted or carried in the officer's vehicle except in the following situations:

(A) when the law enforcement officer makes use of the audible warning system authorized by 75 Pa.C.S. § 4571 (relating to visual and audible signals on emergency vehicles);

(B) when the law enforcement officer is making use of the visual signals authorized by 75 Pa.C.S. § 4571;

(C) when the law enforcement officer is making use of the audible warning system and visual signals; or

(D) when a law enforcement officer has reasonable suspicion that a crime has recently been committed, is being or is about to be committed.

(16) The personnel of a business engaged in telephone sales by means of wire, oral or electronic communication to intercept such sales communications where such interception is made for the sole purpose of training, quality control or monitoring by the business. Unless otherwise required by Federal or State law, communications recorded pursuant to this paragraph shall be destroyed no later than one year from the date of recording.

Section 6. Sections 5705, 5706, 5708, 5709(3), 5710(a)(4) and 5711 of Title 18 are amended to read:

§ 5705. Possession, sale, distribution, manufacture or advertisement of electronic, mechanical or other devices and telecommunication identification interception devices.

Except as otherwise specifically provided in section 5706 (relating to exceptions to prohibitions in possession, sale, distribution, manufacture or advertisement of electronic, mechanical or other devices and telecommunication identification interception device), a person is guilty of a felony of the third degree if he does any of the following:

(1) Intentionally possesses an electronic, mechanical or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of a wire, electronic or oral communication.

(2) Intentionally sells, transfers or distributes an electronic, mechanical or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of a wire, electronic or oral communication.

(3) Intentionally manufactures or assembles an electronic, mechanical or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of a wire, electronic or oral communication.

(4) Intentionally places in any newspaper, magazine, handbill, or other publication any advertisement of an electronic, mechanical or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of a wire, electronic or oral communication or of an electronic, mechanical or other device where such advertisement promotes the use of such device for the purpose of the surreptitious interception of a wire, electronic or oral communication.

(5) Intentionally possesses a telecommunication identification interception device.

§ 5706. Exceptions to prohibitions in possession, sale, distribution, manufacture or advertisement of electronic, mechanical or other devices and telecommunication identification interception device.

(a) Unlawful activities.—It shall not be unlawful under this chapter for:

(1) a provider of wire or electronic communication service or an officer, agent or employee of, or a person under contract with, such a provider, in the normal course of the business of providing the wire or electronic communication service; or

(2) a person under contract with the United States, the Commonwealth or a political subdivision thereof, a state or a political subdivision thereof, or an officer, agent or employee of the United States, the Commonwealth or a political subdivision thereof, or a state or a political subdivision thereof,

to possess, sell, distribute, manufacture, assemble or advertise an electronic, mechanical or other device or telecommunication identification interception device, while acting in furtherance of the appropriate activities of the United States, the Commonwealth or a political subdivision thereof, a state or a political subdivision thereof or a provider of wire or electronic communication service.

(b) Responsibility.—

(1) [The] Except as provided under paragraph (2), the Attorney General and the district attorney or their designees so designated in writing shall have the sole responsibility to buy, possess and loan any electronic, mechanical or other device which is to be used by investigative or law enforcement officers for purposes of interception as authorized under section 5704(2) [and], (5), (12) and (15) (relating to exceptions to prohibition of interception and disclosure of communications), 5712 (relating to issuance of order and effect), 5713 (relating to emergency situations) or 5713.1 (relating to emergency hostage and barricade situations).

(2) The division or bureau or section of the Pennsylvania State Police responsible for conducting the training in the technical aspects of wiretapping and electronic surveillance as required by section 5724 (relating to training) may buy and possess any electronic, mechanical or other device which is to be used by investigative or law enforcement officers for purposes of interception as authorized under section 5704(2), (5), (12) and (15), 5712, 5713 or 5713.1 for the purpose of training. However, any electronic, mechanical or other device bought or possessed under this provision may be loaned to or used by investigative or law enforcement officers for purposes of interception as authorized under section 5704(2), (5), (12) and (15), 5712, 5713 or 5713.1 only upon written approval by the Attorney General or a deputy attorney general designated in writing by the Attorney General, or the district attorney or an assistant district attorney designated in writing by the district attorney of the county wherein the interception is to be made.

(3) With the permission of the Attorney General or a district attorney who has designated any supervising law enforcement officer for purposes of interceptions as authorized under section 5713.1, the law enforcement agency which employs the supervising law enforcement officer may buy, possess, loan or borrow any electronic, mechanical or other device which is to be used by investigative or law enforcement officers at the direction of the supervising law enforcement officer solely for the purpose of interception as authorized under sections 5704(12) and 5713.1.

§ 5708. Order authorizing interception of wire, electronic or oral communications.

[(a) Authorization.—Except in cases referred to in subsection (b), the] The Attorney General, or, during the absence or incapacity of the Attorney General, a deputy attorney general designated in writing by the Attorney General, or the district attorney or, during the absence or incapacity of the district attorney, an assistant district attorney designated in writing by the district attorney of the county wherein the interception is to be made, may make written application to any Superior Court judge for an order authorizing the interception of a wire, electronic or oral communication by the investigative or law enforcement officers or agency having responsibility for an investigation involving suspected criminal activities when such interception may provide evidence of the commission of any of the following offenses, or may provide evidence aiding in the apprehension of the perpetrator or perpetrators of any of the following offenses:

(1) Under this title:

Section 911 (relating to corrupt organizations)
 Section 2501 (relating to criminal homicide)
 Section 2502 (relating to murder)
 Section 2503 (relating to voluntary manslaughter)
 Section 2702 (relating to aggravated assault)
 Section 2706 (relating to terroristic threats)
Section 2709(b) (relating to harassment and stalking)
 Section 2901 (relating to kidnapping)
 Section 3121 (relating to rape)
 Section 3123 (relating to involuntary deviate sexual intercourse)
Section 3124.1 (relating to sexual assault)
Section 3125 (relating to aggravated indecent assault)
 Section 3301 (relating to arson and related offenses)
 Section 3302 (relating to causing or risking catastrophe)
 Section 3502 (relating to burglary)
 Section 3701 (relating to robbery)
 Section 3921 (relating to theft by unlawful taking or disposition)
 Section 3922 (relating to theft by deception)
 Section 3923 (relating to theft by extortion)
 Section 4701 (relating to bribery in official and political matters)
 Section 4702 (relating to threats and other improper influence in official and political matters)
 Section 5512 (relating to lotteries, etc.)
 Section 5513 (relating to gambling devices, gambling, etc.)
 Section 5514 (relating to pool selling and bookmaking)
Section 6106 (relating to firearms not to be carried without a license)

(2) Under this title, where such offense is dangerous to life, limb or property and punishable by imprisonment for more than one year:

Section 910 (relating to manufacture, distribution or possession of devices for theft of telecommunication services)
 Section 3925 (relating to receiving stolen property)
 Section 3926 (relating to theft of services)
 Section 3927 (relating to theft by failure to make required disposition of funds received)
 Section 3933 (relating to unlawful use of computer)
 Section 4108 (relating to commercial bribery and breach of duty to act disinterestedly)
 Section 4109 (relating to rigging publicly exhibited contest)
 Section 4117 (relating to insurance fraud)
 Section 4305 (relating to dealing in infant children)
 Section 4902 (relating to perjury)
 Section 4909 (relating to witness or informant taking bribe)
 Section 4911 (relating to tampering with public records or information)
 Section 4952 (relating to intimidation of witnesses or victims)
 Section 4953 (relating to retaliation against witness or victim)
 Section 5101 (relating to obstructing administration of law or other governmental function)
Section 5111 (relating to dealing in proceeds of unlawful activities)
Section 5121 (relating to escape)
 Section 5504 (relating to harassment by communication or address)

Section 5902 (relating to prostitution and related offenses)

Section 5903 (relating to obscene and other sexual materials and performances).

Section 7313 (relating to buying or exchanging Federal food order coupons, stamps, authorization cards or access devices)

(3) Under the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, where such offense is dangerous to life, limb or property and punishable by imprisonment for more than one year:

Section 1272 (relating to sales of unstamped cigarettes)

Section 1273 (relating to possession of unstamped cigarettes)

Section 1274 (relating to counterfeiting)

(4) Any offense set forth under section 13(a) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, not including the offense described in clause (31) of section 13(a).

(5) Any offense set forth under the act of November 15, 1972 (P.L.1227, No.272).

(6) Any conspiracy to commit any of the offenses set forth in this section.

[(b) Exception.—Whenever the interception of wire, electronic or oral communication is to be made by an investigative officer employed by the Pennsylvania Crime Commission, the application for the authorizing order shall be made by the Attorney General or, during the absence or incapacity of the Attorney General, a deputy attorney general designated in writing by the Attorney General.]

§ 5709. Application for order.

Each application for an order of authorization to intercept a wire, electronic or oral communication shall be made in writing upon the personal oath or affirmation of the Attorney General or a district attorney of the county wherein the interception is to be made and shall contain all of the following:

(3) A sworn statement by the investigative or law enforcement officer who has knowledge of relevant information justifying the application, which shall include:

(i) The identity of the particular person, if known, committing the offense and whose communications are to be intercepted.

(ii) The details as to the particular offense that has been, is being, or is about to be committed.

(iii) The particular type of communication to be intercepted.

(iv) [A] Except as provided in section 5712(h) (relating to issuance of order and effect), a showing that there is probable cause to believe that such communication will be communicated on the wire communication facility involved or at the particular place where the oral communication is to be intercepted.

(v) [The] Except as provided in section 5712(h), the character and location of the particular wire communication facility involved or the particular place where the oral communication is to be intercepted.

(vi) A statement of the period of time for which the interception is required to be maintained, and, if the character of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, a particular statement of facts establishing probable cause to

believe that additional communications of the same type will occur thereafter.

(vii) A particular statement of facts showing that other normal investigative procedures with respect to the offense have been tried and have failed, or reasonably appear to be unlikely to succeed if tried or are too dangerous to employ.

§ 5710. Grounds for entry of order.

(a) Application.—Upon consideration of an application, the judge may enter an ex parte order, as requested or as modified, authorizing the interception of wire, electronic or oral communications anywhere within the Commonwealth, if the judge determines on the basis of the facts submitted by the applicant that there is probable cause for belief that all the following conditions exist:

(4) except as provided in section 5712(h) (relating to issuance of order and effect), the facility from which, or the place where, the wire, electronic or oral communications are to be intercepted, is, has been, or is about to be used, in connection with the commission of such offense, or is leased to, listed in the name of, or commonly used by, such person;

§ 5711. Privileged communications.

No otherwise privileged communication intercepted in accordance with, or in violation of, the provisions of this [chapter] subchapter shall lose its privileged character.

Section 7. Section 5712(e), (f) and (g) of Title 18 are amended and the section is amended by adding a subsection to read:

§ 5712. Issuance of order and effect.

(e) Final report.—Whenever an interception is authorized pursuant to this section, a complete written list of names of participants and evidence of offenses discovered, including those not stated in the application for order, shall be filed with the court [at the time] as soon as practicable after the authorized interception is terminated.

(f) Assistance.—An order authorizing the interception of a wire, electronic or oral communication shall, upon request of the applicant, direct that a provider of electronic communication service shall furnish the applicant forthwith all information, facilities and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that such service provider is affording the person whose communications are to be intercepted. The obligation of a provider of electronic communication service under such an order may include, but is not limited to, installation of a pen register or trap and trace device and disclosure of a record or other information otherwise available under section 5743 (relating to requirements for governmental access), including conducting an in-progress trace during an interception, provided that such obligation of a provider of electronic communications service is technologically feasible. Any provider of electronic communication service furnishing such facilities or technical assistance shall be compensated therefor by the applicant for reasonable expenses incurred in providing the facilities or assistance. The service provider shall be immune from civil and criminal liability for any assistance rendered to the applicant pursuant to this section.

(g) Entry by law enforcement officers.—An order authorizing the interception of a wire, electronic or oral communication shall, if requested, authorize the entry of premises or facilities specified in subsection (a)(3), or premises necessary to obtain access to the premises or facilities specified in subsection (a)(3), by the law enforcement officers specified in subsection (a)(1), as often as necessary solely for the purposes of installing, maintaining or removing an electronic, mechanical or other device or devices provided that such entry is reasonably necessary to accomplish the purposes of this [chapter] subchapter and provided that the judge who issues the order shall be notified of the time and method of each such entry prior to entry if practical and, in any case, within 48 hours of entry.

(h) Roving wiretaps.—The requirements of subsection (a)(3) relating to the specification of the facilities from which, or the place where, the communication is to be intercepted do not apply if:

(1) In the case of an application with respect to the interception of an oral communication:

(i) the application is made by the Attorney General or a deputy attorney general designated in writing by the Attorney General or the district attorney or a deputy or assistant district attorney designated in writing by the district attorney;

(ii) the application contains a full and complete statement as to why such specification is not practical and identifies the person committing the offense and whose communications are to be intercepted; and

(iii) the judge finds that such specification is not practical.

(2) In the case of an application with respect to a wire or electronic communication:

(i) the application is made by the Attorney General or a deputy attorney general designated in writing by the Attorney General or the district attorney or a deputy or assistant district attorney designated in writing by the district attorney.

(ii) the application identifies the person believed to be committing the offense and whose communications are to be intercepted and the applicant makes a showing of a purpose, on the part of that person, to thwart interception by changing facilities; and

(iii) the judge finds that such purpose has been adequately shown.

Section 8. Sections 5713(a), 5713.1(b) and (c), 5714, 5715, 5717, 5718, 5719 and 5720 of Title 18 are amended to read:
§ 5713. Emergency situations.

(a) Application.—Whenever, upon informal application by the Attorney General or a designated deputy attorney general authorized in writing by the Attorney General or a district attorney or an assistant district attorney authorized in writing by the district attorney of a county wherein the interception is to be made, a judge determines there are grounds upon which an order could be issued pursuant to this chapter, and that an emergency situation exists with respect to the investigation of an offense designated in section 5708 (relating to order authorizing interception of wire, electronic or oral communications), and involving conspiratorial activities characteristic of organized crime or a substantial danger to life or limb, dictating authorization for immediate interception of wire, electronic or oral communications before an application for an order could with due diligence be submitted to him and acted upon, the judge may grant oral approval for such interception without an order, conditioned upon the filing with him, within 48 hours thereafter, of an application for an order which, if granted, shall recite the oral approval and be retroactive to the time of such oral approval. Such interception shall immediately terminate when the communication sought is obtained or when the application for an order is denied, whichever is earlier. In the event no application for an order is made, the content of any wire, electronic or oral communication intercepted shall be treated as having been obtained in violation of this [chapter] subchapter.

§ 5713.1. Emergency hostage and barricade situations.

(b) Procedure.—A supervising law enforcement officer who reasonably determines that an emergency situation exists that requires a wire or oral communication to be intercepted before an order authorizing such interception can, with due diligence, be obtained, and who determines that there are grounds upon which an order could be entered under this chapter to authorize such interception, may intercept such wire or oral communication. An application for an order approving the interception must be made by the supervising law enforcement officer in accordance with section 5709 (relating to application for order) within 48 hours after the interception has occurred or begins to occur. Interceptions pursuant to this section shall be conducted in accordance with the procedures of this [chapter] subchapter. Upon request of the supervising law enforcement officer who determines to authorize interceptions of wire communications under this section, a provider of electronic communication service shall provide assistance and be compensated therefor as provided in section 5712(f) (relating to issuance of order and effect). In the absence of an order, such interception shall immediately terminate when the situation giving rise to the hostage or barricade situation ends or when the application for the order is denied, whichever is earlier. In the event such application for approval is denied or in any other case where the interception is terminated without an order having been issued, the contents of any wire or oral communication intercepted shall be treated as having been obtained in violation of this [chapter] subchapter, and an inventory shall be served as provided in section 5716 (relating to service of inventory and inspection of intercepted communications). Thereafter, the supervising law enforcement officer shall follow the procedures set forth in section 5713(b) (relating to emergency situations).

(c) Defense.—A good faith reliance on the provisions of this section shall be a complete defense to any civil or criminal action brought under this [chapter] subchapter or any other statute against any law enforcement officer or agency conducting any interceptions pursuant to this section as well as a provider of electronic communication service who is required to provide assistance in conducting such interceptions upon request of a supervising law enforcement officer.

§ 5714. Recording of intercepted communications.

(a) Recording and monitoring.—Any wire, electronic or oral communication intercepted in accordance with this [chapter] subchapter shall, if practicable, be recorded by tape or other comparable method. The recording shall be done in such a way as will protect it from editing or other alteration. Whenever an interception is being monitored, the monitor shall be an investigative or law enforcement officer certified under section 5724 (relating to training), and where practicable, keep a signed, written record which shall include the following:

- (1) The date and hours of surveillance.
- (2) The time and duration of each intercepted communication.
- (3) The participant, if known, in each intercepted conversation.
- (4) A summary of the content of each intercepted communication.

(b) Sealing of recordings.—Immediately upon the expiration of the order or extensions or renewals thereof, all monitor's records, tapes and other recordings shall be transferred to the judge issuing the order and sealed under his direction. Custody of the tapes, or other recordings shall be maintained wherever the court directs. They shall not be destroyed except upon an order of the court and in any event shall be kept for ten years. Duplicate tapes, or other recordings may be made for disclosure or use pursuant to section 5717 (relating to investigative disclosure or use of contents of wire, electronic or oral communications or derivative evidence). The presence of the seal provided by this section, or a satisfactory explanation for its absence, shall be a prerequisite for the disclosure of the contents of any wire, electronic or oral communication, or evidence derived therefrom, under section 5717(b).

§ 5715. Sealing of applications, orders and supporting papers.

Applications made, final reports, and orders granted pursuant to this [chapter] subchapter and supporting papers and monitor's records shall be sealed by the court and shall be held in custody as the court shall direct and shall not be destroyed except on order of the court and in any event shall be kept for ten years. They may be disclosed only upon a showing of

good cause before a court of competent jurisdiction except that any investigative or law enforcement officer may disclose such applications, orders and supporting papers and monitor's records to investigative or law enforcement officers of this or another state, any of its political subdivisions, or of the United States to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure. In addition to any remedies and penalties provided by this [chapter] subchapter, any violation of the provisions of this section may be punished as contempt of the court.

§ 5717. [Disclosure] Investigative disclosure or use of contents of wire, electronic or oral communications or derivative evidence.

(a) [Investigative activities.—] Law enforcement personnel.—Any investigative or law enforcement officer who, [by any means authorized by this chapter,] under subsection (a.1), (a.2) or (b), has obtained knowledge of the contents of any wire, electronic or oral communication, or evidence derived therefrom, may disclose such contents or evidence to another investigative or law enforcement officer[, including another investigative or law enforcement officer of another state or political subdivision thereof, or make use of such contents or evidence] to the extent that such disclosure [or use] is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

(a.1) Use of information.—Any investigative or law enforcement officer who, by any means authorized by this subchapter, has obtained knowledge of the contents of any wire, electronic or oral communication or evidence derived therefrom may use such contents or evidence to the extent such use is appropriate to the proper performance of his official duties.

(a.2) Civilians.—Any person other than an investigative or law enforcement officer who as a party to the communication has obtained knowledge of the contents of any wire, electronic or oral communication, or evidence derived therefrom, may disclose such contents or evidence to an investigative or law enforcement officer.

(b) Evidence.—Any person who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, electronic or oral communication, or evidence derived therefrom, may disclose such contents or evidence to an investigative or law enforcement officer and may disclose such contents or evidence while giving testimony under oath or affirmation in any criminal proceeding in any court of this Commonwealth or of another state or of the United States or before any state or Federal grand jury or investigating grand jury.

(c) Otherwise authorized personnel.—Any person who, by any means authorized by the laws of another state or the Federal Government, has obtained knowledge of the contents of any wire, electronic or oral communication, or evidence derived therefrom, may disclose such contents or evidence to an investigative or law enforcement officer and may disclose such contents or evidence where otherwise admissible while giving testimony under oath or affirmation in any proceeding in any court of this Commonwealth.]

§ 5718. Interception of communications relating to other offenses.

When an investigative or law enforcement officer, while engaged in court authorized interceptions of wire, electronic or oral communications in the manner authorized herein, intercepts wire, electronic or oral communications relating to offenses other than those specified in the order of authorization, the contents thereof, and evidence derived therefrom, may be disclosed or used as provided in section 5717(a) (relating to investigative disclosure or use of contents of wire, electronic or oral communications or derivative evidence). Such contents and evidence may be disclosed in testimony under oath or affirmation in any criminal proceeding in any court of this Commonwealth or of another state or of the United States or before any state or Federal grand jury when authorized by a judge who finds on subsequent application that the contents were otherwise intercepted in accordance with the provisions of this [chapter] subchapter. Such application shall be made as soon as practicable.

§ 5719. Unlawful use or disclosure of existence of order concerning intercepted communication.

Except as specifically authorized pursuant to this [chapter] subchapter any person who willfully uses or discloses the existence of an order authorizing interception of a wire, electronic or oral communication is guilty of a misdemeanor of the second degree.

§ 5720. Service of copy of order and application before disclosure of intercepted communication in trial, hearing or proceeding.

The contents of any wire, electronic or oral communication intercepted in accordance with the provisions of this [chapter] subchapter, or evidence derived therefrom, shall not be disclosed in any trial, hearing, or other adversary proceeding before any court of the Commonwealth unless, not less than ten days before the trial, hearing or proceeding the parties to the action have been served with a copy of the order, the accompanying application and the final report under which the interception was authorized or, in the case of an interception under section 5704 (relating to exceptions to prohibition of interception and disclosure of communications), notice of the fact and nature of the interception. The service of inventory, order, application, and final report required by this section may be waived by the court only where it finds that the service is not feasible and that the parties will not be prejudiced by the failure to make the service.

Section 9. Section 5721 of Title 18 is repealed.

Section 10. Title 18 is amended by adding a section to read:

§ 5721.1. Evidentiary disclosure of contents of intercepted communication or derivative evidence.

(a) Disclosure in evidence generally.—

(1) Except as provided in paragraph (2), no person shall disclose the contents of any wire, electronic or oral communication, or evidence derived therefrom, in any proceeding in any court, board or agency of this Commonwealth.

(2) Any person who has obtained knowledge of the contents of any wire, electronic or oral communication, or evidence derived therefrom, which is properly subject to disclosure under section 5717 (relating to investigative disclosure or use of contents of wire, electronic or oral communications or derivative evidence), may also disclose such contents or evidence in any matter relating to any criminal, quasi-criminal, forfeiture, administrative enforcement or professional disciplinary proceedings in any court, board or agency of this Commonwealth or of another state or of the United States or before any state or Federal grand jury or investigating grand jury. Once such disclosure has been made, then any person may disclose the contents or evidence in any such proceeding.

(3) Notwithstanding the provisions of paragraph (2), no disclosure in any such proceeding shall be made so long as any order excluding such contents or evidence pursuant to the provisions of subsection (b) is in effect.

(b) Motion to exclude.—Any aggrieved person who is a party to any proceeding in any court, board or agency of this Commonwealth may move to exclude the contents of any wire, electronic or oral communication, or evidence derived therefrom, on any of the following grounds:

(1) Unless intercepted pursuant to an exception set forth in section 5704 (relating to exceptions to prohibition of interception and disclosure of communications), the interception was made without prior procurement of an order of authorization under section 5712 (relating to issuance of order and effect) or an order of approval under section 5713(a) (relating to emergency situations) or 5713.1(b) (relating to emergency hostage and barricade situations).

(2) The order of authorization issued under section 5712 or the order of approval issued under section 5713(a) or 5713.1(b) was not supported by probable cause with respect to the matters set forth in section 5710(a)(1) and (2) (relating to grounds for entry of order).

(3) The order of authorization issued under section 5712 is materially insufficient on its face.

(4) The interception materially deviated from the requirements of the order of authorization.

(5) With respect to interceptions pursuant to section 5704(2), the consent to the interception was coerced by the Commonwealth.

(6) Where required pursuant to section 5704(2)(iv), the interception was made without prior procurement of a court order, or without probable cause.

(c) Procedure.—

(1) The motion shall be made in accordance with the applicable rules of procedure governing such proceedings. The court, board or agency, upon the filing of such motion, shall make available to the movant or his counsel the intercepted communication and evidence derived there from.

(2) In considering a motion to exclude under subsection (b)(2), both the written application under section 5710(a) and all matters that were presented to the judge under section 5710(b) shall be admissible.

(3) The movant shall bear the burden of proving by a preponderance of the evidence the grounds for exclusion asserted under subsection (b)(3) and (4).

(4) With respect to exclusion claims under subsection (b)(1), (2) and (5), the respondent shall bear the burden of proof by a preponderance of the evidence.

(5) With respect to exclusion claims under subsection (b)(6), the movant shall have the initial burden of demonstrating by a preponderance of the evidence that the interception took place in his home. Once he meets this burden, the burden shall shift to the respondent to demonstrate by a preponderance of the evidence that the interception was in accordance with section 5704(2)(iv).

(6) Evidence shall not be deemed to have been derived from communications excludable under subsection (b) if the respondent can demonstrate by a preponderance of the evidence that the Commonwealth or the respondent had a basis independent of the excluded communication for discovering such evidence, or that such evidence would have been inevitably discovered by the Commonwealth or the respondent absent the excluded communication.

(d) Appeal.—In addition to any other right of appeal, the Commonwealth shall have the right to appeal from an order granting a motion to exclude if the official to whom the order authorizing the intercept was granted shall certify to the court that the appeal is not taken for purposes of delay. The appeal shall be taken in accordance with the provisions of Title 42 (relating to judiciary and judicial procedure).

(e) Exclusiveness of remedies and sanctions.—The remedies and sanctions described in this subchapter with respect to the interception of wire, electronic or oral communications are the only judicial remedies and sanctions for nonconstitutional violations of this subchapter involving such communications.

Section 11. Sections 5722, 5724, 5725, 5726, 5743(d) and (e), 5744(b) and 5747(d) of Title 18 are amended to read:

§ 5722. Report by issuing or denying judge.

Within 30 days after the expiration of an order or an extension or renewal thereof entered under this [chapter] subchapter or the denial of an order confirming verbal approval of interception, the issuing or denying judge shall make a report to the Administrative Office of Pennsylvania Courts stating the following:

- (1) That an order, extension or renewal was applied for.
- (2) The kind of order applied for.
- (3) That the order was granted as applied for, was modified, or was denied.
- (4) The period of the interceptions authorized by the order, and the number and duration of any extensions or renewals of the order.
- (5) The offense specified in the order, or extension or renewal of an order.

(6) The name and official identity of the person making the application and of the investigative or law enforcement officer and agency for whom it was made.

(7) The character of the facilities from which or the place where the communications were to be intercepted.

§ 5724. Training.

The Attorney General and the Commissioner of the Pennsylvania State Police shall establish a course of training in the legal and technical aspects of wiretapping and electronic surveillance as allowed or permitted by this [chapter] subchapter, shall establish such regulations as they find necessary and proper for such training program and shall establish minimum standards for certification and periodic recertification of Commonwealth investigative or law enforcement officers as eligible to conduct wiretapping or electronic surveillance under this chapter. The Pennsylvania State Police shall charge each investigative or law enforcement officer who enrolls in this training program a reasonable enrollment fee to offset the costs of such training.

§ 5725. Civil action for unlawful interception, disclosure or use of wire, electronic or oral communication.

(a) Cause of action.—Any person whose wire, electronic or oral communication is intercepted, disclosed or used in violation of this [chapter] subchapter shall have a civil cause of action against any person who intercepts, discloses or uses or procures any other person to intercept, disclose or use, such communication; and shall be entitled to recover from any such person:

- (1) Actual damages, but not less than liquidated damages computed at the rate of \$100 a day for each day of violation, or \$1,000, whichever is higher.
- (2) Punitive damages.
- (3) A reasonable attorney's fee and other litigation costs reasonably incurred.

(b) Waiver of sovereign immunity.—To the extent that the Commonwealth and any of its officers, officials or employees would be shielded from liability under this section by the doctrine of sovereign immunity, such immunity is hereby waived for the purposes of this section.

(c) Defense.—It is a defense to an action brought pursuant to subsection (a) that the actor acted in good faith reliance on a court order or the provisions of this [chapter] subchapter.

§ 5726. Action for removal from office or employment.

(a) Cause of action.—Any aggrieved person shall have the right to bring an action in Commonwealth Court against any investigative or law enforcement officer, public official or public employee seeking the officer's, official's or employee's removal from office or employment on the grounds that the officer, official or employee has intentionally violated the provisions of this [chapter] subchapter. If the court shall conclude that such officer, official or employee has in fact intentionally violated the provisions of this [chapter] subchapter, the court shall order the dismissal or removal from office of said officer, official or employee.

(b) Defense.—It is a defense to an action brought pursuant to subsection (a) that the actor acted in good faith reliance on a court order or the provisions of this [chapter] subchapter.

§ 5743. Requirements for governmental access.

* * *

(d) Requirements for court order.—A court order for disclosure under subsection (b) or (c) shall be issued only if the investigative or law enforcement officer shows that there [is reason to believe] are specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication, or the records or other information sought, are relevant and material to a legitimate investigative or law enforcement inquiry an ongoing criminal investigation. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify the order if the information or records requested are unusually voluminous in nature or compliance with the order would otherwise cause an undue burden on the provider.

(e) No cause of action against a provider disclosing information under this [chapter] subchapter.—No cause of action shall lie against any provider

of wire or electronic communication service, its officers, employees, agents or other specified persons for providing information, facilities or assistance in accordance with the terms of a court order, warrant, subpoena or certification under this [chapter] subchapter.

§ 5744. Backup preservation.

(b) Customer challenges.—

(1) Within 14 days after notice by the investigative or law enforcement officer to the subscriber or customer under subsection (a)(2), the subscriber or customer may file a motion to quash the subpoena or vacate the court order, copies to be served upon the officer and written notice of the challenge to be given to the service provider. A motion to vacate a court order shall be filed in the court which issued the order. A motion to quash a subpoena shall be filed in the court which has authority to enforce the subpoena. The motion or application shall contain an affidavit or sworn statement:

(i) stating that the applicant is a customer of or subscriber to the service from which the contents of electronic communications maintained for the applicant have been sought; and

(ii) containing the applicant's reasons for believing that the records sought are not relevant to a legitimate investigative or law enforcement inquiry or that there has not been substantial compliance with the provisions of this subchapter in some other respect.

(2) Service shall be made under this section upon the investigative or law enforcement officer by delivering or mailing by registered or certified mail a copy of the papers to the person, office or department specified in the notice which the customer has received pursuant to this [chapter] subchapter. For the purposes of this section, the term "delivery" has the meaning given that term in the Pennsylvania Rules of Civil Procedure.

(3) If the court finds that the customer has complied with paragraphs (1) and (2), the court shall order the investigative or law enforcement officer to file a sworn response, which may be filed in camera if the investigative or law enforcement officer includes in its response the reasons which make in camera review appropriate. If the court is unable to determine the motion or application on the basis of the parties' initial allegations and responses, the court may conduct such additional proceedings as it deems appropriate. All such proceedings shall be completed and the motion or application decided as soon as practicable after the filing of the officer's response.

(4) If the court finds that the applicant is not the subscriber or customer for whom the communications sought by the investigative or law enforcement officer are maintained, or that there is reason to believe that the investigative or law enforcement inquiry is legitimate and that the communications sought are relevant to that inquiry, it shall deny the motion or application and order the process enforced. If the court finds that the applicant is the subscriber or customer for whom the communications sought by the governmental entity are maintained, and that there is no reason to believe that the communications sought are relevant to a legitimate investigative or law enforcement inquiry, or that there has not been substantial compliance with the provisions of this [chapter] subchapter, it shall order the process quashed.

(5) A court order denying a motion or application under this section shall not be deemed a final order, and no interlocutory appeal may be taken therefrom. The Commonwealth or investigative or law enforcement officer

shall have the right to appeal from an order granting a motion or application under this section.

§ 5747. Civil action.

(d) Defense.—A good faith reliance on:

(1) a court warrant or order, a grand jury subpoena, a legislative authorization or a statutory authorization;

(2) a request of an investigative or law enforcement officer under section 5713 (relating to emergency situations); or

(3) a good faith determination that section 5704(10) (relating to exceptions to prohibitions of interception and disclosure of communications) permitted the conduct complained of;

is a complete defense to any civil or criminal action brought under this [chapter] subchapter or any other law.

Section 12. The heading of Subchapter E of Chapter 57 of Title 18 is amended to read:

SUBCHAPTER E
PEN REGISTERS, TRAP AND TRACE DEVICES,
AND TELECOMMUNICATION IDENTIFICATION
INTERCEPTION DEVICES

Section 13. Sections 5771, 5772 heading and (a), 5773, 5774, 5775 and 5781 of Title 18 are amended to read:

§ 5771. General prohibition [of pen register and trap and trace device use; exception] on use of certain devices and exception.

(a) General rule.—Except as provided in this section, no person may install or use a pen register or a trap and trace device or a telecommunication identification interception device without first obtaining a court order under section 5773 (relating to issuance of an order for [a pen register or a trap and trace device] use of certain devices).

(b) Exception.—The prohibition of subsection (a) does not apply with respect to the use of a pen register [or], a trap and trace device or a telecommunication identification interception device by a provider of electronic or wire communication service:

(1) relating to the operation, maintenance and testing of a wire or electronic communication service or to the protection of the rights or property of the provider, or to the protection of users of the service from abuse of service or unlawful use of service; [or]

(2) to record the fact that a wire or electronic communication was initiated or completed in order to protect the provider, another provider furnishing service toward the completion of the wire communication or a user of the service from fraudulent, unlawful or abusive use of service[; or]; or

(3) with the consent of the user of the service.

(b.1) Limitation.—A government agency authorized to install and use a pen register under this chapter shall use technology reasonably available to it that restricts the recording or decoding of electronic or other impulses to the dialing and signaling information utilized in call processing.

(c) Penalty.—Whoever intentionally and knowingly violates subsection (a) is guilty of a misdemeanor of the third degree.

§ 5772. Application for an order for [pen registers and trap and trace devices] use of certain devices.

(a) Application.—The Attorney General or a deputy attorney general designated in writing by the Attorney General or a district attorney or an assistant district attorney designated in writing by the district attorney may make application for an order or an extension of an order under section 5773 (relating to issuance of an order for [a pen register or a trap and trace device] use of certain devices) authorizing or approving the installation and use of a pen register [or], a trap and trace device or a telecommunication identification interception device under this [chapter] subchapter, in writing, under oath or equivalent affirmation, to a court of common pleas[.] or to any Superior Court judge when an application for an order authorizing interception of wire or electronic communications is or has been made for the targeted telephone or another application for interception under this subchapter has been made involving the same investigation.

* * *

§ 5773. Issuance of an order for [a pen register or a trap and trace device] use of certain devices.

(a) In general.—Upon an application made under section 5772 (relating to application for an order for [pen registers and trap and trace devices] use of certain devices), the court [of common pleas] shall enter an ex parte order authorizing the installation and use of a pen register [or], a trap and trace device or a telecommunication identification interception device within the jurisdiction of the court if the court finds that there is probable cause to believe that information relevant to an ongoing criminal investigation will be obtained by such installation and use on the targeted telephone [line to which the pen register is to be attached].

(b) Contents of order.—An order issued under this section shall:

(1) Specify:

(i) That there is probable cause to believe that information relevant to an ongoing criminal investigation will be obtained [on the telephone line to which the pen register or trap and trace device is to be attached] from the targeted telephone.

(ii) The identity, if known, of the person to whom is leased or in whose name is listed the [telephone line to which the pen register or trap and trace device is to be attached.] targeted telephone, or in the case of the use of a telecommunication identification interception device, the identity, if known, of the person or persons using the targeted telephone.

(iii) The identity, if known, of the person who is the subject of the criminal investigation.

(iv) [The number and, if known,] In the use of pen registers and trap and trace devices only, the physical location of the [telephone line to which the pen register or trap and trace device is to be attached, and, in the case of a trap and trace device, the geographical limits of the trap and trace order] targeted telephone.

(v) A statement of the offense to which the information likely to be obtained by the pen register [or], trap and trace device or the telecommunication identification interception device relates.

(2) Direct, upon the request of the applicant, the furnishing of information, facilities and technical assistance necessary to accomplish the installation of the pen register under section 5771 (relating to general prohibition [of pen register and trap and trace device use; exception].) on use of certain devices and exception).

(3) In the case of a telecommunication identification interception device, direct that all interceptions be recorded and monitored in accordance with section 5714(a)(1) and (2) and (b) (relating to recording of intercepted communications).

(c) Time period and extensions.—

(1) An order issued under this section shall authorize the installation and use of a pen register [or], trap and trace device or a telecommunication identification interception device for a period not to exceed 30 days.

(2) Extensions of such an order may be granted but only upon an application for an order under section 5772 and upon the judicial finding required by subsection (a). The period of each extension shall be for a period not to exceed 30 days.

(d) Nondisclosure of existence of pen register [or], trap and trace device or a telecommunication identification interception device.—An order authorizing or approving the installation and use of a pen register

[or], a trap and trace device or a telecommunication identification interception device shall direct that:

(1) The order be sealed until otherwise ordered by the court.

(2) The person owning or leasing the [line to which the pen register or a trap and trace device is attached] targeted telephone, or who has been ordered by the court to provide assistance to the applicant, not disclose the existence of the pen register [or], trap and trace device or telecommunication identification interception device or the existence of the investigation to the listed subscriber, or to any other person, unless or until otherwise ordered by the court.

§ 5774. Assistance in installation and use of [pen registers or trap and trace devices] certain devices.

(a) Pen [registers] register.—Upon the request of an applicant under this subchapter, a provider of wire or electronic communication service, landlord, custodian or other person shall forthwith provide all information, facilities and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if assistance is directed by a court order as provided in section 5773(b)(2) (relating to issuance of an order for [a pen register or a trap and trace device] use of certain devices).

(b) Trap and trace device.—Upon the request of an applicant under this subchapter, a provider of a wire or electronic communication service, landlord, custodian or other person shall install the device forthwith on the appropriate line and shall furnish all additional information, facilities and technical assistance, including installation and operation of the device unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if installation and assistance are directed by a court order as provided in section 5773. Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished to the applicant designated in the court order at reasonable intervals during regular business hours for the duration of the order.

(c) Compensation.—A provider of wire or electronic communication service, landlord, custodian or other person who furnishes facilities or technical assistance pursuant to this section shall be reasonably compensated for reasonable expenses incurred in providing the facilities and assistance.

(d) No cause of action against a provider disclosing information under this [chapter] subchapter.—No cause of action shall lie in any court against any provider of a wire or electronic communication service, its officers, employees, agents or other specified persons for providing information, facilities or assistance in accordance with the terms of a court order under this subchapter.

(e) Defense.—A good faith reliance on a court order or a statutory authorization is a complete defense against any civil or criminal action brought under this subchapter or any other law.

§ 5775. Reports concerning [pen registers] certain devices.

(a) Attorney General.—The Attorney General shall annually report to the Administrative Office of Pennsylvania Courts on the number of orders for pen registers [and], trap and trace devices and telecommunication identification interception devices applied for by investigative or law enforcement agencies of the Commonwealth or its political subdivisions.

(b) District attorney.—Each district attorney shall annually provide to the Attorney General information on the number of orders for pen registers [and], trap and trace devices, and telecommunication identification interception devices applied for on forms prescribed by the Attorney General.

§ 5781. Expiration of chapter.

This chapter expires December 31, [1999] 2004, unless extended by statute.

Section 14. This act shall take effect immediately.

On the question,

Will the House agree to the amendment ?

The SPEAKER. For the information of the House, on your desk is 2767, a Chadwick amendment. Mr. Chadwick, would you explain the portion that was deleted.

Mr. CHADWICK. Thank you, Mr. Speaker.

The amendment as originally drawn addressed both Title 18 and Title 75. I was informed that that was improper to do, and we have deleted all references to Title 75 from the amendment.

The SPEAKER. The gentleman, Mr. Lloyd.

Mr. LLOYD. Mr. Speaker, if I recall, the gentleman, Mr. Chadwick, had not really explained the amendment when it was ruled out of order before, so I would like to wait my turn until he has done that.

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

Mr. CHADWICK. Thank you, Mr. Speaker.

This amendment addresses Pennsylvania's wiretap law, which over the years has become sadly outdated and ineffective, and the reason for that—

PARLIAMENTARY INQUIRY

Mr. ITKIN. Mr. Speaker? Mr. Speaker?

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

Mr. ITKIN. Is it not a rule of the House that the members must have the particular amendment on their desks before voting?

The SPEAKER. Will the gentleman come to the rostrum.

(Conference held at Speaker's podium.)

BILL PASSED OVER

The SPEAKER. The bill, with amendments, will be passed over for the day.

HOUSE SCHEDULE

The SPEAKER. The House will come to order.

A decision has been made that there will be no further votes tonight because everybody worked so hard all day.

Now, keep in mind, keep in mind, we are coming in tomorrow morning at 9:30; 9:30. The Chair— May I have your attention? May I have your attention? The Chair is holding the desk open to do some homework, and then I intend to only recess, and I will continue the House in recess until tomorrow morning in case something has been missed at this time rather than adjourning at this time.

I know of nothing at this moment, and I will consult with the Democrat leadership before I would do anything, but I am holding—

Mr. BOYES. Mr. Speaker?

The SPEAKER. —but I am holding it in recess.

FINANCE COMMITTEE MEETING

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

Mr. BOYES. To announce a committee meeting tomorrow morning, Mr. Speaker.

Wednesday's Finance Committee meeting originally scheduled to begin at 9:30 a.m. will now begin on Wednesday at 9 a.m. in room 39, East Wing.

The SPEAKER. The Chair thanks the gentleman.

LOCAL GOVERNMENT COMMITTEE MEETING

The SPEAKER. The gentleman, Mr. Herman.

Mr. HERMAN. Thank you, Mr. Speaker.

There is going to be an immediate meeting of the House Local Government Committee in the rear of the House — immediately. Thank you, Mr. Speaker.

INTERGOVERNMENTAL AFFAIRS COMMITTEE MEETING

The SPEAKER. The gentleman, Mr. Flick.

Mr. FLICK. Thank you, Mr. Speaker.

There will be a brief meeting of the Intergovernmental Affairs Committee in the rear of the House. Thank you.

VOTE CORRECTIONS

The SPEAKER. The lady, Ms. Boscola.

Ms. BOSCOLA. Thank you, Mr. Speaker.

I would like to correct the record.

On SB 423, amendment 2635, which was the Bud George amendment, I would like to be recorded in the affirmative. I was not in my seat at the time.

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

The gentleman, Mr. James.

Mr. JAMES. I would like to correct the record, please.

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

Mr. JAMES. On SB 423, amendment A2740, my switch was voted in the affirmative. I would like to be voted in the negative; corrected. Thank you.

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

The gentleman, Mr. Gordner.

Mr. GORDNER. Thank you, Mr. Speaker.

I would like to correct the record.

On amendment 2637 to SB 423 I was recorded in the affirmative. I would like to be recorded in the negative. And on amendment 2641 to SB 423 I was recorded in the affirmative, and I would like to be recorded in the negative. Thank you, Mr. Speaker.

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

JUDICIARY COMMITTEE MEETING

The SPEAKER. The gentleman, Mr. Gannon.

Mr. GANNON. Thank you, Mr. Speaker.

Mr. Speaker, the House Judiciary Committee meeting of this morning was recessed to the call of the Chair, and I will be calling that meeting at some point tomorrow during a break.

The SPEAKER. The Chair thanks the gentleman.

VOTE CORRECTION

The SPEAKER. Mr. Roberts.

Mr. ROBERTS. Thank you, Mr. Speaker.

I would like to make a correction to the record.

The SPEAKER. The gentleman may proceed.

Mr. ROBERTS. On concurrence of SB 870 I was out of my seat, and I would like to have my vote recorded in the affirmative, please.

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

STATEMENT BY MR. COY

The SPEAKER. Does the gentleman, Mr. Coy, desire unanimous consent?

Mr. COY. I do, Mr. Speaker.

The SPEAKER. The House will come to order.

Mr. Coy.

Mr. COY. Thank you, Mr. Speaker.

Mr. Speaker, I will take only a moment or two of the House's time, and I recognize that many of the members have left, but I say some of these things for the record but also because I feel so strongly about the issue.

Last week the House of Representatives passed HR 194. This was a resolution that was sponsored by Representative O'Brien, and I was the second sponsor. The resolution was very direct and straightforward. It urged the Department of Public Welfare to not seek a Federal waiver on the subject of early intervention care for children and toddlers in our society that desperately need care.

The resolution was intended simply to urge the Department of Welfare to further study this issue before pursuing a waiver to the Federal Government. Now, the waiver, Mr. Speaker, will have the effect, if granted by the Federal Government, of providing less money and less attention to center-based services as opposed to home care for children who are in desperate need of these early intervention services.

The resolution passed unanimously, because many of the members of the House, in fact all the members of the House, agreed with Representative O'Brien and me that this Federal waiver should not be sought, that we should continue down the path that we have in Pennsylvania of causing early intervention services to be handled by centers rather than simply home-care services.

Mr. Speaker, the same day that the House of Representatives passed unanimously this resolution, the Department of Public Welfare, under the signature of its Secretary, sent a letter to Mr. Robert Taylor, the regional administrator of the Division of Medicaid, Health Care Financing Administration, essentially the Federal Government, asking for the waiver. The same day that the House urged the department to not take this measure forward, the Secretary of Public Welfare signs the measure, sends it to the Federal Government, and asks for this very action that the House implored not to happen to happen.

Mr. Speaker, I do not recall in 15 years serving in the General Assembly ever asking for unanimous consent, especially unanimous consent to be critical of an administration. This administration in taking this action did not well serve the people of Pennsylvania, did not well serve young children who are in

desperate need of care, and I think the Secretary of Public Welfare ought to visit a few center-based services where young children are helped. She is welcome to come to Chambersburg, to my district, to see where they are helped, and maybe on a firsthand basis this Secretary, who thinks this is the right thing to do, will learn that children and their families who desperately need care cannot all afford home-based care, cannot all afford the care that happens in a home setting, but need this center-based care.

This is ill advised, it is wrongheaded, and I am going to do all I can to urge the Federal Government to reject this waiver, and I think that I will have the support of many people in this chamber who are also, unlike the Secretary of Public Welfare and apparently the administration, concerned with children with disabilities, especially children who need long-term access to quality center-based care, which this waiver would seek to subvert.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

VOTE CORRECTION

The SPEAKER. The gentleman, Mr. Kaiser.

Mr. KAISER. Thank you, Mr. Speaker.

I would like to correct the record.

The SPEAKER. The gentleman is in order.

Mr. KAISER. Mr. Speaker, on June 3, HR 197, I was not recorded as voting. I would like the record to reflect a positive, a "yes," vote. Thank you, Mr. Speaker.

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

SENATE MESSAGE**HOUSE BILL
CONCURRED IN BY SENATE**

The clerk of the Senate, being introduced, returned **HB 1054, PN 1471**, with information that the Senate has passed the same without amendment.

SENATE MESSAGE**AMENDED HOUSE BILLS RETURNED
FOR CONCURRENCE AND
REFERRED TO COMMITTEE ON RULES**

The clerk of the Senate, being introduced, returned **HB 171, PN 2015; HB 479, PN 2016; and HB 1055, PN 1985**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested.

BILL SIGNED BY SPEAKER

Bill numbered and entitled as follows having been prepared for presentation to the Governor, and the same being correct, the title was publicly read as follows:

HB 1054, PN 1471

An Act amending the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of 1921, providing for sharing of confidential information.

Whereupon, the Speaker, in the presence of the House, signed the same.

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

HB 734, PN 2018 (Amended) By Rep. CLYMER

An Act amending the act of June 5, 1913 (P.L.419, No.276) entitled "An act to authorize the display of the State, county, city, borough, or other municipal flags on public buildings in the Commonwealth," providing for display of the Pennsylvania flag for deceased firefighters and police officers.

STATE GOVERNMENT.

HB 923, PN 2017 (Amended) By Rep. CLYMER

An Act amending Titles 62 (Procurement), 1 (General Provisions) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, adding provisions relating to procurement; and making repeals.

STATE GOVERNMENT.

HB 1463, PN 1742 By Rep. CLYMER

An Act authorizing and directing the Department of General Services, with the approval of the Governor, to grant and convey to the City of McKeesport, a tract of land situate in the Seventh Ward, City of McKeesport, Allegheny County.

STATE GOVERNMENT.

**BILL REPORTED AND REREFERRED TO
COMMITTEE ON JUDICIARY**

HB 1326, PN 1514 By Rep. CLYMER

An Act amending the act of June 22, 1964 (Sp.Sess., P.L.84, No.6), known as the Eminent Domain Code, further providing for compensation for delay in payment.

STATE GOVERNMENT.

**BILL REPORTED AND REREFERRED TO
COMMITTEE ON FINANCE**

SB 489, PN 1138 By Rep. HERMAN

An Act amending the act of December 31, 1965 (P.L.1257, No.511), entitled The Local Tax Enabling Act, excluding ski facilities' admission receipts from local amusement taxes; prohibiting taxes on certain auto racing facilities; and further defining "net profits."

LOCAL GOVERNMENT.

**RESOLUTIONS REPORTED
FROM COMMITTEE**

HR 203, PN 1990 By Rep. FLICK

A Resolution memorializing the Congress of the United States to suspend implementation of the vehicle emissions provisions of the Clean Air Act Amendments of 1990 and subsequent regulations promulgated by the Environmental Protection Agency.

INTERGOVERNMENTAL AFFAIRS.

HR 206, PN 1993 By Rep. FLICK

A Concurrent Resolution memorializing the Congress of the United States to take steps to control violence on television.

INTERGOVERNMENTAL AFFAIRS.

RECESS

The SPEAKER. Does the Republican leader or Democratic floor leader have any further business?

Hearing none, this House is now in recess to the call of the Chair.

AFTER RECESS

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

SENATE MESSAGE

AMENDED HOUSE BILLS RETURNED
FOR CONCURRENCE AND
REFERRED TO COMMITTEE ON RULES

The clerk of the Senate, being introduced, returned **HB 8, PN 1984; HB 87, PN 2019; and HB 502, PN 2020**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested.

SENATE MESSAGE

AMENDED SENATE BILL RETURNED
FOR CONCURRENCE AND
REFERRED TO COMMITTEE ON RULES

The clerk of the Senate, being introduced, informed that the Senate has concurred in the amendments made by the House of Representatives by amending said amendments to **SB 45, PN 1167**.

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

ADJOURNMENT

The SPEAKER. Does the majority leader or minority leader have any further business?

Hearing none, the Chair recognizes the gentleman from Allegheny County, Mr. Robinson.

Mr. ROBINSON. Mr. Speaker, I move that this House do now adjourn until Wednesday, June 11, 1997, at 9:45 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 9:44 a.m., e.d.t., June 11, 1997, the House adjourned.