

# COMMONWEALTH OF PENNSYLVANIA

## LEGISLATIVE JOURNAL

TUESDAY, SEPTEMBER 23, 1997

SESSION OF 1997

181ST OF THE GENERAL ASSEMBLY

No. 47

### HOUSE OF REPRESENTATIVES

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

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

#### PRAYER

REV. CRAIG S. STALLER, associate director of the Lutheran Advocacy Ministry in Pennsylvania, Harrisburg, Pennsylvania, guest Chaplain and guest of the gentleman from Dauphin, Mr. McNaughton, offered the following prayer:

Let us pray:

Almighty Lord, Heavenly God, bless those who hold office in the House of Representatives of Pennsylvania. We pray that Your guidance would especially be on the leaders of this legislative body, that they may contribute to wise decisions for the citizens of our Commonwealth and serve You in our generation to the honor of Your holy name.

We commend all gathered here, all who hold office, all elected officials in Pennsylvania to Your merciful care, that under their guidance we may live securely in peace and may be guided by Your providence. May they do their work in the spirit of wisdom, kindness, and justice. Help them to use their authority to serve the people of Pennsylvania faithfully and promote the general welfare for the accomplishment of what is pleasing to you.

For Your mercy's sake we pray. Amen.

#### PLEDGE OF ALLEGIANCE

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

#### JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, the approval of the Journal of Monday, September 22, 1997, will be postponed until printed. The Chair hears no objection.

#### HOUSE BILLS INTRODUCED AND REFERRED

**No. 1768** By Representatives BARLEY, BUNT, CAPPABIANCA, HERSHEY, STRITTMATTER, PHILLIPS, SCHULER, SEMMEL, TRUE, KREBS, ARMSTRONG,

CARONE, ZIMMERMAN, HESS, CHADWICK, WAUGH, MAITLAND, CLARK, SAYLOR and ZUG

An Act amending Title 3 (Agriculture) of the Pennsylvania Consolidated Statutes, providing for payment of indemnification and depopulation incentives for avian influenza.

Referred to Committee on AGRICULTURE AND RURAL AFFAIRS, September 23, 1997.

**No. 1769** By Representatives DEMPSEY and FEESE

An Act authorizing and directing the Department of General Services, with the approval of the Department of Environmental Protection and the Governor, to sell and convey to Marc G. and Susan K. Springman, certain land situate in Old Lycoming Township, Lycoming County, Pennsylvania.

Referred to Committee on STATE GOVERNMENT, September 23, 1997.

**No. 1770** By Representatives DEMPSEY, COLAIZZO, L. I. COHEN, OLASZ, HARHART, TRELLO, GEIST, ITKIN, STABACK, CURRY, HERSHEY, BOSCOLA, E. Z. TAYLOR, LAUGHLIN, STEELMAN, SATHER, HENNESSEY, RAMOS and FLEAGLE

An Act amending the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, further providing for medical insurance coverage for survivor spouses of annuitants.

Referred to Committee on STATE GOVERNMENT, September 23, 1997.

**No. 1771** By Representatives C. WILLIAMS, VEON, CALTAGIRONE, WOJNAROSKI, SANTONI, GLADECK, STEELMAN, BATTISTO, COY, HERMAN, MANDERINO, MELIO, REBER, HALUSKA, BUNT, TRICH, RUBLEY, CURRY, PETRARCA, LEVDANSKY, BOSCOLA, VAN HORNE, ARGALL, GEIST, WILT, WALKO, JOSEPHS, SEYFERT, GIGLIOTTI, RAMOS, PISTELLA, GORDNER, BELARDI, LAUGHLIN, DALEY, CORPORA, ROONEY, TIGUE, SHANER, DENT and CASORIO

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, providing for library development tax credits.

Referred to Committee on FINANCE, September 23, 1997.

**No. 1772** By Representatives TRAVAGLIO, DeLUCA, VEON, BELARDI, LaGROTTA, COLAIZZO, ROBINSON, DERMODY, STEELMAN, GORDNER, SURRA, YEWIC, TANGRETTI, CORPORA, CASORIO, BROWN, E. Z. TAYLOR, READSHAW, NICKOL, SAYLOR, OLASZ, BOSCOLA and HANNA

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, repealing responsibilities of agents to verify purchase price stated for certain vehicles.

Referred to Committee on TRANSPORTATION, September 23, 1997.

**No. 1773** By Representatives CHADWICK, FARGO, GODSHALL, ARMSTRONG, WAUGH, BARLEY, STABACK, HERSHEY, PRESTON, FICHTER, E. Z. TAYLOR, DeLUCA, GIGLIOTTI, C. WILLIAMS, SATHER, HENNESSEY and ROBERTS

An Act amending the act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945, further regulating appointments to a governing body.

Referred to Committee on LOCAL GOVERNMENT, September 23, 1997.

**No. 1774** By Representatives HANNA, LEVDANSKY, GEIST, LAUGHLIN, PRESTON, OLASZ, WOJNAROSKI, STABACK, DALEY, JAROLIN, BOSCOLA, HERSHEY, BELARDI and RAMOS

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 defining "forest reserve."

Referred to Committee on TOURISM AND RECREATIONAL DEVELOPMENT, September 23, 1997.

**No. 1775** By Representatives HANNA, WASHINGTON, KREBS, ROBINSON, SERAFINI, TRELLO, HALUSKA, JAMES, STABACK, WOJNAROSKI, MELIO and M. COHEN

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, further providing for school police officers' powers.

Referred to Committee on EDUCATION, September 23, 1997.

**No. 1776** By Representatives HANNA, TIGUE, ROBINSON, TRELLO and VAN HORNE

An Act amending the act of August 6, 1941 (P.L.861, No.323), referred to as the Pennsylvania Board of Probation and Parole Law, further providing for parole consideration matters.

Referred to Committee on JUDICIARY, September 23, 1997.

**No. 1777** By Representatives MASLAND, COWELL, PISTELLA, FAIRCHILD, KAISER, WALKO, MCGILL, M. COHEN, BENNINGHOFF, TIGUE, SCRIMENTI, NAILOR, HARHART, RUBLEY, MELIO, HENNESSEY, CHADWICK, CURRY, JOSEPHS and STEELMAN

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for mitigating circumstances for murder in the first degree; and defining "mentally retarded."

Referred to Committee on JUDICIARY, September 23, 1997.

**No. 1778** By Representatives LAWLESS, NAILOR, BOSCOLA, ARMSTRONG, ZUG, TRELLO, BROWNE, LEDERER, E. Z. TAYLOR, STABACK, ROHRER, SCHRODER, OLASZ, SCRIMENTI, DeLUCA, BENNINGHOFF, DEMPSEY, M. COHEN, KELLER, DALLY, KENNEY, ORIE, REBER, YOUNGBLOOD, PLATTS, TRUE, MELIO, EGOLF, HERSHEY and HENNESSEY

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for obscene and other sexual materials.

Referred to Committee on JUDICIARY, September 23, 1997.

**No. 1779** By Representatives LAWLESS, GODSHALL, TIGUE, C. WILLIAMS, STABACK, TRELLO, BOSCOLA, MCGEEHAN, E. Z. TAYLOR, MAYERNIK, RUBLEY, LAUGHLIN, FARGO, OLASZ, MELIO, SERAFINI, EACHUS, HENNESSEY, SEYFERT, ROBERTS, HORSEY and RAMOS

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for exemptions from jury duty.

Referred to Committee on JUDICIARY, September 23, 1997.

**No. 1780** By Representatives LAWLESS, BELARDI, GRUPPO, OLASZ, STABACK, TIGUE, C. WILLIAMS, HALUSKA, SATHER, BARRAR, MELIO, WAUGH, HENNESSEY, BUNT, BOSCOLA, ITKIN, ROSS, B. SMITH, EGOLF and RAMOS

An Act amending the act of July 3, 1985 (P.L.164, No.45), known as the Emergency Medical Services Act, adding and amending certain definitions; and further providing for emergency medical services personnel.

Referred to Committee on HEALTH AND HUMAN SERVICES, September 23, 1997.

**No. 1781** By Representatives DeLUCA, GIGLIOTTI, TRELLO and OLASZ

An Act amending the act of July 28, 1953 (P.L.723, No.230), further providing for retirement eligibility.

Referred to Committee on URBAN AFFAIRS, September 23, 1997.

**No. 1784** By Representatives CIVERA, MICOZZIE, BARRAR, B. SMITH, HALUSKA, BROWNE, LEDERER, GODSHALL, M. COHEN, BENNINGHOFF, BELFANTI, E. Z. TAYLOR, GORDNER, DeLUCA, READSHAW, TIGUE, C. WILLIAMS, NICKOL, BOSCOLA, STABACK, NAILOR, MUNDY, CLARK, TRELLO, TRUE, SATHER, SANTONI, SCRIMENTI, PLATTS, COY, SCHRODER, BATTISTO, HORSEY, SHANER, OLASZ, WALKO, ROBINSON, GRUPPO, DENT, PHILLIPS, HERSHEY, HENNESSEY, CHADWICK, L. I. COHEN, MILLER, McGILL, HARHART, McNAUGHTON and KIRKLAND

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for an award of custody, partial custody or visitation.

Referred to Committee on JUDICIARY, September 23, 1997.

**HOUSE RESOLUTIONS  
INTRODUCED AND REFERRED**

**No. 227** By Representatives CARN, ROBINSON, THOMAS, DONATUCCI, WASHINGTON, DALEY, TRELLO, PESCI, STABACK, MELIO, JOSEPHS, VAN HORNE, JAMES, ITKIN, WALKO, STEELMAN, TRICH, A. H. WILLIAMS, HORSEY and RAMOS

A Resolution recommending guidelines and parameters for public and private financing of sports facilities; and providing for reports by the Legislative Budget and Finance Committee and the Auditor General.

Referred to Committee on TOURISM AND RECREATIONAL DEVELOPMENT, September 23, 1997.

**No. 233** By Representatives CURRY, BELARDI, DeWEESE, HALUSKA, M. COHEN, WAUGH, HERMAN, CARONE, STURLA, READSHAW, TIGUE, C. WILLIAMS, BOSCOLA, MUNDY, TRELLO, KREBS, RAMOS, STERN, COY, BATTISTO, RUBLEY, HORSEY, SHANER, ROSS, ROBINSON, LUCYK, L. I. COHEN, MELIO, MANDERINO, JOSEPHS, SEYFERT, A. H. WILLIAMS, STEELMAN and KIRKLAND

A Resolution instructing the Education Committee to conduct a comprehensive review of the Public School Code of 1949 in order to bring it up to date by deleting obsolete provisions and irrelevant language.

Referred to Committee on RULES, September 23, 1997.

**No. 234** By Representatives VEON, JAMES, GEIST, BISHOP, THOMAS, M. COHEN, EVANS, RAMOS, TIGUE, BUXTON, MANDERINO, COY, MUNDY, ROONEY, SCRIMENTI, PESCI, BELFANTI, CORPORA, BATTISTO, CURRY, CAPPABIANCA, BOSCOLA, DALEY, A. H. WILLIAMS, LAUGHLIN, ITKIN, MELIO, C. WILLIAMS, DeLUCA and GIGLIOTTI

A Concurrent Resolution urging the establishment of a State Commission on Race Relations; and providing for responsibilities.

Referred to Committee on RULES, September 23, 1997.

**VOTE CORRECTION**

The SPEAKER. For what purpose does the gentleman, Mr. Coy, seek recognition?

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

The SPEAKER. The gentleman may correct the record; go ahead. The gentleman is in order.

Mr. COY. Thank you, Mr. Speaker.

On the 10th day of June, on amendment A2637 to SB 423, my vote was not recorded, and I would like the record to reflect that I voted in the affirmative.

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

**LEAVES OF ABSENCE**

The SPEAKER. The Chair recognizes the gentleman, Mr. Snyder, the Republican whip, who requests a leave of absence for the gentleman from Lackawanna County, Mr. SERAFINI. Without objection, leave will be granted. The Chair hears none.

The Chair recognizes the gentleman, Mr. Coy, for the purpose of taking leaves of absence.

Mr. COY. Thank you, Mr. Speaker.

I would like to request leave of absence for the gentledady from Erie, Ms. BEBKO-JONES, for today; the gentleman from Westmoreland, Mr. MIHALICH; and the gentleman from Allegheny, Mr. TRELLO.

The SPEAKER. Without objection, leaves will be granted. The Chair hears none, and leaves are accordingly granted.

**VOTE CORRECTION**

The SPEAKER. The gentleman from Mercer, Mr. Wilt.

Mr. WILT. Thank you, Mr. Speaker.

Mr. Speaker, in regard to SB 45, which was voted on the floor yesterday, I apologize for my absence from the floor, but I wish the record to reflect that had I been here, I would have voted in the affirmative on SB 45. Thank you very much, Mr. Speaker.

**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-199**

Adolph	Donatucci	Lynch	Sather
Allen	Druce	Maher	Saylor
Argall	Eachus	Maitland	Schroder
Armstrong	Egolf	Major	Schuler
Baker	Evans	Manderino	Scrimenti
Bard	Fairchild	Markosek	Semmel
Barley	Fargo	Marsico	Seyfert
Barrar	Feese	Masland	Shaner
Battisto	Fichter	Mayernik	Smith, B.
Belardi	Fleagle	McCall	Smith, S. H.
Belfanti	Flick	McGeehan	Snyder, D. W.
Benninghoff	Gannon	McGill	Staback
Birmelin	Geist	Mellhattan	Stairs
Bishop	George	McNaughton	Steelman

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

ADDITIONS—0

NOT VOTING—0

EXCUSED—4

Bebko-Jones	Mihalich	Serafini	Trello
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**SENATE MESSAGE**

**ADJOURNMENT RESOLUTION  
FOR CONCURRENCE**

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

In the Senate  
September 22, 1997

RESOLVED, (the House of Representatives concurring), That when the Senate adjourns this week it reconvene on Monday, September 29, 1997, unless sooner recalled by the President Pro Tempore of the Senate; and be it further

RESOLVED, That when the House of Representatives adjourns this week it reconvene on Monday, September 29, 1997, unless sooner recalled by the Speaker of the House of Representatives.

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

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

**50th ANNIVERSARY COMMEMORATION OF  
PENNSYLVANIA AIR NATIONAL GUARD**

The SPEAKER. It was called to my attention that this week is the anniversary, the 50th anniversary, of the Pennsylvania Air National Guard. Art Hershey, the chairman of the Veterans Affairs and Emergency Preparedness Committee, called this to my attention.

We have with us today Major General Lynch of that organization, and I am going to ask one of our own to introduce him. Allan Egolf, a member of the House of Representatives, spent 20 years in the United States Air Force and retired as a full colonel, I understand. With that, I would ask Allan to come forward and introduce General Lynch.

Mr. EGOLF. Good morning.

It is a good day to see so many blue uniforms here today.

As a retired Air Force member, it gives me great pleasure and is an honor today to make some introductions, and on behalf of Chairman Hershey of the Veterans Affairs Committee and also the ranking minority member, Tom Michlovic, we would like to make some introductions.

As was mentioned, this month is the 50th anniversary of the United States Air Force as a separate branch of our Defense Department. It is also the 50th anniversary then of the Air National Guard as a separate entity. A number of you yesterday were out back of the Capitol at the "Flight of Freedom" ceremony and parade put on by the Air National Guard, and today we are going to be introducing a resolution honoring the Pennsylvania Air National Guard.

So with that we have Gen. William Lynch, who is wearing actually two hats. He is the Deputy Adjutant General for Air for Pennsylvania and also the commander of the Pennsylvania Air National Guard, and he is here to speak to us this morning. But before he does, I would also like to recognize his wife, Kathleen, and his mother, Eleanor Morrissey, who are with us at the back of the floor. If they would please stand and please welcome them. Oh, they are over here now, over to my left. Thank you for being with us.

And now I will turn it over to General Lynch, who would like to say a few words to us.

MAJOR GENERAL LYNCH. Thank you, Representative Hershey, for inviting me here today; thank you, Representative Egolf, for your role as a prime sponsor for the resolution honoring the 50th anniversary of the Pennsylvania Air National Guard; and thank you, Mr. Speaker, for affording me the opportunity to address this chamber.

Ladies and gentlemen of the House, distinguished guests, friends, on behalf of the over 4,400 men and women of the Pennsylvania Air National Guard, good morning, and thank you for affording us, on this your first day back in session, this wonderful setting to help celebrate the 50th anniversary of your Pennsylvania Air National Guard.

Pennsylvania over the years has produced a number of great military leaders: in the modern era, Gen. Hap Arnold from

Montgomery County, Commanding General, Army Air Forces; Gen. George Joulwan, a Pottsville native and the most recent Supreme Allied Commander Europe; and the recently retired Air Force Chief of Staff, Gen. Ronald R. Fogleman, who hails from Mifflintown.

While military leaders garner the lion's share of the headlines and attention, they are part of a team. In that light and for our 50th anniversary theme, we are recognizing unsung heroes — those people who sacrifice day in and day out to make each mission a success; airmen who ask for little and who give the most.

Maybe you had the opportunity yesterday during our honors ceremony to meet some of these unsung heroes. If you did, you will understand when I say these fine young men and women make one proud to be a Pennsylvanian and proud to be an American. If you did not, we will be in the rotunda throughout the week. Please stop to spend a moment with these fine young people.

Yesterday they marched as National Guard members, representing a highly skilled professional organization. Today they are back home — teachers, bankers, mechanics, your neighbors, your friends. Their service yesterday in uniform and their service today in civilian attire illustrates the true spirit of the National Guard.

Two hundred and fifty years ago this December, Benjamin Franklin founded the "Associators," the ancestors of today's Pennsylvania National Guard. While the merchant of Franklin's era might be the computer salesman of today and the blacksmith an auto mechanic, the fundamental mission of the National Guard, of the minutemen, remains the same, and although it would be another two centuries after Franklin's gathering in Philadelphia before the Air National Guard would be founded, we cherish our heritage.

As a distinct military institution, we are relatively young. Only 50 years ago last week, September 18, 1947, the Air Force became a separate service and the Air Guard became a distinct and separate component of the National Guard. At that time Pennsylvania was home to Headquarters 53d Fighter Wing and the 103d Communications Squadron, both stationed at nearby Capital City. A short time later the 146th and 147th Fighter Squadrons were formed at Pittsburgh Airport. In those days they flew Republic P-47 Thunderbolt aircraft.

From those humble beginnings — some said not much more than a flying club — we have grown into the fourth largest Air National Guard in the nation. With 47 aircraft and \$1.4 billion in assets, the Pennsylvania Air National Guard is truly a formidable force and, I might add, one of the largest employers in the Commonwealth.

Today's overall Air National Guard provides our nation and our Air Force with one-third of the fighter force, nearly half of the air refueling and theater airlift capability, and a majority of combat communications. We do that for merely 6 percent of the Air Force budget as we support commitments around the globe.

There is no military organization in the world like the National Guard. We are a uniquely American institution. What sets us apart is our dual loyalty to nation and to State, our important missions during both peace and war, missions supporting both Commonwealth and country. It is a basic truth and part of the very fiber of this nation that in peacetime, the standing military should be no larger than necessary.

We trace our roots back to the well-regulated militia of the Constitution. We are part of the checks and balances and part of the genius expressed by the Founding Fathers of this nation.

As we meet here today in a time of peace, Governor Ridge and you are the leadership of 3 flying wings and 11 support units — 61 units in all. Our mission of responding to the Commonwealth in times of need is one we take very seriously. From the Johnstown flood to the USAir crash at Pittsburgh, when you called, we were there.

Even though it is a time of relative calm and the cold war is over, we live in a very dangerous world. We are actively involved with Federal missions. Pennsylvania Air National Guard members over the last year deployed to 21 different countries, from Bosnia to Japan, making a difference.

Last week you saw on the national news that 130 members from the 193d Special Operations Wing were deploying on 24 hours' notice to support NATO (North Atlantic Treaty Organization) forces in Bosnia. Using their specially modified aircraft, they will broadcast messages of peace and hope and articulate the need for peaceful solutions in that war-torn nation.

The 193d continues a Pennsylvania presence in and around Bosnia that started nearly 2 years ago, one that has involved hundreds of Air and Army National Guard members.

In Iraq, where we continue to monitor Saddam Hussein, Philadelphia's 111th Fighter Wing was the first Air Guard unit to control operations for Southern Watch, the air occupation of Iraq that has continued since Desert Storm and is our ongoing presence in the Middle East.

In Ghana, the 171st Medical Squadron provided some 15,000 people medical attention. For many in that impoverished nation, it was their first visit to a doctor.

While these missions in far-off lands are important, the community-based Air National Guard does some of its best work right here at home: fighting the war against drugs by razing crack houses, seizing illegal drugs, and perhaps most important, by teaching and mentoring our youth, concentrating on the perils of drug abuse and the need to remain drug free.

Air Guard engineers have helped in literally hundreds of Pennsylvania communities, providing equipment and resources that would otherwise be unaffordable. They are also helping reclaim damaged land and streams degraded from mine acid.

This short list of accomplishments and achievements only brushes the surface of what your Air Guard does every year, day in day out, with very little fanfare, people asking simply to do their mission, serving as unsung heroes.

As we celebrate our 50th, we look not to the past but to the future when we will be an air and space force. Let me share the vision of the Pennsylvania Air National Guard with you.

Quite simply, we intend to enter the next century with skilled personnel dedicated to our militia heritage and reflecting the diversity of our communities, equipped with modern weapons and facilities so that we are flexible and capable of performing combat missions in support of national objectives, and all the while providing emergency services to the Commonwealth.

Let us recognize that the separation between a well-regulated "militia" controlled by the various States and a Federal military force is part of our constitutional system of checks and balances, and that the blending of the two for national defense purposes and their continued separation in peacetime for domestic use in times

of civil strife or natural disaster is a triumph of American democracy.

In closing, I thank one last group of unsung heroes — you, the Pennsylvania legislature. You continue to provide legislation to keep our numbers strong and our programs intact.

The educational assistance bill has been a tremendous boost for recruiting. Today, with your help, more than 700 Pennsylvania Guard members are attending institutions of higher learning. This is a tremendous reinvestment in Pennsylvania, as we provide highly educated, skilled professionals not only to the Guard but to the economic structure of the Commonwealth as well.

You raised the base pay for our young Guardsmen on State active duty from \$45 to \$75 a day, a triumph for our junior members, many of whom work long hours in oftentimes brutal weather conditions for little compensation and less recognition.

Your work to help Guard members with reemployment rights after they return from extended duty: another important victory as deployments increase as our Guard members support worldwide national commitments in the face of a shrinking active duty force.

With your support we will continue the boundless future as the Pennsylvania Air National Guard in America forges into the 21st century with skilled personnel dedicated to our militia heritage and reflecting the diversity of our communities.

I thank you for helping to make the Pennsylvania Air National Guard the truly world-class organization that it is. Happy 50th, Pennsylvania Air Guard. Thank you.

**THE SPEAKER PRO TEMPORE  
(ARTHUR D. HERSHEY) PRESIDING**

**CALENDAR**

**RESOLUTION PURSUANT TO RULE 35**

Mr. EGOLF called up HR 225, PN 2178, entitled:

A Resolution congratulating the Pennsylvania Air National Guard on the celebration of its 50th Anniversary in 1997.

On the question,  
Will the House adopt the resolution ?

The following roll call was recorded:

**YEAS—199**

Adolph	Donatucci	Lynch	Sather
Allen	Druce	Maher	Saylor
Argall	Eachus	Maitland	Schroder
Armstrong	Egolf	Major	Schuler
Baker	Evans	Manderino	Scrimenti
Bard	Fairchild	Markosek	Semmel
Barley	Fargo	Marsico	Seyfert
Barrar	Feese	Masland	Shaner
Battisto	Fichter	Mayernik	Smith, B.
Belardi	Fleagle	McCall	Smith, S. H.
Belfanti	Flick	McGeehan	Snyder, D. W.
Benninghoff	Gannon	McGill	Staback
Birmelin	Geist	McIlhattan	Stairs
Bishop	George	McNaughton	Steelman
Blaum	Gigliotti	Melio	Steil
Boscola	Gladeck	Michlovic	Stern
Boyes	Godshall	Micozzie	Stetler

Brown	Gordner	Miller	Stevenson
Browne	Gruitza	Mundy	Strittmatter
Bunt	Gruppo	Myers	Sturla
Butkovitz	Habay	Nailor	Surra
Buxton	Haluska	Nickol	Tangretti
Caltagirone	Hanna	O'Brien	Taylor, E. Z.
Cappabianca	Harhart	Olasz	Taylor, J.
Carn	Hasay	Oliver	Thomas
Carone	Hennessey	Orie	Tigue
Casorio	Herman	Perzel	Travaglio
Cawley	Hershey	Pesci	Trich
Chadwick	Hess	Petrarca	Truc
Civera	Horsey	Petrone	Tulli
Clark	Hutchinson	Phillips	Vance
Clymer	Itkin	Pippy	Van Horne
Cohen, L. I.	Jadlowiec	Pistella	Veon
Cohen, M.	James	Platts	Vitali
Colaafella	Jarolin	Preston	Walko
Colaizzo	Josephs	Ramos	Washington
Conti	Kaiser	Raymond	Waugh
Cornell	Keller	Readshaw	Williams, A. H.
Coppora	Kenney	Reber	Williams, C.
Corrigan	Kirkland	Reinard	Wilt
Cowell	Krebs	Rieger	Wogan
Coy	LaGrotta	Roberts	Wojnaroski
Curry	Laughlin	Robinson	Wright, M. N.
Daley	Lawless	Roebuck	Yewcic
Dally	Lederer	Rohrer	Youngblood
DeLuca	Leh	Rooney	Zimmerman
Dempsey	Lescovitz	Ross	Zug
Dent	Levdansky	Rubley	
Dermody	Lloyd	Sainato	Ryan, Speaker
DeWeese	Lucyk	Santoni	
DiGirolamo			

NAYS—0

NOT VOTING—0

EXCUSED—4

Bebko-Jones	Mihalich	Serafini	Trello
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The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

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

**BILLS ON THIRD CONSIDERATION**

The House proceeded to third consideration of SB 672, PN 714, entitled:

An Act amending the act of April 9, 1929 (P.L.343, No.176), entitled, as amended, The Fiscal Code, further providing for reports to the Secretary of Revenue.

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 SB 672 be recommitted to the Committee on Appropriations.

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

\*\*\*

The House proceeded to third consideration of **HB 1258, PN 1411**, entitled:

An Act amending Titles 18 (Crimes and Offenses) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, authorizing police officers to record certain oral communications; providing for authority to purchase surveillance devices; and providing for windshield obstructions and wipers.

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

**BILL TABLED**

The SPEAKER. The Chair recognizes the majority leader.  
Mr. PERZEL. Mr. Speaker, I move that HB 1258 be placed on the table.

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

**BILL REMOVED FROM TABLE**

The SPEAKER. The majority leader is recognized.  
Mr. PERZEL. Mr. Speaker, I move that HB 1258 be removed from the table.

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

\*\*\*

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

The SPEAKER. The Chair recognizes the gentleman, Mr. Chadwick, who offers the following amendment, which the clerk will read.

The gentleman will yield; the clerk will yield.

**BILL PASSED OVER TEMPORARILY**

The SPEAKER. Without objection, this bill, because of the length of the amendments, is going to go over until after lunch. The Chair hears no objection.

\*\*\*

The House proceeded to third consideration of **SB 640, PN 1061**, entitled:

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.

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

**BILL RECOMMITTED**

The SPEAKER. The Chair recognizes the majority leader.  
Mr. PERZEL. Mr. Speaker, I move that SB 640 be recommitted to the Committee on Appropriations.

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

\*\*\*

**BILL PASSED OVER**

The SPEAKER. HB 109. Without objection, this bill is over.

**SURPLUS PROPERTY DISPOSITION PLAN**

**RESOLUTIONS PASSED OVER**

The SPEAKER. Page 3 of today's calendar. The resolutions on page 3 are over.

**SUPPLEMENTAL CALENDAR A**

**RESOLUTIONS PURSUANT TO RULE 35**

Ms. WILLIAMS called up **HR 228, PN 2197**, entitled:

A Resolution recognizing the month of October 1997 as "Sudden Infant Death Syndrome (SIDS) Awareness Month" in this Commonwealth.

On the question,  
Will the House adopt the resolution?

The following roll call was recorded:

YEAS-198

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

NAYS-0

NOT VOTING-1

Carn

EXCUSED-4

Bebko-Jones	Mihalich	Serafini	Trello
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The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

\*\*\*

Mrs. RUBLEY called up HR 229, PN 2198, entitled:

A Resolution recognizing August 26, 1997, as the rededication of the Justice Bell at its new permanent home at the Washington Memorial National Carillon in Valley Forge National Park, Valley Forge.

On the question,  
Will the House adopt the resolution ?

The following roll call was recorded:

YEAS-199

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

NAYS-0

NOT VOTING-0



EXCUSED-4

Bebko-Jones Mihalich Serafini Trello

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

\*\*\*

Mrs. RUBLEY called up HR 230, PN 2199, entitled:

A Resolution declaring the week of October 5 through 11, 1997, as "Mental Illness Awareness Week" in Pennsylvania.

On the question, Will the House adopt the resolution ?

The following roll call was recorded:

YEAS-197

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

NAYS-0

NOT VOTING-2

Josephs Oliver

EXCUSED-4

Bebko-Jones Mihalich Serafini Trello

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

\*\*\*

Mrs. RUBLEY called up HR 231, PN 2200, entitled:

A Resolution declaring the month of October 1997 as "Radon Action Month" in this Commonwealth.

On the question, Will the House adopt the resolution ?

The following roll call was recorded:

YEAS-198

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

Daley	Laughlin	Robinson	Yewcic
Dally	Lawless	Roebuck	Youngblood
DeLuca	Lederer	Rohrer	Zimmerman
Dempsey	Leh	Rooney	Zug
Dent	Lescovitz	Ross	
Dermody	Levdansky	Rubley	Ryan,
DeWeese	Lloyd	Sainato	Speaker

NAYS—0

NOT VOTING—1

Wojnarowski

EXCUSED—4

Bebko-Jones    Mihalich    Serafini    Trello

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

\* \* \*

Ms. BOSCOLA called up HR 232, PN 2201, entitled:

A Resolution recognizing the week of September 21 through 27, 1997, as "National Infertility Awareness Week" in Pennsylvania.

On the question,  
Will the House adopt the resolution ?

The following roll call was recorded:

YEAS—199

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

Colaizzo	Josephs	Ramos	Washington
Conti	Kaiser	Raymond	Waugh
Cornell	Keller	Readshaw	Williams, A. H.
Corpora	Kenney	Reber	Williams, C.
Corrigan	Kirkland	Reinard	Wilt
Cowell	Krebs	Rieger	Wogan
Coy	LaGrotta	Roberts	Wojnarowski
Cury	Laughlin	Robinson	Wright, M. N.
Daley	Lawless	Roebuck	Yewcic
Dally	Lederer	Rohrer	Youngblood
DeLuca	Leh	Rooney	Zimmerman
Dempsey	Lescovitz	Ross	Zug
Dent	Levdansky	Rubley	
Dermody	Lloyd	Sainato	Ryan,
DeWeese	Lucyk	Santoni	Speaker
DiGirolamo			

NAYS—0

NOT VOTING—0

EXCUSED—4

Bebko-Jones    Mihalich    Serafini    Trello

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

### CONDOLENCE RESOLUTION

The SPEAKER. The Chair is about to take up a condolence resolution. Members will please take their seats.

We are about to take up a condolence resolution on the death of a former member. Sergeants 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, Roland Greenfield, former Pennsylvania state representative for northeastern Philadelphia, passed away August 22, 1997 at the age of seventy-eight; and

WHEREAS, Mr Greenfield graduated from Temple University School of Law and worked in the city controller and recorder of deeds office before seeking election in 1966 at the age of forty-seven. He served as a state representative for sixteen years and during his tenure served as Democratic majority whip for five years and chairman of the House Liquor Control Committee. He also served as a Democratic committee leader in Philadelphia's 53rd Ward for twenty-two years; and

WHEREAS, After his retirement from the Pennsylvania House of Representatives in 1982, Mr. Greenfield worked for the Parking Authority and other city agencies and as an assistant to City Council. A United States Army veteran of World War II, Mr. Greenfield was a founder of the Tarken-Weinstein Post of the Jewish War Veterans; now therefore be it

RESOLVED, That the House of Representatives of the Commonwealth of Pennsylvania note with great sadness the passing of Roland Greenfield; extend heartfelt condolences to his wife, Edythe Guralnick Greenfield; son, Murray; daughter, Carol Crosson; three grandchildren; and one great-grandchild; and be it further

RESOLVED, That a copy of this resolution, sponsored by Ivan Itkin, be transmitted to Mrs. Edythe Guralnick Greenfield.

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 and remain standing as a mark of respect for the deceased former member.

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

The SPEAKER. The resolution has been unanimously adopted. Sergeants at Arms will open the doors of the House.

**ANNOUNCEMENT BY SPEAKER**

The SPEAKER. When you arrived at your places in the chamber this morning, you found a pocket-sized booklet that contained the full text of the United States Constitution, its amendments, and a list of the original signers. May I have your attention for a moment? These items were provided by the National Constitution Center in Philadelphia.

The week of September 17 through 23 is the fifth annual Constitution Week in America. Millions of copies of the Constitution have been distributed across the country to mark the 210th anniversary of the signing. To help commemorate the event, citizens are asked to sign the Constitution and make their mark in history.

Members of the House, members of the House have the opportunity to sign the Constitution by writing your signatures on parchment scrolls found on a display table in the lounge at the back of the chamber. The signed scrolls will be returned to the National Constitution Center and will become a part of a permanent record. The scrolls will be available for your signature through session on Wednesday. Also to celebrate Constitution Week, members and staff are invited to a performance of "Four Little Pages," a 25-minute light musical featuring Ben Franklin, at 12:15 in the rotunda.

Representative Godshall has made it possible for the members to participate in these various events featuring our nation's most treasured document, and we owe him a thank-you for that.

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

**HB 722, PN 814** By Rep. GANNON

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for appeals from government agencies.

JUDICIARY.

**HB 895, PN 2220 (Amended)** By Rep. BUNT

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 the split-off of land.

AGRICULTURE AND RURAL AFFAIRS.

**HB 1178, PN 2223 (Amended)** By Rep. GANNON

An Act providing a residency requirement for constables and deputy constables.

JUDICIARY.

**HB 1237, PN 1391** By Rep. CLYMER

An Act providing for open lands; invalidating prior actions; and making repeals.

STATE GOVERNMENT.

**HB 1326, PN 1514** By Rep. GANNON

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.

JUDICIARY.

**HB 1347, PN 1550** By Rep. CLYMER

An Act amending the act of December 10, 1968 (P.L.1158, No.365), entitled "An act creating and establishing the Legislative Data Processing Committee: providing for its membership; prescribing its powers, functions and duties; and making an appropriation," providing for access to computer information systems by persons outside the General Assembly.

STATE GOVERNMENT.

**HB 1495, PN 1820** By Rep. CLYMER

An Act authorizing and directing the Department of General Services, with the approval of the Governor, to sell and convey to James E. Hedglin and Cheryl Hedglin, husband and wife, certain surplus land situate in Sandy Creek Township, Venango County, Pennsylvania.

STATE GOVERNMENT.

**HB 1536, PN 1859** By Rep. GANNON

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for persons qualified to solemnize marriages.

JUDICIARY.

**HB 1567, PN 2225 (Amended)**

By Rep. GANNON

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, suspending the operating privileges of persons who are convicted of committing vandalism offenses.

JUDICIARY.

**HB 1628, PN 2006**

By Rep. CLYMER

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.

STATE GOVERNMENT.

**HB 1636, PN 2038**

By Rep. CLYMER

An Act amending Title 37 (Historical and Museums) of the Pennsylvania Consolidated Statutes, further providing for the Brandywine Battlefield and the Washington Crossing.

STATE GOVERNMENT.

**HB 1752, PN 2224 (Amended)**

By Rep. GANNON

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for sale or illegal use of certain solvents.

JUDICIARY.

**HB 1759, PN 2184**

By Rep. FLICK

An Act repealing the act of April 14, 1905 (P.L.162, No.118), entitled "An act regulating the method and procedure in the erection of line or partition fences."

INTERGOVERNMENTAL AFFAIRS.

**HB 1760, PN 2185**

By Rep. FLICK

An Act repealing the act of May 13, 1925 (P.L.663, No.355), entitled "An act providing for the enumeration of registered persons in the Commonwealth, and the publication of a tabulation thereof by the Secretary of the Commonwealth; and imposing certain duties upon registrars, assessors, registry assessors, and county commissioners."

INTERGOVERNMENTAL AFFAIRS.

**HB 1761, PN 2186**

By Rep. FLICK

An Act repealing the act of December 1, 1965 (P.L.977, No.357), entitled "An act authorizing cities of the first class and counties of the first class to adopt the food stamp program and providing for payment of the costs of administration thereof."

INTERGOVERNMENTAL AFFAIRS.

**HB 1762, PN 2187**

By Rep. FLICK

An Act amending the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, repealing the food stamp program.

INTERGOVERNMENTAL AFFAIRS.

**HB 1763, PN 2226 (Amended)**

By Rep. FLICK

An Act repealing certain parts of acts as being supplemented or superseded by other acts or otherwise obsolete.

INTERGOVERNMENTAL AFFAIRS.

**HB 1764, PN 2189**

By Rep. FLICK

An Act repealing the act of May 8, 1889 (P.L.125, No.138), entitled "An act providing for the paving and curbing of such portions of Third street, Fourth street, Walnut street and North street in the City of Harrisburg, as the Public Grounds of the Commonwealth abut on, as is properly chargeable to the State, and making appropriation for the cost of the same."

INTERGOVERNMENTAL AFFAIRS.

**HB 1765, PN 2190**

By Rep. FLICK

An Act repealing certain acts as being supplemented or superseded by other acts or otherwise obsolete.

INTERGOVERNMENTAL AFFAIRS.

**HB 1766, PN 2191**

By Rep. FLICK

An Act repealing the act of July 9, 1986 (P.L.1216, No.108), known as the Enterprise Zone Municipal Tax Exemption Reimbursement Act.

INTERGOVERNMENTAL AFFAIRS.

**SB 682, PN 726**

By Rep. BUNT

An Act amending the act of June 10, 1982 (P.L.454, No.133), entitled "An act protecting agricultural operations from nuisance suits and ordinances under certain circumstances," further providing for limitation on public nuisances.

AGRICULTURE AND RURAL AFFAIRS.

**BILLS REMOVED FROM TABLE**

The SPEAKER. The Chair recognizes the majority leader, Mr. Perzel.

Mr. PERZEL. Mr. Speaker, I move that the following House bills be removed from the table:

HB 1759;  
 HB 1760;  
 HB 1761;  
 HB 1762;  
 HB 1763;  
 HB 1764;  
 HB 1765; and  
 HB 1766.

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

### BILLS RECOMMITTED

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

Mr. PERZEL. Mr. Speaker, I move that the following bills be recommitted to the Committee on Appropriations:

HB 1759;  
 HB 1760;  
 HB 1761;  
 HB 1762;  
 HB 1763;  
 HB 1764;  
 HB 1765; and  
 HB 1766.

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

### VOTE CORRECTION

The SPEAKER. Does the gentleman from Allegheny County, Mr. Kaiser, desire recognition?

Mr. KAISER. Yes, Mr. Speaker; a correction of the record.

The SPEAKER. You may begin.

Mr. KAISER. Mr. Speaker, on June 10, amendment 2635 to SB 423, I was not shown as voting. I would like my vote recorded as an affirmative vote. Thank you.

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

### DEMOCRATIC POLICY COMMITTEE MEETING

The SPEAKER. It is the intention of the Chair to declare the House in recess until 1:30. Are there any announcements by the caucus leaders?

Mr. Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, on behalf of the chairman of the Policy Committee, Michael Veon, I would like to remind everybody who is on the Policy Committee that there is a meeting of the Policy Committee immediately in the minority caucus room. In addition, all other members are invited to attend.

The SPEAKER. The Chair thanks the gentleman.

### VOTE CORRECTIONS

The SPEAKER. Mr. Donatucci. The gentleman from Philadelphia, Mr. Donatucci, is recognized.

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

The SPEAKER. The gentleman is in order.

Mr. DONATUCCI. On June 11, amendment 3119 to SB 423, I would like to be recorded in the affirmative, and on final passage of SB 423 I would like to be recorded in the affirmative.

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

Mr. DONATUCCI. Thank you, Mr. Speaker.

### RECESS

The SPEAKER. Any further announcements?

Hearing none, this House is declared to be in recess until 1:30 p.m., unless sooner recalled by the Speaker.

### AFTER RECESS

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

### BILL REMOVED FROM TABLE

The SPEAKER. The Chair recognizes the majority leader.

Mr. PERZEL. Mr. Speaker, I move that HB 492, on page 2 of today's tabled-bill calendar, be removed from the table.

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

### BILL RECOMMITTED

The SPEAKER. The Chair recognizes the majority leader.

Mr. PERZEL. Mr. Speaker, I move that HB 492 be recommitted to the Committee on Appropriations.

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

### SUPPLEMENTAL CALENDAR B

#### RESOLUTIONS PURSUANT TO RULE 35

Mr. B. SMITH called up HR 236, PN 2221, entitled:

A Resolution recognizing September 27, 1997, as "National Hunting and Fishing Day".

On the question,  
 Will the House adopt the resolution?

The following roll call was recorded:

YEAS-197

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

NAYS-0

NOT VOTING-2

Robinson	Scrimenti
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EXCUSED-4

Bebko-Jones	Mihalich	Serafini	Trello
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The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

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Mr. GRUITZA called up HR 239, PN 2222, entitled:

A Resolution extolling Diana, Princess of Wales, and extending sympathy upon her death.

On the question,  
Will the House adopt the resolution ?

The following roll call was recorded:

YEAS-199

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

NAYS-0

NOT VOTING-0

EXCUSED-4

Bebko-Jones	Mihalich	Serafini	Trello
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The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

### GUEST INTRODUCED

The SPEAKER. The Chair is pleased to welcome to the hall of the House today, as the guest page of Representative Peter Zug, Isaac Adams, who is seated with the pages today. Would Isaac please rise.

### CALENDAR CONTINUED

#### CONSIDERATION OF SB 635 CONTINUED

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

Mr. CHADWICK offered the following amendment No. A3439:

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).

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"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.

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"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.

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"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 a paragraph 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.

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(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.

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(15) ~~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, a communication recorded pursuant to this paragraph shall be:~~

(i) ~~Made available to any party to the communication upon written request, provided that the request is made within one year from the date of recording.~~

(ii) ~~Destroyed within seven days of the expiration of that one-year time period.~~

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

§ 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.

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§ 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.

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(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.

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(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.

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(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.

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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.

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§ 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. On the question of the adoption of the amendment, the Chair recognizes the gentleman, Mr. Chadwick.

Mr. CHADWICK. Thank you, Mr. Speaker.

We are here today to consider an extremely important piece of legislation, a piece of legislation that has the universal support of Pennsylvania's law enforcement community. The District Attorneys Association of Pennsylvania calls this amendment critical. The Attorney General, Mike Fisher, calls it important. The Pennsylvania State Police call it crucial.

Pennsylvania's wiretap law is sadly antiquated. It was written at a time when no one contemplated the advent of cell phones and pagers. Sadly, Pennsylvania's drug dealers are well aware of this fact. They know that you cannot tap a cell phone in Pennsylvania, you cannot tap a pager, and so they now do many of their transactions using this new technology.

This legislation makes important changes to bring Pennsylvania's wiretap law into the 21st century. It permits law enforcement officials to go to a judge and ask for the ability to tap cell phones and pagers. It also does what so many other States and the Federal Government have already done and permits roving wiretaps — the ability to tap a criminal as he moves from phone to phone for the specific purpose of avoiding having his drug deals tapped.

Even the dumbest drug dealer in Pennsylvania knows, under our current law, that all he has to do to avoid having his conversations taped is to move from one phone to another. We can change that today. We must change that today.

Already, in every other State, these changes have been made. Already Federal law enforcement officials can do these things. Even if we pass these changes today, Pennsylvania will still have the most restrictive wiretap law in the nation. On the other hand, without this legislation, our law enforcement agencies will be handcuffed and put into the embarrassing position of having to turn over important drug investigations to Federal law enforcement officials, who do have the right to make these wiretaps.

Today let us take the handcuffs off our police and move Pennsylvania's wiretap law into the 21st century. I urge an affirmative vote for this amendment.

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

Mr. LLOYD. Thank you, Mr. Speaker.

Mr. Speaker, I rise to oppose the amendment.

The gentleman said that we need to do this for law enforcement, and he talked about roving wiretaps, but let us consider exactly what that means.

We were distributed this morning a memo from the District Attorneys Association that talks about in personam wiretaps. Today, if you want to wiretap, you identify the telephone you want to tap; you have probable cause or you show probable cause as to why you ought to do that, that there is going to be some kind of illegal activity either transacted or discussed over that particular phone. The problem is that people have said, well, what happens if you move from one phone to another? So let us try to get ahead of that, and instead of saying we are going to wiretap a phone, we are going to wiretap a person, and that means that anyplace that person picks up a phone, we could wiretap.

Now, in the real world, how does that work? Let us use a hypothetical situation. The hypothetical situation involves John and Mary. John is someone who is suspected of some kind of illicit activity, and there is a showing to a judge that, you know, in order to avoid a wiretap, John may actually be making calls at a number of his friends' houses. Mary is a friend of John's. Today it would not be permissible to get a wiretap on Mary's phone unless you had probable cause to show that that phone was actually being used for something illegally. But if you have a wiretap, under this legislation, against John as a person and you can show that John may go to Mary's house frequently and that John may make phone calls while he is at Mary's house — we do not know; we just assume he probably does — you can get a wiretap on Mary's phone.

Now, you say, well, that is not so bad; if John is there making calls, by golly, we ought to find that out and we ought to string him up. And that sounds good. The only problem is that there is nothing in this amendment that says how long you wiretap Mary's phone, other than the law says you cannot tap for more than 30 days without going back for another court order. That means that you are not just tapping Mary's phone when John is there, you are tapping Mary's phone all the time. So you are actually listening in to conversations involving people for whom you have no probable cause at all to believe that they have broken the law or are about to break the law or are conducting any kind of illegal transaction over that telephone, and I think that is not something that the law enforcement community needs. If there were some provisions in this bill which said that the only time you are allowed to tap Mary's phone is when John is present or you have to turn it off any other time, maybe that is something we could discuss, but there is nothing like that in this legislation.

There is also a very, very interesting thing that I frankly had not picked up until I read the D.A.'s memo. In the D.A.'s memo, it talks about the proceedings in which you are allowed to disclose what you learn when you tap these phones. Today you disclose that information in a criminal trial. Under this amendment, you will be allowed to disclose that in civil tax suits, in forfeiture

proceedings, and here is the big one: professional license revocation and disciplinary proceedings.

Now, let us go back to my hypothetical of John and Mary, and let us assume that Mary is a doctor. Mary comes home from work all stressed out one day, after a tough day in the operating room, and she gets on the phone to someone — not John, someone else — and she says, “Oh, jeez, I may have screwed up in the operating room today.” That information — not criminal — that information, under this amendment, can now be trotted over to the North Office Building, to the Department of State, the Bureau of Professional and Occupational Affairs, and can be used as the basis for a disciplinary action against Mary for improper conduct as a licensed doctor. I think that is going pretty far afield. I do not think that law enforcement needs that. That is branching out into areas where if you want to tap Mary’s phone, you ought to have to have probable cause.

The other thing in this legislation, and I think that it is important to recognize, we always hear about the drug dealers, and I do not think there is anybody in this House who wants to be for the drug dealers, but let us look and see exactly what kind of crimes you are allowed to tap a phone in order to try to convict. This legislation says, on page 6, that, you know, if you suspect that John is guilty of carrying a firearm without a license, you are allowed to tap his phone. That is being added as an offense. Today you are not allowed to tap his phone over those kinds of offenses. If this amendment passes, you will be, and I think there are probably some people in here who think that may not be such a great idea. But you look at the pages; there must be at least three dozen different crimes on pages 5, 6, and 7 of this amendment that you are allowed to tap a phone. Some of those involve white-collar activity, some of those involve activities that you may or may not think are serious enough to warrant wiretapping, but you are now authorizing roving wiretaps for those types of offenses.

Now, finally, Mr. Speaker, what I think is extremely interesting is that despite all of the claims that the law enforcement community needs this, I invite you to look at page 4 and page 5. Those of you who start on line 59 on page 4 and continue over on page 5 through line 11 will see something which we debated in the last session. It is something which has to do with letting those people who make phone calls to you at about 6:30 at night, when you are trying to watch the news or eat dinner and they want to sell you electricity or they want to sell you telephone service or they want to sell you something else and you do not want to talk to them, this deals with them, people who engage in telemarketing, and what this says that they are allowed to do is, they are allowed to tape the conversations which the guy who calls you on the phone has with you.

Now, we debated that in the last session, when it was offered as a stand-alone amendment. Thirty-two people on this floor said that was a good idea; everybody else said it was not. I do not know about your districts, but people in my district dislike telemarketers today more than they disliked them a year ago.

Now, you say, well, why is it— I mean, the only reason they want to tap this or they want to monitor this is so that they can make sure that the quality of service is what it should be. Oh, well, that may be a sensible argument, except that it talks about “...training, quality control or monitoring by the business.” Why do they want to monitor, and then why do they want to keep those records for 1 year? That has nothing to do with firing the person

who is making the phone call to you. That has to do with trying to target who gets the next phone call, so they can go back over those messages and decide, we called 1 million people; now we want to call the 250,000 who did not sign up but who expressed some, you know, sense that maybe we could persuade them in the future. That is what that is all about.

Now, I mean, do we want those things to be tapped? Why not every other business? Why just businesses that engage in telephone sales? Why not every business? Why should not all businesses be allowed to tape-record all of the conversations which their employees have with someone who might be buying something? Why telemarketers? Why are we giving telemarketers something that we do not give to other businesses? Why are we giving telemarketers anything more in which they could potentially abridge our rights when they do not seem to be very interested in trying to protect us and our constituents from the incessant phone calls? I mean, if you have ever talked to them — and I know probably everybody on this floor has — the only way you can get rid of them is to be rude, and if you are rude, they start by saying, “Well, gee, don’t you want to save money? I’m going to save you money. Don’t you want to save money?” They try to make you feel guilty about hanging up.

I do not think that those people ought to be given special privileges which other businesses do not have. I think that we are looking at an amendment that does some good things but has some things in it which go too far, and we ought to come back and address each and every one of these as separate items and make a decision on which ones ought to go in and which ones ought not, and we can do that by defeating the Chadwick amendment. Thank you, Mr. Speaker.

The SPEAKER. The gentleman from Philadelphia, Mr. Cohen. Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, Mr. Lloyd has made some very, very good points. This is an extremely comprehensive amendment. It is 21 pages long. It includes many different provisions that go far, far in excess of the summary description that Mr. Chadwick gave us.

Mr. Chadwick talked about how this was needed to fight drugs, but it adds 10 new crimes under which wiretapping is justified to the 41 crimes that already have justifications for wiretapping, and it is a real stretch to imagine how drugs apply to most of them. They do not obviously apply to any.

We now have wiretapping for harassment and stalking; we have wiretapping related to sexual assault — these are all new things being added — wiretapping relating to aggravated indecent assault; wiretapping related to firearms not to be carried without a license; crimes related to manufacture, distribution, or possession of devices for theft of telecommunication services; relating to insurance fraud; relating to dealing in proceeds of unlawful activities — this is the one that is the closest to actually dealing with drugs — relating to escape; relating to obscene and other sexual materials and performances; relating to buying or exchanging Federal food order coupons, stamps, authorization cards, or access devices. That is in addition to 41 other crimes for which we already have wiretapping, which are itemized on pages 5 through 7.

So under this amendment, the number of crimes will increase by about 25 percent and will go from 41 crimes to 51 crimes, the vast majority of which have nothing or the most tangential relationship with drug dealing.



Now, in addition to expanding wiretapping by expanding the number of crimes, it expands wiretapping in a variety of other ways as well.

First, who is allowed to wiretap? Right now it is limited to Pennsylvania law enforcement officers, under the law, although there are exceptions here or there due to case law. This expands the law to make it clear that officers of another State, any other State — New Jersey, Ohio, West Virginia, California — any other State is now allowed to wiretap in Pennsylvania.

Second, the definition of “pen register,” which is important because it defines exactly what it is that we are allowed to wiretap — wiretapping now deals with far more than telephones; it deals with computers and computer lines and all forms of electronic transmission as well — the definition of “pen register” is expanded to include devices which capture, record, or decode electronic communications.

So we expand who is allowed to wiretap; we expand the devices that can be wiretapped. Then we expand the amount of wiretapping equipment that is available. Right now we give the State Police authorization to possess interception devices for training purposes, and we give the State Police the power to lend this equipment out throughout the Commonwealth of Pennsylvania, so there will be more people actually doing wiretapping.

Then, Mr. Speaker, we allow the courts to order private communications providers to aid in the wiretapping. Under this amendment, you will be able to go to court and urge Bell Atlantic or America Online or Sprint or any other communications provider to wiretap.

Then, as has been said by Mr. Lloyd and Mr. Chadwick, we will have roving wiretaps, which will enable us to not only focus on suspected criminals but also the friends of suspected criminals and probably the friends of friends of suspected criminals.

Then, as Mr. Lloyd pointed out, we expand the use to which the wiretap information can be added. Wiretap information can now be used in quasi-criminal cases, in forfeiture cases, in any administrative enforcement procedure at any level of government, or in any professional disciplinary procedure at any level of government.

And then, finally, this legislation expands wiretapping by reducing the number of cases under which excluded communications can be used as evidence. In other words, you can now use all this additional information in many more criminal cases than you could before because we have narrowed the range of exclusions.

Now, I do not know if it is true that Pennsylvania has the least restrictive wiretapping in the country. It may be true in certain areas, but I kind of doubt it is true overall. I am somewhat frustrated by the treating of the House floor as a committee of the whole and the giving of very little information to all the members of the House as to what this is claimed to do and what sources of information are available on the subject. But, Mr. Speaker, this is a very, very serious expansion of wiretapping.

When I first came to the legislature in 1974, wiretapping was totally illegal in the Commonwealth of Pennsylvania. It was felt by the legislature at that time that the dangers of wiretapping to the privacy of the individual were greater than the benefits. In 1978 the law enforcement community came and said, this is terrible that we do not have wiretapping in Pennsylvania, we have to have

some wiretapping, and so we created some limited wiretapping. Several times since then the law enforcement community has come and said, we do not have enough wiretapping authority, and this is another one of these times.

Mr. Speaker, I think we ought to ask ourselves why we do not require that all conversations everywhere be wiretapped. Would that not cut crime if every conversation everywhere were wiretapped, so that we would have a record of who spoke to whom on every occasion? Would it not be great if we required that all computer communications had to be turned in to some central source, so we could see who is telling each person what information is being transmitted? We do not have that system, which would be very similar to that which existed in George Orwell’s novel “1984,” because we care about the privacy of individuals, and we assume that individual privacy is worth something, is a fundamental right in this society.

We are moving ever, ever closer, however, towards universal wiretapping. There are very few safeguards to granting the wiretap, even though you now have to go before a court. Imagine you are a judge and a lawyer comes before you and says, I have credible information that there is probable cause that somebody should be wiretapped. Now, the person who is going to be wiretapped does not know that this proceeding is going to take place. He does not have a lawyer there to argue and say, no, my client ought not to be wiretapped. The judge only hears one side of the argument. So it is a very, very rare thing for any request for wiretapping to be denied, and the only time it would be denied would be if it clearly goes beyond the scope of Pennsylvania law, and this law here will greatly reduce the number of things that are beyond the scope of Pennsylvania law.

Now, if we have all these wiretaps, we are going to need money for the equipment, we are going to need money for the personnel to monitor the wiretaps and to transcribe the wiretaps, we are going to need money for people to read the wiretap transcripts and to listen to the wiretap transcripts, and, Mr. Speaker, I wonder if the gentleman, Mr. Chadwick, would consent to interrogation.

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

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

Mr. COHEN. Madam Speaker, is there a fiscal note for this amendment?

Mr. CHADWICK. I requested one yesterday. I do not know if it has come in yet. I can find out for you.

Madam Speaker, I have the fiscal note.

Mr. COHEN. Thank you, Madam Speaker.

Madam Speaker, could you read the fiscal note to the members of the House, please?

Mr. CHADWICK. Certainly.

For the sake of brevity, let me just read the operative portion of the note: “The adoption of this amendment will have no fiscal impact on Commonwealth funds.”

Mr. COHEN. Madam Speaker, will the gentleman explain how that could be the case? I mean, does equipment not cost money? I mean, I assume the equipment that we provide for the State Police to get, I assume they will not be given it free.

Mr. CHADWICK. Madam Speaker, I would recommend you direct those questions to the chairman of the Appropriations Committee. I did not prepare the fiscal note; I only requested it. My own opinion is that it would not involve the expenditure of additional Commonwealth funds, but again, I did not write the fiscal note.

Mr. COHEN. Thank you, Madam Speaker.

Madam Speaker, would the chairman of the Appropriations Committee consent to interrogation?

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

Mr. COHEN. Thank you, Madam Speaker.

Madam Speaker, this legislation contemplates that the State Police are going to buy equipment which they will use for training and which they will loan out to municipalities for wiretapping purposes. Will you please explain how this equipment will not cost any money?

Mr. BARLEY. Madam Speaker, according to the research that was done, the adoption of this amendment will have no additional fiscal impact on the Commonwealth. It is apparent through our research that we will be able to accommodate the expenditures that are a result of this amendment within the current budget, so there will be no additional fiscal impact required.

Mr. COHEN. Well, Madam Speaker, I think the members of the House should know what the costs are going to be. I think this is an example of a noninformative fiscal note if we are told that a mysterious number of dollars can be taken from the budget, and therefore, there is no new cost. I would think the members of the House have a right to know how many dollars, approximately, are going to be taken from the budget.

Since Mr. Barley has left the stand, I assume he is not willing to answer any more questions, but it is obvious that the equipment that is going to be purchased by the State Police is going to cost a lot of money. It is obvious that each additional application that is going to be filed for more wiretapping is going to involve police time; it is going to involve legal time; it is going to involve secretarial time; it is going to involve judicial time. It is obvious that each wiretap that takes place is going to require time of people to monitor it and to transcribe it and to otherwise use it. It is obvious, in short, that this is going to be, over the long run, a very, very expensive piece of legislation.

We have heard a lot of talk about opposition to big government. People do not like big government. People do not like government that follows them around all the time or government that has to supervise their minute activities. This bill epitomizes big government. This bill says that large numbers of people can be subject, without their knowledge, to wiretaps, not only for telephone calls but for all forms of electronic communication, on the theory that either they or somebody they know may be committing a crime or may be contemplating a crime. This is a step, a dramatic step, towards big government. This is a step away from personal privacy. This is a step away from personal freedom.

I would join Mr. Lloyd in urging a "no" vote, and I would strongly urge the law enforcement community, before they treat this floor as a committee of the whole, to really make efforts to get this legislation through the committee process and to treat the members on this floor with the respect to give us information and the respect to actually look up information. What this appears to be is a conglomeration of requests from a lot of people throughout

the law enforcement community, which cumulatively will serve to reduce individual freedom in this Commonwealth.

For these reasons, again, as well as the huge cost, I urge a "no" vote on this amendment.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Lycoming County, Mr. Feese.

Mr. FEESE. Thank you, Madam Speaker.

In response to the comments of the gentleman from Somerset, the conclusion from the hypothetical is simply inaccurate.

State and Federal law requires what is called a minimization plan, and for those of us in this chamber who have applied the wiretap statute and have petitioned Superior Court for wiretaps, we understand what a minimization plan requires, and let me explain it to you.

When you petition the Superior Court to obtain a wiretap, part of the approval includes a plan to minimize contact with any individual not subject to the investigation and even individuals who are subject to the investigation for a particular period of time. For example, if John is the subject of the investigation and we follow him to Mary's house and Mary is on the telephone, as soon as you realize it is Mary on the telephone, you must shut down the wiretap; you may not listen; you must turn it off. You cannot sit and listen to Mary's conversation. It is part of the minimization plan. You must report, sometimes on a daily basis, to the Superior Court the process and whether you are following that minimization plan and if you have violated that minimization plan.

Another example: If John is the target and your plan approved by the Superior Court says you may listen for 1 minute, and if there is no pertinent conversations dealing with the drug investigation, you must turn it off, even though you are listening to the target speak, and if you violate that, if you go over by 2 seconds, you must report it to the Superior Court. In fact, an officer under my supervision violated it by 5 seconds, and I had to report it immediately to the Superior Court, and it was not a pleasant situation for violating for 5 seconds a minimization plan.

We may not, in law enforcement, when John is the target, listen to anybody's conversation on that telephone. It must be minimized, shut off; the officers cannot hear it; it is not recorded.

So the gentleman's conclusions from the hypothetical, Madam Speaker, are simply incorrect. Thank you.

#### GUEST INTRODUCED

The SPEAKER pro tempore. The Chair wishes to welcome to the hall of the House Judge John Musmanno from Allegheny County Court of Common Pleas, who is sitting to the left of the Speaker. He is the guest of Joe Petrarca and Frank Dermody.

#### CONSIDERATION OF SB 635 CONTINUED

The SPEAKER pro tempore. The Chair recognizes the gentleman from Westmoreland County, Mr. Casorio.

Mr. CASORIO. Thank you, Madam Speaker.

This piece of fast-track legislation that we are dealing with today has seemingly bypassed the committee process, from our vantage point.

If it is our true intent to help law enforcement, then we should be just dealing with the portion of the bill that allows us to

videotape and audiotape when a policeman or a policewoman stops a motorist on the highway. Within the last half an hour, Madam Speaker, I have spoken with three Fraternal Order of Police groups — one in Lower Burrell, Westmoreland County; one in North Huntingdon, Westmoreland County; and one here in Harrisburg. They want the portion of the bill, the portion of the bill, Madam Speaker, that protects law enforcement officers, and that is just solely the portion that allows the video and audio tape of a traffic stop.

I concur 100 percent with my colleague from Somerset County. Let us debate the merits of this comprehensive bill individually, piece by piece. If it is our true intention to help law enforcement — that is why I rise today, Madam Speaker — I am urging a “no” vote on this amendment, because it does not, it does not help law enforcement. We need to help law enforcement. This bill is too comprehensive, and it infringes on the rights and the privacy of law-abiding, taxpaying residents of the Commonwealth of Pennsylvania.

The F.O.P. told me, half an hour ago, that the cameras are there — they are in favor of it — to, one, justify police action — they are policing their own ranks — and two, to help protect law enforcement men and women when they ride one per car in many communities in the Commonwealth of Pennsylvania, and it is a discretionary measure. From what I am told, Madam Speaker, the audio and video tape portion would not begin until the warning lights are activated on a police car.

So let me say in conclusion, if it is our true intention to help law enforcement — and I know those folks in this chamber, on both sides of the aisle, truly do want to help law enforcement — we will vote “no” on this amendment, bring it back up so that we can vote “yes” on the videotape and audiotape portion and protect the hardworking men and women of law enforcement throughout the Commonwealth. Thank you.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Lancaster County, Mr. Sturla.

Mr. STURLA. Thank you, Madam Speaker.

Will the maker of the amendment rise for a brief interrogation?

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

Mr. STURLA. Thank you.

I believe I sympathize with your intent to try and get at drug dealers. I mean, I do not think there is anybody in this House that would not be with you on that issue.

I will state up front that I will apologize for some of the questions, but I imagine you run into some of the same frustrations that some of us do on this side of the aisle in not being able to get your issues heard in committee, which is why you are bringing it straight to the floor of the House.

The questions I have deal with some of the issues relating to the wiretaps. On page 8 there is a section that deals with privileged communications and nonallowance of interception of privileged communications, and I am assuming that has to do with attorney-client privilege and things like that. My question goes to particularly as it relates to some things like insurance fraud, where there might be insurance companies tracking somebody that they think is trying to milk a workers’ comp claim or something like that. If an attorney offers a free consultation before that person becomes a client, is that conversation privileged or not?

Mr. CHADWICK. Madam Speaker, it is my understanding that no, no illegal conversation is privileged in this State. If the intent of the conversation is to commit a crime or in some way foster a crime, it is not protected under Pennsylvania law today.

Mr. STURLA. So if a client says, “You know, I shot the guy, but I want you to try and get me off,” that is not a privileged conversation. Under a wiretap, that could be taken and used in court?

Mr. CHADWICK. That would be a privileged conversation, because he is not trying to bring the attorney into the crime.

Mr. STURLA. Okay. Then I will get back to my question of the free consultation. Is the free consultation a privileged conversation?

Mr. CHADWICK. Oh, absolutely.

Mr. STURLA. Simply because the person he is talking to is an attorney?

Mr. CHADWICK. Yeah; that would be protected as an attorney-client conversation, absolutely.

Mr. STURLA. Even though the person is not a client as of that particular point in time?

Mr. CHADWICK. I do not know why it would make a difference if it is between an attorney and a potential client.

Mr. STURLA. So in other words, attorneys are privileged in that they can never be wiretapped, in that any conversation they may have could be with a potential client.

Mr. CHADWICK. No, that is not true, and I think the gentleman is aware of that. Clearly, we are talking about conversations an attorney may have with someone who is or may well be a client as a result of that conversation.

Mr. STURLA. Okay. My question is, who determines whether that person may or may not be a client?

Mr. CHADWICK. Madam Speaker, before any wiretap can take place, under current law or under this amendment, a law enforcement official — a district attorney, the Attorney General — must go to a judge and convince the judge that he has probable cause to believe that that person is committing crimes and that he has reason to tap that telephone. That is already the law in Pennsylvania, and that has not changed. If that attorney is involved in bookmaking operations or money laundering or something else and the district attorney can get a judge to believe that he has probable cause to tape conversations related to that activity, then he may get an order.

Mr. STURLA. So somebody who has an outstanding workers’ comp claim that might be considered fraudulent by the insurance company could have a roving wiretap put on them though, correct, under this?

Mr. CHADWICK. No.

Mr. STURLA. Well, Madam Speaker, on page 6, it says “relating to insurance fraud.” Is not workers’ comp fraud insurance fraud?

Mr. CHADWICK. Madam Speaker, you have to be actually engaging in the fraud for the wiretap to be eligible and take place.

Mr. STURLA. Madam Speaker, if the attorney that I have a conversation with tapes the conversation, is that privileged information or not?

Mr. CHADWICK. Madam Speaker, the attorney can only tape his own client’s conversation with the client’s permission. If the attorney has not obtained the client’s permission, then the attorney has violated the law.

Mr. STURLA. Thank you, Madam Speaker.

Madam Speaker, a couple other questions.

If the person who has the roving wiretap on them goes into my bank and does business in my bank and may in fact be transacting, they may be laundering money through the bank, and the bank does not have knowledge of this, under the wiretap legislation — and maybe they do some banking by phone with that bank that I happen to do banking with also — under the wiretap legislation that you proposed, would the law enforcement officials be able to tap the phones in that bank?

Mr. CHADWICK. Madam Speaker, if you look at the criteria on page 9 of the amendment, in order to get a roving wiretap, you not only have to show the judge probable cause for a wiretap in the first place but you must also convince the judge that the person is moving from telephone to telephone for the deliberate reason of making these transactions and avoiding the wiretap. Now, if you cannot convince the judge of that, you cannot get that tap that you asked for.

Mr. STURLA. Madam Speaker, I understand that. Assuming that you have established that there is a drug dealer that does this, does the fact that that guy happens to bank at the same bank that I do mean that the phones at the bank can be tapped? That is my question.

Mr. CHADWICK. Madam Speaker, it is just as I thought. The answer is, yes, you can tap the phones in that bank, but you would have to utilize the minimization plan that Representative Feese discussed. If you turn on the machine and someone else is talking, you must immediately turn it off. If you turn on the machine and something nonrelated to a crime is taking place, you must immediately turn it off. You must strictly follow the minimization plan, and if you violate it, you must tell the judge.

Mr. STURLA. Madam Speaker, two other examples, because these are things that I think should be of concern to most people.

If you are talking about a low-level drug dealer, oftentimes they have minimal jobs on the side that they keep in order to keep the ruse of them actually having a job as well as their doing their drug dealing. In the event that they are, say, a janitor or a pizza delivery person — I will use those two examples, and I will explain my reasoning — if they are a janitor in a building like the building that I lease space in, where there are 11 stories or 12 stories or 13 stories of office space, they have access to all offices, office phones, in that entire building after hours, when there is no one else there. Would all those telephones in that office building be accessible to a tap if there was a roving tap on that person?

Mr. CHADWICK. Only the phones that that person is actually using. Now, again, while those phones may be tapped, if the person you are talking about is using them and if he is using them for the purpose of committing crimes, again, you must strictly follow the minimization plan. If you turn on the machine and the phone is being used by someone else, you must immediately turn it off. If you turn it on and the conversation has nothing to do with a crime, you have got to turn it off. Again, you must follow the minimization plan.

Mr. STURLA. Madam Speaker, you said that the police officers or the law enforcement officers actually have to have knowledge that the person is actually using the phone, not just suspecting that they have access to the phone. Is that correct? Because I mean, my understanding is, when John goes into Mary's house, as Representative Lloyd pointed out, there is no evidence that John

is using the telephone but there is a pretty good suspicion that he is, and that is where you get the wiretap. Is it suspicion or is it actual knowledge of use? Do they have to physically see him talking on the telephone, or is it just that he has access to the telephone and there is a suspicion that he could be using it?

Mr. CHADWICK. No. If he has access to the phone and there is reason to believe that he may well be using it, he is where the phone is—

Mr. STURLA. So then the janitor that has access to all the telephones in a 50-story building when no one is there at night, there is a pretty good reason to believe that that person has access and could very well be using those telephones. Is that correct?

Mr. CHADWICK. Well, Madam Speaker, if you know he is on the first floor, you cannot turn the machine on for a phone on the fifth floor, but if there is reason to believe he is where a particular phone is and you have reason to believe that he is using that phone for the purpose of committing a crime and you have convinced a judge to issue you the roving wiretap and you follow the minimization plan, then you may quickly turn the phone on to see if he is using it for that purpose.

Mr. STURLA. Madam Speaker, the other scenario was the pizza deliveryman, which is something that is a method of dealing drugs, actually that is known in some cases, where people actually are pizza deliverymen and they in some cases actually deliver pizzas and in other cases they get their friends to call up and say, you buy a pizza and along with it you get a packet of cocaine or you get some marijuana or some other drugs. In that event, knowing that the only thing that transpires and that the way people make these transactions is the person calls the pizza delivery place and they say, "I want a pizza," Joe goes out and delivers the pizza along with the drugs, behind closed doors, so there is an assumption that maybe he is using the telephone in there, would anybody who gets a pizza delivered to them be under liability for phone taps?

Mr. CHADWICK. No, Madam Speaker.

First of all, unless the deliveryman goes into the house, you have no right to turn on the machine to tap the phone in that house. Most deliveries take place at the front door.

Now, if the pizza man goes into the house and you have had probable cause to convince a judge that he is engaged in this, perhaps, but most pizza deliveries take place at the front door. If he does not go in the house, you cannot tap the phone.

Mr. STURLA. Well, Madam Speaker, in the dead of winter, most of the times I invite the pizza man to at least stand inside my door while he makes change for me, but I guess I will have to stop that in the future if this law passes.

I am done with my interrogation. If I could make a brief comment.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. STURLA. Madam Speaker, I mean, I agree with what you are trying to accomplish here. I am just concerned about the way you are accomplishing it, and I think there are ways that we could accomplish the same things without giving this sort of broad latitude that will allow for abuse of wiretaps. I would hope that we would defeat this today and come back with a more restrictive or more reasoned approach to this wiretap issue, and I would guarantee that you will have my full support if you come back with that more reasoned approach. Thank you, Madam Speaker.

### FORMER MEMBER WELCOMED

The SPEAKER pro tempore. The Chair wishes to welcome to the hall of the House Francis Worley, a former colleague from Adams County who is visiting the Capitol. He is seated to the left of the Speaker.

### CONSIDERATION OF SB 635 CONTINUED

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

Mr. THOMAS. Thank you, Madam Speaker.

Madam Speaker, may I interrogate the architect of the amendment?

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

Mr. THOMAS. Thank you, Madam Speaker.

Madam Speaker, would you answer a question for me. I have heard some discussions about why this wiretap proposal is necessary to deal with drug dealers, and I guess one of the questions that I have, and that is, is this proposal limited to drug activity?

Mr. CHADWICK. No, Madam Speaker. Pages 5 and 6 of the amendment enumerate a number of crimes for which you may obtain a wiretap under this amendment.

Mr. THOMAS. So, Madam Speaker, then, arguably, you as an elected official, subjected to certain allegations, could also become victimized by this wiretap proposal. Is that correct?

Mr. CHADWICK. Well, Madam Speaker, if I was committing a crime and a law enforcement official convinced a judge that he had probable cause to tap my phone, then I could be tapped. I do not know that you could characterize me as a victim. And understand that under current Pennsylvania law, there are already a large number of crimes for which you may obtain a wiretap. The handful that we have added are crimes for which the most logical way of catching someone is through a wiretap; they are the types of crimes that that is how you get them. But there is already a long list of crimes, under current Pennsylvania law, for which you may obtain a wiretap.

Mr. THOMAS. Well, Madam Speaker, my second concern is, earlier a question was raised as to whether or not this wiretap proposal is limited to criminal proceedings. In fact, I believe that the previous speaker indicated that both civil and criminal proceedings would be covered through this wiretap proposal. Is that correct?

Mr. CHADWICK. Madam Speaker, if you have a 1983 action against a police officer, a violation of civil rights, you could obtain a wiretap in that circumstance. Now, technically that is a civil action. I mean, the examples for which you can use a wiretap for civil actions are extremely limited, and they relate to serious matters like violations of civil rights under Federal law.

Mr. THOMAS. So, Madam Speaker, are you stating that the narrow window of opportunity for application of this proposal exists only with civil rights actions?

Mr. CHADWICK. Madam Speaker, if the gentleman will look at the middle of the page, on page 13 of the amendment, the civil matters for which a wiretap may be obtained are enumerated, and they relate to criminal, quasi-criminal, forfeiture, administrative

enforcement or professional disciplinary proceedings in any court, board, or agency of the Commonwealth.

Mr. THOMAS. Okay. So then it does exist, other venues for which information from a wiretap can be used, so it is just not limited to civil rights actions.

Mr. CHADWICK. No. I gave you one example—

Mr. THOMAS. Thank you.

Mr. CHADWICK. —just as an anecdotal example, but there are a number listed on page 13.

Mr. THOMAS. Thank you, Madam Speaker.

Madam Speaker, my last question would involve the minimization plan that must be submitted. The minimization plan is something that has been around for a while now, I guess ever since we have permitted wiretapping in the Commonwealth of Pennsylvania. My question, though, is whether or not the minimization plan, how would that apply to an in personam wiretap, because the minimization plan historically has run to the act as opposed to the person, but your amendment now provides for an in personam wiretap, and my question is, how does the minimization plan relate to an in personam wiretap?

Mr. CHADWICK. Madam Speaker, the protections to the public are even greater under roving wiretap than they are under traditional, because first of all, the requirement of utilizing the minimization plan follows the defendant to whatever phone he may use, and secondly, before the wiretap may even be obtained, not only must a law enforcement official convince a judge that a wiretap is in order but he must also convince a judge that the roving wiretap is required because that defendant is deliberately moving from phone to phone to make his deals and avoid prosecution. So I would say that the minimization plan works every bit as well in a roving wiretap and maybe better.

Mr. THOMAS. Madam Speaker, the reason that I asked that question was primarily because I am finding it hard to understand, how can a wiretap on a person, which really is a wiretap that follows that person, how would a minimization plan provide Miss Mary with any protection if the wiretap runs with the person and not the activity?

Mr. CHADWICK. Let me give an example to tell you how that works. If a drug dealer goes to Mary's house, a drug dealer for whom law enforcement officials have obtained a roving wiretap because they believe he is moving from phone to phone to make his drug deals and he goes to Mary's house, when that phone is picked up to be used and the law enforcement officials turn on that wiretap machine, if Mary is on the phone talking to her husband at work, they must turn it off. If they turn it on again later, under the minimization plan for how often they can turn it on, if they turn it on later and Mary's daughter is talking to her boyfriend, they must turn it off. They must keep a log of every time they turned it on and off, of who was on the phone when they turned it on and off, who they were talking to, and how long they had it on. You must follow that plan strictly, and if someone other than the drug dealer is on the phone and they are talking about something other than drug deals, you must immediately turn it off and so note in the log.

Mr. THOMAS. Well, Madam Speaker, does your amendment provide any remedy for relief in situations where there is an abuse of the wiretap privilege that has been granted beyond the exclusion of whatever information was obtained from that illegal wiretap?

Is there any remedy in your bill for substantive relief in cases of abuse or violation?

Mr. CHADWICK. Madam Speaker, my amendment does not change the remedies that are already available under current law for any violation of a wiretap. We are creating a new roving wiretap. We are expanding the existing wiretaps to cover things like cell phones and pagers, but we have not in any way reduced the remedies that are available. The remedies that are available today will still be available to anyone victimized by wrongful use of a wiretap.

Mr. THOMAS. Madam Speaker, first, let me commend you for responding to a request and attempting to put together a very comprehensive proposal; let me commend you for that.

Madam Speaker, may I comment on the bill at this time?

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

The SPEAKER. The gentleman is in order.

Will the gentleman yield for a moment.

Members will please take their seats. Conferences should be held in the rooms to the rear of the House.

Mr. Curtis. Pardon me; I do that all the time.  
Mr. Curtis Thomas.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, I rise in opposition to the Chadwick amendment, and I rise in opposition to the amendment for the following reasons: Number one, the Representative has put a lot of time and effort in crafting this proposal, but in the effort that has been devoted to crafting this proposal, I think there was an underlying need to cover all situations so that we end up having a proposal that is extremely broad, extremely broad, and is not limited to the particular conduct that the law enforcement community wants to reach. So I oppose it because of its broadness.

Secondly, I oppose it because even though law enforcement is required to submit a minimization plan when seeking a wiretap, if we take a minute and think about the advanced technology which exists in telecommunications, then the fact that Mary is on the phone when law enforcement attempts to listen in and the fact that a minimization plan is required is really of little consequence since it is highly possible for multiple parties to be on a telephone simultaneously, and one of those multiple parties could in fact be the person upon which the wiretap has been applied. To that end, not only is Mary but any other parties that happen to be on the line at the time, their conversations will also be available to whoever is listening in on the wiretap. So minimization would not work in situations where you have multiple parties on the same telephone line. To that end, the bill will be able to affect, will be able to affect a number of innocent people beyond those that are intended through this proposed legislation.

Thirdly, Mr. Speaker, I rise in opposition because while the original intent of expansion of the wiretap law was to get at, as we have been told, drug dealers and to get at people who are out there money laundering and people who are engaged in theft of telecommunications, it is clear that the information obtained from the wiretap can be used in both criminal and civil proceedings, civil proceedings which have nothing to do with the primary focus of this wiretap law. It has already been brought to our attention

that telemarketers will be able to use information acquired through this wiretap proposal.

Mr. Speaker, I think that it is very clear from one end of Pennsylvania to the other, and that is, the citizens of Pennsylvania and throughout this country are increasingly calling for a respect for their privacy. The citizens of this State and throughout this country are increasingly saying to government, we do not mind reasonable intrusion, but some of these proposals that are being offered at the State and national level go far beyond reasonable intrusion and, in many cases, are tantamount to an invasion of privacy.

I think that the Chadwick amendment is tantamount to an invasion of privacy that does not necessarily run to those individuals whom one can glean from the proposal itself. The proposal was designed to get at a particular targeted population, but there are too many opportunities for innocent people, for family members, and for people who have no relationship to the focus of this bill that can get caught up in this wiretap proposal.

So for those three reasons, I rise in opposition. One, it is too broad; number two, it is too open for abuse. If we can honestly say that the users of the wiretap law will respect the law and will implement it only under very narrow circumstances, then I will support it, but you cannot say that from the language of this bill. There is too much opportunity for abuse in application of this proposal.

And last but not least, the proposal allows for information obtained to be used in both civil and criminal proceedings. Criminal proceedings I might not have a problem with, but in civil proceedings it is a different story, and to allow this broad application of a proposal in civil proceedings is troubling at best.

So I would urge my members on both sides of the aisle to vote against the Chadwick proposal and let us go back to the table and do this right, come up with, come up with a proposal that will in effect aid law enforcement, since it is law enforcement that is saying that it needs an expansion of the wiretap law. It is possible for us to put our heads together and come up with something that works, something that will represent a real tool to the law enforcement community. This amendment does not provide that kind of tool.

Thank you.

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

The SPEAKER pro tempore. Presently we have three more speakers. I would ask for your indulgence and quiet on the floor, please.

The Chair recognizes the gentleman from Montgomery County, Mr. Godshall.

Mr. GODSHALL. Thank you, Madam Speaker.

I have tried to ascertain where some of the sportsmen's groups are on this legislation. I tried to get in touch with the two largest and was not able to do so in the short time that I had. I did talk to the NRA (National Rifle Association), and the NRA reviewed this legislation in June and took no position, and as of right now, they have the same — they have no position on this legislation.

Also, I just talked with my first assistant D.A. from my own county, and as he said, he really believes that a vote against this bill is a vote against our ability to fight crime and to fight the drug



problems we have in this State. He called my attention to a comment which had come forward in a document which I think we all got, which said, "The courts have found that to..." vote "any other way" but in the affirmative "would be to reward criminals with constitutional protection for being good at being criminals — a conclusion which the courts have found" to be "offensive."

So I at this time am going to be voting in the affirmative on this bill. Thank you.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Somerset County, Mr. Lloyd, for the second time.

Mr. LLOYD. Thank you, Madam Speaker.

Madam Speaker, during the debate, there has been discussion of the protections which are provided by something called minimization, which is essentially a requirement that the court will impose that you do not listen to more than you have to in order to pursue the thing for which you have some legitimate reason. However, I do not know what some particular Superior Court judge would do, and I frankly do not know what the rules of court require, but I have read section 5712 of Title 18, and I have read it several times, and I have read it again during this debate.

Section 5712(a)(5) is the section which deals with, if you hear the wrong thing, shut it off; if you hear the wrong thing, shut it off. Let me read you what the language of the statute says — this is to be in the order — "The period of time during which such interception is authorized," — now listen up — "including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained." As I say, I do not know what the Superior Court says. Superior Court Justices come and go. I do know what the statute says, and the statute says that the court or the judge will make a decision whether you have to turn it off right away.

Secondly, read section 5712(b) dealing with time limits. It talks about a time limit, which says that interception begins and terminates as soon as practicable and is to be conducted in a way as to minimize or eliminate the interception of such communications not otherwise subject to investigation by making reasonable efforts.

I would like someone to explain to me how in my hypothetical situation— Let us even assume that the Superior Court says you may not turn that tap on Mary's phone unless you know that John is in the house; let us assume that. I am not prepared to concede that, but let us assume that for the sake of argument. The phone is picked up at Mary's house; the wiretapping starts. Mary is on the line. I do not believe that the officials listening in to that conversation are going to say, oh, Mary is on the line, turn it off, and wait until the phone is hung up and then again picked up, because they are going to suspect that maybe when Mary is done talking, she is going to hand the phone to John and he is going to make a call. So I do not see how, as a practical matter, they can avoid hearing conversations which they are not otherwise investigating.

Furthermore, the law seems to contemplate that, because in section 5712(e), when it deals with the final report, it says that the person doing the intercepting is supposed to tell the court the names of the participants and the evidence of offenses discovered, including those not stated in the application for order. That certainly implies that you are going to report names of people that you did not have probable cause to listen to or that you did not have any reason to believe you were going to hear and that you are

going to report offenses that you were not investigating; otherwise, why is that in the statute?

The final point with regard to minimization is, we heard that there are going to be these reports required all the time, and once again, I do not know what the Superior Court's current rules of court are, but I do know what the statute says. Section 5712(d) says, with regard to progress reports, that "...the order may" — m-a-y, not s-h-a-l-l — "require reports to be made to the judge who issued the order showing what progress has been made...."

Madam Speaker, it is possible to write a roving wiretap statute which deals with these problems in a way which most of us would think is appropriate. This amendment simply does not do that. It does not make the necessary changes. These provisions and minimization were placed in the law when nobody thought about applying them to a phone other than one that we specifically identified and we knew where it was. We need to change the sections of the law to take account of these problems so we are not listening to conversations that everybody concedes we ought not be listening to.

The final point, Madam Speaker, is, I hear all of this, if we defeat this amendment, it is the end of the world for law enforcement in Pennsylvania. That is nonsense. We considered this amendment in the last session. It did not become law. We had this amendment sitting on the House calendar since June. We went home for the summer. Taking a few more weeks or a few more months to try to wordsmith this and address some of the legitimate questions which are raised is neither irresponsible nor to side with the criminals. I think when that kind of argument is made and is attempted to be used to persuade people as to how they ought to vote, we really are doing a disservice, because we have an obligation to try to balance the law in a way which will take care of those problems which we all recognize exist without sacrificing rights for which people in this country have paid a very dear price.

Madam Speaker, we ought to vote against this amendment.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Bradford County, Mr. Chadwick, for the second time.

Mr. CHADWICK. Thank you, Madam Speaker.

Taking a few more weeks to water down what is already the weakest wiretap law in the country does nothing for our law enforcement officials and it does nothing to deal with the drug problem in this State.

Make no mistake, if we defeat this amendment, drug dealers in Pennsylvania will cheer because they will continue to have more protections in Pennsylvania than they enjoy anywhere else in the country. There is nothing in this amendment that is not already permitted under Federal law. Most States follow the Federal law. The Federal law is tougher than this amendment.

If we pass this amendment, we will still have the weakest wiretap law in the country. There are no problems with privacy. You probably did not know this: There has never been a conviction overturned in Pennsylvania for a violation of the wiretap law, not even once. The alleged abuses just are not there.

Our law enforcement officials, our district attorneys, and our judges are responsible. They are out there trying to fight crime; they are out there trying to fight drugs. They need this. Lynne Abraham, the district attorney of Philadelphia, calls this crucial. Mike Fisher, the Attorney General, calls it important. The District Attorneys Association is behind it; the State Police are

behind it. We need this to fight crime; we need this to fight drug dealers.

I urge an affirmative vote.

The SPEAKER pro tempore. The Chair recognizes the lady from Butler County, Ms. Carone.

Ms. CARONE. Thank you, Madam Speaker.

I would wish to interrogate the maker of the amendment. Would he please stand for interrogation?

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

Ms. CARONE. Thank you, Madam Speaker.

Rather than looking particularly at the issue that you just raised, Madam Speaker, I would like to refer back to the language that was brought up regarding telecommunications on pages 4 and 5, particularly line 59 on page 4 to line 11 on page 5. My question is, when they make the phone call to the person they are trying to contact regarding sales, do they have to tell that individual that their conversation is being recorded?

Mr. CHADWICK. No, Madam Speaker. The answer is no, and I am glad you brought that point up, because it needs to be addressed. I do not like those kinds of phone calls that we receive at home any more than anybody else does, but they are a fact of life. Telemarketing exists, and we are not going to make it go away.

Under Federal law, a telemarketer may call into Pennsylvania and tape that conversation, and there is nothing we in the General Assembly can do about that because that right is protected under Federal law. In fact, in virtually every other State, a telemarketer calling within that State may tape that conversation.

If we do not pass this amendment, the only result — the only result — will be that all the telemarketing jobs that exist in Pennsylvania will move out of State to New Jersey or New York or Delaware or somewhere where they can make the very same call during your dinner hour right back to you and tape it, and there is nothing you can do about it. At least if we keep those jobs in Pennsylvania, they will be required to do things they are not required to do in any other State, in any other State, which is to destroy those tapes after a year and to give you a copy of the tape if you ask for it. Those are new protections that were put in over the summer at the request of the Attorney General. If we can keep those telemarketing jobs here in Pennsylvania, our citizens will enjoy those protections. If we tell telemarketers they are not welcome here, they will simply move out of State, tape the conversation anyway, and you will not enjoy those protections.

Ms. CARONE. Madam Speaker, regarding line 7, "Made available to any party to the communication upon written request,..." I guess my question is, who are the parties that they would be providing this material possibly to?

Mr. CHADWICK. The person on the other end of the phone call; the person whose conversation is being taped.

Ms. CARONE. But if I do not know I am being taped, I would not know to ask for it.

Mr. CHADWICK. Well, if you know that the law in Pennsylvania is that you are entitled to get it, you certainly would. And understand, if you are required to tell the person in advance that you are going to tape the conversation, I mean, as attractive as that sounds, no one is going to agree and the telemarketing jobs in Pennsylvania will just leave. I mean, that is reality. We can wish it otherwise, but the cold, hard fact is, those jobs will just leave,

and they will make the calls from another State where they do not have to afford you these protections we are trying to give you under Pennsylvania law.

Ms. CARONE. Thank you.

Madam Speaker, may I speak on this language?

The SPEAKER pro tempore. You may proceed.

Ms. CARONE. I may be nitpicking, Madam Speaker, but "Made available to any party" suggests to me that the telecommunications company making the phone calls could provide the information that they gained from the conversation with the individuals being called to other companies or to other agencies or to whoever would want to have that information. I regret that it says, "Made available to any party." I would much rather see that language written, "Made available to the individual to whom the phone calls were made."

Thank you, Madam Speaker.

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

Mr. WOGAN. Thank you, Madam Speaker.

Madam Speaker, I think it is important to recognize what will not happen if the Chadwick amendment does not pass. If the Chadwick amendment does not pass, then law enforcement agencies in Pennsylvania will not be able to wiretap to investigate welfare fraud; they will not be able to investigate cases of telecommunications fraud, including cellular phone fraud.

When we first started to pass to update our wiretapping statute over 2 years ago, I had contact with several cellular providers here in Pennsylvania, and they told me something very curious and very outrageous. For a period of time lasting until, I think, about a year ago, some cellular phone companies actually had more fraudulent clonings, they call them, than they actually had new business arrangements. That is absolutely right; in excess of 10,000 clonings a month for one company.

Madam Speaker, we pay those bills when the police departments of Pennsylvania cannot prosecute that kind of cellular phone fraud. We pay for those welfare cases when the big welfare fraud syndicates can operate knowing that their communications over the wires and over the wireless services cannot be intercepted by law enforcement agencies. We pay for those welfare fraud cases.

And last but not least, insurance fraud in Pennsylvania. Philadelphia is the insurance fraud capital of the east coast. Sophisticated groups of criminals operate in this area up and down the east coast. They operate out of the City of Brotherly Love. They know they can operate without fear of law enforcement agencies wiretapping their communication.

Madam Speaker, it is time to bring the wiretapping statute in consonance with the advances in technology. I can tell you the criminals are not deterred by antiquated procedures like our present wiretapping statute. They can use every advance in technology, and they have in fact used every advance. It is only fair we give the same tools to our local police.

I ask for support for the Chadwick amendment.

The SPEAKER pro tempore. The Chair recognizes the minority leader, Mr. DeWeese, from Greene County.

Mr. DeWEESE. Madam Speaker, my remarks will be brief, and they primarily deal with process.

The gentleman from the 161st District, the chairman of the House Judiciary Committee, is at it again. The Senate passed this



bill. The Honorable Michael Fisher, our Attorney General, had some observations on wiretapping this summer, and the process that we should be about now in the autumn, after returning to our General Assembly plenary session, should be that the House Judiciary Committee should meet and the House Judiciary Committee should ponder some of these amendments, some of these nuances; they should be doing the work of a committee.

As a nonlawyer, the first in modern times to head the Judiciary Committee, along with my counterpart, now State Senator Jeffrey Piccola, again and again during our collective tenure, these complicated measures would percolate through the committee system. But, no, that is not the way you folks are operating.

The Senate passed the bill — much of it is worthy, obviously — and many of the people on both sides of this aisle want to support it and sustain it and project it toward a conclusive vote today, but your committee system, especially the revered Judiciary Committee, because other than the Appropriations Committee, the Judiciary Committee and the Judiciary chairman have a sacred obligation to our constitutional freedoms.

The word itself, “wiretap,” connotes a rather sinister aspect of modern life, and with computers and cell phones and a plethora of other communications marvels, people are listening out there with police scanners and people will be listening more and more with wiretaps.

Notwithstanding the efficacy of some of this measure and the wholesome motivation with which the prime sponsor of the amendment gives it to us today, the system — the system — is failing miserably, Madam Speaker. Our committees are not working. The Judiciary Committee, the illustrious Judiciary Committee, all of the lawyers who serve on that committee should be ashamed of the guidance that is being offered to that committee. That committee is not being run well.

It is ignominious to bring a very complicated, complex, arcane, multipaged bill on wiretap to the floor of this House. The Senate passed it; D. Michael Fisher tried to help with the legislation; and here, at a pace whose celerity we should be growing used to, it is getting ready to pass without most of us knowing what is in it, without most of us knowing what it is about, but most deplorably, most deplorably, without the lawyers on the House Judiciary Committee being able to respond.

I am glad that since I was the last speaker—

### POINT OF ORDER

Mr. GANNON. Madam Speaker? Madam Speaker?

The SPEAKER pro tempore. For what reason does the gentleman rise?

Mr. GANNON. Point of order, Madam Speaker.

Madam Speaker, quite frankly, I am getting fed up with the Democrat Caucus and, in particular, the Democrat leader, Bill DeWeese, for his ad hominem attacks on me personally on how I run my committee.

Mr. DeWEESE. Madam Speaker, I object to that—

(Remarks made by Mr. Gannon at this point were stricken from the record.)

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

The SPEAKER. The House will come to order.

Will the gentleman, Mr. DeWeese, yield to the gentleman, Mr. Gannon?

Mr. DeWEESE. No.

### PARLIAMENTARY INQUIRY

The SPEAKER. Does the gentleman, Mr. Gannon, have a point of parliamentary inquiry?

Mr. GANNON. Yes, I do.

The SPEAKER. Or a point of personal privilege?

Mr. GANNON. Two issues, Mr. Speaker: Point of parliamentary inquiry as well as a point of personal privilege.

The SPEAKER. The gentleman will state them.

Mr. GANNON. Mr. Speaker, is it appropriate for a member to make ad hominem arguments concerning legislation?

The SPEAKER. You are using language that does not appear in the rules.

### QUESTIONS OF PERSONAL PRIVILEGE

Mr. GANNON. Well, then a point of personal privilege, in a calmer tone, Mr. Speaker.

The SPEAKER. Please.

Mr. GANNON. I resent the speaker's ad hominem arguments. Rather than addressing the issue, he is addressing the conduct or the alleged conduct of any particular member with respect to the legislative process.

The SPEAKER. The House will come to order.

As a matter of custom, the floor leaders have been granted greater latitude in the course of debate than have the members. That may or may not be a mistake.

In the instance that we have before us right now — and I happened to be listening to it, although not presiding at the moment — I felt that the minority leader was attacking the process; I felt the minority leader was attacking the process of the Judiciary Committee and came very, very, very close to identifying individuals, and had he gone that one extra step, I would have curtailed it and found him to be out of order. It was very close, and after consultation with the Parliamentarian, it was on the edge, and I am going to give the benefit of the doubt to the gentleman, Mr. DeWeese, because of his position but ask that he temper his remarks because he knows better.

Mr. GANNON. Mr. Speaker?

The SPEAKER. And, Mr. Gannon, because you know better, I would ask that before you are quite so critical as you appeared to be, you seek recognition and be recognized, and I at least will see that you are recognized. Now, it may very well be that the recognition will be short-lived.

I could not hear everything you said because there was some interruption in the debate. It reminded me of the day we were sworn in some years ago, which was also out of order.

Mr. GANNON. Mr. Speaker?

The SPEAKER. Mr. Gannon.

Mr. GANNON. A further point of personal privilege.

I would ask that any reference in my remarks that I made to Representative DeWeese be stricken from the record.

The SPEAKER. Very well. They are stricken. Without objection, they will be stricken. I would like to read them first, but then they will be stricken.

(At the member's request, the remarks were stricken from the record.)

The SPEAKER. Mr. DeWeese.

Mr. DeWEESE. Thank you, Mr. Speaker.

If I offended the gentleman from Delaware, I apologize unabashedly and unequivocally.

I will terminate my observations by only saying that when the gentelady from Philadelphia was debating the welfare bill, some of her frustrations were that we did not have a chance to do this work in committee. When some of us — the gentleman, the Appropriations chairman from Philadelphia, myself — were debating the gasoline tax, one of our major regrets was, it did not have enough time to percolate up through that committee.

I just think that there may be something in this Pandora's box that will be forthcoming that we will not know about. I do not know whether there will be a monster truck proposal in this wiretap legislation or not, but when you deal with legislation, Mr. Speaker, and the committees are not allowed — not only this committee but other committees — are not allowed to function as they should, as they have traditionally, and if we continue to operate as a committee of the whole again and again and again and again, our work product will be diminished.

So my remonstrations to this worthy Assembly and to my good friend from Delaware County is that in the future, I would hope that our committee system will work as it is meant to do. Thank you, Mr. Speaker.

The SPEAKER. We, incidentally, as a point of historical information, we did a memorial resolution today for a member, Fred Shupnik, who was chairman of the Judiciary Committee back in the sixties, certainly not a Neanderthal, and he was not a lawyer. I was on that committee.

Mr. Perzel.

Mr. PERZEL. Thank you, Mr. Speaker.

I am sure that most of the members did not like seeing what they just saw a few moments ago.

We have, particularly myself and Representative Snyder and the Speaker, tried to run as many Democrat bills and tried to keep this as fair a process as possible, Mr. Speaker. We have tried week in, week out. We have had the calendar over the last 2½ years with both sides' issues on the calendar. This issue — and it may get lost out there — but as Mr. DeWeese has mentioned several times in the past about the brochures, this issue really is about whether or not we are going to allow the district attorneys to track drug dealers using cellular phones, Mr. Speaker. That is how simple this issue really is.

I would ask for an affirmative vote, Mr. Speaker.

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

The following roll call was recorded:

YEAS—137

Adolph	Dent	Lucyk	Sainato
Allen	Dermody	Maher	Santoni
Argall	DiGiroIamo	Maitland	Sather
Armstrong	Druce	Major	Saylor
Baker	Eachus	Markosek	Schroder
Bard	Egolf	Marsico	Schuler
Barley	Fairchild	Masland	Semmel
Barrar	Fargo	Mayernik	Snyder, D. W.
Battisto	Feese	McCall	Steelman
Belfanti	Fichter	McGeehan	Steil
Benninghoff	Fleagle	McGill	Stern
Birmelin	Flick	McLhattan	Stetler
Blaum	Gannon	McNaughton	Stevenson
Boscola	Geist	Micozzie	Strittmatter
Boyes	Gigliotti	Miller	Tangretti
Browne	Gladeck	Nailor	Taylor, E. Z.
Bunt	Godshall	Nickol	Taylor, J.
Caltagirone	Gruppo	O'Brien	Tigue
Cawley	Habay	Orie	Trich
Chadwick	Haluska	Perzel	True
Civera	Hanna	Pesci	Tulli
Clark	Harhart	Petrarca	Vance
Clymer	Hasay	Petrone	Van Horne
Cohen, L. I.	Hennessey	Phillips	Vitali
Colafiglia	Herman	Pippy	Walko
Colaizzo	Hershey	Pistella	Waugh
Conti	Hess	Platts	Wogan
Cornell	Itkin	Preston	Wojnaroski
Corrigan	Kaiser	Raymond	Wright, M. N.
Cowell	Kenney	Readshaw	Zimmerman
Coy	Krebs	Reber	Zug
Daley	LaGrotta	Reinard	
Dally	Laughlin	Roberts	Ryan,
DeLuca	Lawless	Ross	Speaker
Dempsey	Lescovitz	Rublej	

NAYS—61

Belardi	Gordner	Manderino	Smith, B.
Bishop	Gruitza	Melio	Smith, S. H.
Brown	Horsej	Michlovic	Staback
Butkovitz	Hutchinson	Mundy	Stairs
Buxton	Jadlowiec	Myers	Sturla
Cappabianca	James	Oliver	Surra
Cam	Jarolin	Ramos	Thomas
Carone	Josephs	Rieger	Travaglio
Casorio	Keller	Robinson	Veon
Cohen, M.	Kirkland	Roebuck	Washington
Corpora	Lederer	Rohrer	Williams, A. H.
Curry	Leh	Rooney	Williams, C.
DeWeese	Levdansky	Scrimenti	Wilt
Donatucci	Lloyd	Seyfert	Yewwic
Evans	Lynch	Shaner	Youngblood
George			

NOT VOTING—1

Olasz

EXCUSED—4

Bebko-Jones	Mihalich	Serafini	Trello
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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?

The SPEAKER. The Chair recognizes the gentleman, Mr. Lloyd— Mr. Lloyd, would you be kind enough to give us the order of the amendments that you intend to offer.

Mr. LLOYD. Yes, Mr. Speaker.

I would like to start with A3479, and if that amendment— Well, the outcome of that amendment will dictate whether A3478 needs to be offered.

The SPEAKER. The clerk will read the amendment.

On the question recurring,

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

Mr. LLOYD offered the following amendment No. A3479:

Amend Sec. 5 (Sec. 5704), page 5, line 4 (A3439), by removing the period after "business" and inserting provided that, the personnel of a business engaged in telephone sales by means of wire, oral or electronic communications informs the customer or any other such party who is a party to a sales communication that the communication is being intercepted and monitored for training purposes or to assure quality of service and, provided further, that the customer or other such party to the communication gives prior consent to the interception.

On the question,

Will the House agree to the amendment?

The SPEAKER. On that question, Mr. Lloyd.

Mr. LLOYD. Thank you, Mr. Speaker.

Mr. Speaker, we heard that what this bill is all about is drug dealers. The amendment which I am offering has nothing to do with drug dealers. It has to do with telemarketers. The amendment does not remove the telemarketer language from the bill. What it does do is require that before the telemarketers may record the conversation, they must advise you that that is going to happen.

We have all been interviewed by radio stations, and they say, is it okay to roll the tape? Well, that is essentially what my amendment is suggesting in the case of telemarketers. If after you know they are going to record your conversation you are willing to talk to them, that is up to you, but if you do not want to have your conversation recorded, you ought to know that in advance so that you can terminate the conversation or they can say, okay, we will not record it.

Now, it was suggested, Mr. Speaker, that if we do not have legislation that lets the telemarketers do what they want, they are going to move out of State. This does not prohibit them from recording. This imposes some standards for that recording, and if they cannot adhere to those standards, then maybe that is a business that we ought not be trying to get into the State of Pennsylvania.

Mr. Speaker, it has been suggested that this language was fixed since last summer at the request of the Attorney General, because it now says that you have to destroy these things after 1 year. My question is, why would you keep them for 1 year? Whose purpose is being served?

And secondly, assuming that we are trying to protect the listener's opportunity to request a copy of the tape, if my amendment does not pass, how does he know that the conversation was ever taped? How does he know that the person who has called

him with a telemarketing call has recorded that conversation unless we require the telemarketer to make that information available?

Mr. Speaker, I think this is a reasonable position. The telemarketers, it has been represented to me, say, oh, my goodness; if we have to tell people we are taping them, they will hang up. And is that not the point? Is that not the point? If the person who gets the phone call would hang up if he knew he were being recorded, why in the world would we not want to let him know that? Whose interests are we trying to protect?

Mr. Speaker, I urge adoption of the amendment.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. Fleagle.

Mr. FLEAGLE. Thank you, Mr. Speaker.

Mr. Speaker, would the sponsor of this amendment stand for interrogation?

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

Mr. FLEAGLE. Thank you, Mr. Speaker.

Just a point of clarification. Sometimes when I get calls at home, I know there is a recording at the other end, and it says that your telephone conversation may — may — be recorded and monitored for I think they use the term "quality assurance purposes." Does that statement or would that statement fit into the wording of your mandate here?

Mr. LLOYD. Yes, Mr. Speaker.

Mr. FLEAGLE. It may— The words "may be recorded" would fit within that?

Mr. LLOYD. In my opinion, it would, because you are giving notice that it may be recorded. The person then gives his consent by continuing the conversation.

Mr. FLEAGLE. Thank you. Thank you, Mr. Speaker.

The SPEAKER. The gentleman, Mr. Chadwick.

Mr. CHADWICK. Thank you, Mr. Speaker.

Looking through the Lloyd amendment reminded me and took me back to my law school days back in the 1970's. I remember being passed around the law school a copy of a bill that a Pennsylvania State Senator had introduced at that time, which required criminals to notify their intended victims of their intention to commit a crime and made it a penalty if they did not do that. It sounded like a great idea, but it just did not make any sense. It just was not going to happen.

As a practical matter, if you require a telemarketer to ask someone if you can tape that conversation, they are going to say no, and if they are all going to say no, then you are not going to be able to do the things telemarketers need to do.

Now, if a telemarketer calls you from New Jersey, he does not have to ask if he can tape your call. He is permitted to under Federal law, and there is nothing we can do about that. If he calls you from New York or Delaware or Ohio or any other State in the nation, he does not even have to ask. He can record that conversation.

All you do by putting this added burden, this unrealistic burden, on Pennsylvania telemarketers is tell them that the telemarketing industry is not welcome in this State and that they may as well take their jobs and go somewhere else. They can go right across the Delaware River to New Jersey and do exactly what they are doing today — make the same call into your house at the dinner hour, they can tape it and they do not have to tell you, and there is nothing you can do about it.

Now, the gentleman, Mr. Lloyd, asked the rhetorical question, why would a telemarketer want to keep a tape for a year? The answer is contained right in the legislation — for training purposes. If the telemarketers can make tapes of conversations that go poorly, where the person being called is offended, they can use those tapes over the next year to train their telemarketers not to do the things that offend people. Maybe the calls will not be so offensive when we receive them.

Understand that under the legislation that is before us today, Pennsylvania residents have more protections than they have anywhere else. Nowhere else must the tape be destroyed after a year and nowhere else may the person being called insist on getting a copy of the tape. Those protections would be unique to Pennsylvania.

If you drive telemarketers out of this State, the calls will still be made, but our citizens will lose those protections. This amendment may be well intentioned, but it will do harm, and I urge a negative vote.

The SPEAKER. The gentleman, Mr. Lloyd.

Mr. LLOYD. Thank you, Mr. Speaker.

Mr. Speaker, I do not know what the Federal law says, and I do not know whether there are any other States which restrict this. I find it extraordinarily difficult to believe that no other State imposes any restrictions on telemarketing, but for the sake of argument, I will accept that.

Mr. Speaker, my concern is that, first and foremost, it has been suggested that this is all about training, but read the Chadwick amendment, page 5, lines 3 and 4. Why do we make the interception? One is, the sole purpose of training; two is, quality control; three is, monitoring by the business, and I think that is why we want these for a year. We want to be able to go back and identify the good leads. We want to be able to go back and cull through those recorded messages and say, these people, it cost too much, and we are not going to call them again. These others, they seem like people who are persuadable. The same as you or I would do if we were calling people at election time or going door to door and you put them into the category of those who are definitely against you and those who are persuadable and those who are maybe a little more than persuadable. That is why I think they want to keep it.

But I come back to the basic point, and that is that if we start with the assumption that this amendment will mean that people will hang up and therefore telemarketers cannot do what telemarketers do, that must be because your constituents and mine do not want to talk to these people and have the recording made; they do not want to be taped. Why, if they do not want to be taped, should we hide that from them? That is like, we passed all kinds of consumer protection legislation on buying cars, on buying insurance, on buying a house. The logic of the opposition of this amendment is, do not tell them what they are really getting, because if they knew, they would not buy it. Surely, none of us, none of us would advocate that position. Mr. Speaker, we ought to require that they tell our constituents if they are going to record their calls and let our constituents decide.

Mr. Speaker, I ask for an affirmative vote.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

### YEAS—157

Armstrong	Dermody	Leh	Rooney
Baker	DeWeese	Lescovitz	Sainato
Bard	DiGirolamo	Levdanskoy	Santoni
Barrar	Donatucci	Lloyd	Schroder
Battisto	Druce	Lucyk	Schuler
Belardi	Eachus	Lynch	Scrimenti
Belfanti	Egolf	Maher	Semmel
Benninghoff	Evans	Manderino	Seyfert
Birmelin	Fairchild	Markosek	Shaner
Bishop	Feese	Masiand	Smith, B.
Blaum	Fichter	Mayernik	Smith, S. H.
Boscola	Fleagle	McCall	Staback
Boyes	Flick	McGeehan	Stairs
Brown	Geist	McIlhattan	Steelman
Browne	George	Melio	Steil
Bunt	Gigliotti	Michlovic	Stetler
Buxton	Gordner	Miller	Stevenson
Caitagirona	Gruitza	Mundy	Sturla
Cappabianca	Gruppo	Myers	Surra
Cam	Habay	Nailor	Tangretti
Carone	Haluska	Nickol	Taylor, J.
Casorio	Harhart	Olasz	Thomas
Cawley	Hasay	Orie	Tigue
Civera	Hennessey	Pesci	Travaglio
Clark	Herman	Petrarca	Trich
Clymer	Hershey	Petrone	True
Cohen, M.	Hess	Pippy	Van Home
Colaafella	Itkin	Pistella	Veon
Colaizzo	Jadlowiec	Platts	Vitali
Conti	James	Preston	Walko
Cornell	Jarolin	Ramos	Washington
Corpora	Josephs	Readshaw	Waugh
Corrigan	Kaiser	Reber	Williams, A. H.
Cowell	Kenney	Reinard	Williams, C.
Coy	Kirkland	Rieger	Wilt
Curry	Krebs	Roberts	Wogan
Daley	LaGrotta	Robinson	Wright, M. N.
DeLuca	Laughlin	Roebuck	Yewcic
Dempsey	Lederer	Rohrer	Youngblood
Dent			

### NAYS—41

Adolph	Godshall	Micozzie	Strittmatter
Allen	Hanna	O'Brien	Taylor, E. Z.
Argall	Horsey	Oliver	Tulli
Barley	Hutchinson	Perzel	Vance
Butkovitz	Keller	Phillips	Wojnaroski
Chadwick	Lawless	Raymond	Zimmerman
Cohen, L. I.	Maitland	Ross	Zug
Daily	Major	Rubley	
Fargo	Marsico	Sather	Ryan,
Gannon	McGill	Snyder, D. W.	Speaker
Gladeck	McNaughton	Stern	

### NOT VOTING—1

Saylor

### EXCUSED—4

Bebko-Jones	Mihalich	Serafini	Trelio
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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?

The SPEAKER. Does the gentleman, Mr. Lloyd, have additional amendments?

Mr. LLOYD. I would like to offer A3480.

The SPEAKER. The clerk will read the amendment.

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

Mr. LLOYD offered the following amendment No. A3480:

Amend Sec. 7 (Sec. 5712), page 9, lines 21 and 22 (A3439), by striking out "a wire" in line 21 and all of line 22 and inserting an electronic communication other than a wire communication:

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

The SPEAKER. On the question, the Chair recognizes the gentleman, Mr. Lloyd.

Mr. LLOYD. Mr. Speaker, I may have misunderstood some of the arguments that were made on the issue of roving wiretaps, but I thought I understood some of the speakers to be saying that what this bill was really about was new technology and wireless transactions.

This amendment, if I understood correctly what the objective was, this amendment gives us an opportunity to restrict the roving wiretaps to cellular or other wireless technology, so that the examples which I gave about someone who has a friend come to her home and use her phone without her expectation that that was going to be used for illegal purposes would, in most instances, be excluded from this entirely, but she would not have a problem with specificity in order to get an order to tap a phone which was a mobile phone.

So, Mr. Speaker, this amendment would limit the roving wiretap to those types of communications, electronic communications, other than a wire communication. Thank you, Mr. Speaker.

The SPEAKER. The gentleman, Mr. Chadwick.

Mr. CHADWICK. Thank you, Mr. Speaker.

A few minutes ago we voted to bring Pennsylvania's wiretap law into the 21st century. The Lloyd amendment would send it reeling back into the early 20th century. It would utterly gut the provisions of the roving wiretap law. You would not even be able to tap a pay phone under the Lloyd amendment.

Let me tell you what District Attorney Lynne Abraham of Philadelphia says about the Lloyd amendment: "This restriction would be a disaster for law enforcement.... If Representative Lloyd's amendments are accepted, the new law would purport to permit 'roving wiretaps,' but then prohibit law enforcement from using them where they are needed most. It would be a mistake to permit these amendments, and a tragic one if those voting for them did not understand their import and effect."

I urge a negative vote.

The SPEAKER. On the question, Mr. Lloyd.

Mr. LLOYD. Mr. Speaker, a couple of things in response to that. Maybe I misunderstood the arguments on the other side, but I distinctly heard several of the advocates of the Chadwick amendment say that what the Chadwick amendment was about was wireless or cellular-type communications, and that is why I had the amendment drafted the way that it is drafted.

Number two, Mr. Speaker, it is not correct that you could not tap a pay phone. You can tap a pay phone today if you have probable cause and you identify where the pay phone is located. That would be the law tomorrow.

Mr. Speaker, the suggestion that somehow this is going to throw law enforcement back to the early part of the 20th century is also not so, because you cannot have a roving wiretap on any kind of a phone today. So all we are saying is that if the new technology is requiring us to do these new types of procedures for surveillance, then let us restrict those new procedures to the new technology, and that is what this amendment does, and I thought that this amendment did what the advocates of the Chadwick amendment said they wanted.

So I ask for an affirmative vote.

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

The following roll call was recorded:

YEAS—75

Belardi	Evans	McCall	Staback
Bishop	George	Michlovic	Steelman
Butkovitz	Gigliotti	Mundy	Stetler
Buxton	Gordner	Myers	Sturla
Caltagirone	Gruitza	Olasz	Surra
Cappabianca	Haluska	Oliver	Tangretti
Casorio	Horsey	Pesci	Thomas
Cohen, M.	James	Petrarca	Tigue
Colafrella	Jarolin	Petrone	Travaglio
Colaizzo	Josephs	Pistella	Trich
Corpora	Keller	Preston	Veon
Cowell	Kirkland	Ramos	Walko
Coy	LaGrotta	Rieger	Washington
Curry	Laughlin	Robinson	Williams, A. H.
DeLuca	Lederer	Roebuck	Williams, C.
Dermody	Lescovitz	Rooney	Wojnaroski
DeWeese	Levdansky	Santoni	Yewcic
Donatucci	Lloyd	Scrimenti	Youngblood
Eachus	Manderino	Shaner	

NAYS—123

Adolph	DiGirolamo	Lynch	Sainato
Allen	Druce	Maher	Sather
Argall	Egolf	Maitland	Saylor
Armstrong	Fairchild	Major	Schroder
Baker	Fargo	Markosek	Schuler
Bard	Feese	Marsico	Semmel
Barley	Fichter	Masland	Seyfert
Barrar	Fleagle	Mayernik	Smith, B.
Battisto	Flick	McGeehan	Smith, S. H.
Belfanti	Gannon	McGill	Snyder, D. W.
Benninghoff	Geist	Mclhattan	Stairs
Birmelin	Gladeck	McNaughton	Steil
Blaum	Godshall	Melio	Stern
Boscola	Gruppo	Micozzie	Stevenson
Boyes	Habay	Miller	Strittmatter
Brown	Hanna	Nailor	Taylor, E. Z.
Browne	Harhart	Nickol	Taylor, J.

Bunt	Hasay	O'Brien	True
Carone	Hennessey	Orie	Tulli
Cawley	Herman	Perzel	Vance
Chadwick	Hershey	Phillips	Van Home
Civera	Hess	Pippy	Vitali
Clark	Hutchinson	Platts	Waugh
Clymer	Itkin	Raymond	Wilt
Cohen, L. I.	Jadlowiec	Readshaw	Wogan
Conti	Kaiser	Reber	Wright, M. N.
Cornell	Kenney	Reinard	Zimmerman
Corrigan	Krebs	Roberts	Zug
Daley	Lawless	Rohrer	
Dally	Leh	Ross	Ryan,
Dempsey	Lucyk	Rubley	Speaker
Dent			

## NOT VOTING—1

Cam

## EXCUSED—4

Bebko-Jones      Mihalich      Serafini      Trello

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 as amended?

The SPEAKER. Does the gentleman, Mr. Lloyd, have one more amendment?

The clerk will read the amendment.

Mr. LLOYD. I want to offer A3481, which is the last amendment.

On the question recurring,

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

Mr. LLOYD offered the following amendment No. A3481:

Amend Sec. 6 (Sec. 5709), page 7, line 30 (A3439), by striking out the bracket before "A"

Amend Sec. 6 (Sec. 5709), page 7, lines 30 and 31 (A3439), by striking out "[ Except as provided in section 5712(h) (relating to issuance of order and effect), a"

Amend Sec. 6 (Sec. 5710), page 8, lines 4 and 5 (A3439), by striking out "except as provided in section 5712(h) (relating to issuance of order and effect),"

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 gentleman, Mr. Lloyd.

Mr. LLOYD. Mr. Speaker, this is not the best way to deal with this subject, but since this is the opportunity and the day afforded to us, it is the only choice I have.

This amendment would restore the requirement that you have probable cause in order to tap a phone even if it is with a roving wiretap. The purpose of the amendment is to deal with the third-party situation.

Go back to my hypothetical — John, who is under suspicion, visiting his friend, Mary. I do not believe that the court ought to issue an order that says, tap John wherever he goes, without thinking about where is it that John goes and do we want to tap Mary's phone or do we want to tap Bob's phone or do we want to tap Denise's phone. Whose phones do we want to tap, or do we just want to say tap everybody's? I think we ought not be tapping phones of third parties unless there is probable cause to believe that John is going to make some kind of illegal comment about illegal activity or engage in illegal activity on that third party's phone, and I think that is the kind of showing that it is reasonable to make to a judge.

If John is in fact a drug dealer who is skipping ahead of the police, then you can make that representation and you can indicate why it is you believe that John is going to make that illegal phone call at Mary's house, and then you tap Mary's phone. This goes back to the whole question of minimization. The statute does not provide the protections which I think it ought to, and I think at a minimum we ought to require that there be probable cause before you tap those phones.

Mr. Speaker, I ask for an affirmative vote.

The SPEAKER. The gentleman, Mr. Chadwick.

Mr. CHADWICK. Thank you, Mr. Speaker.

Interestingly enough, District Attorney Abraham's quote that I read you a moment ago pertained to this and the other Lloyd amendment. The argument is the same. This amendment guts roving wiretap, makes us the only State where you cannot do it. It makes it utterly impractical, impotent, and useless, and I urge a negative vote.

The SPEAKER. On the question, Mr. Horsey.

Mr. LLOYD. Mr. Speaker, I did a little bit of research on what other States—

The SPEAKER. The gentleman, Mr. Lloyd, will yield. I had recognized Mr. Horsey.

## PARLIAMENTARY INQUIRY

Mr. HORSEY. Just a parliamentary inquiry, Mr. Speaker.

Should we be using first names or— I thought I heard— I do not know; I am just inquiring, Mr. Speaker. I thought I heard the district attorney's name used or something? And I heard it used several times during this whole debate?

The SPEAKER. I heard the district attorney's first and last name used several times.

Mr. HORSEY. And that is okay under the rules of the House, Mr. Speaker?

The SPEAKER. Yes.

Mr. HORSEY. Okay. Just thought I would ask. Thank you, Mr. Speaker.

The SPEAKER. I mean, you know, Bill Clinton, Tom Ridge. That is perfectly all right.

Mr. Lloyd.

Mr. LLOYD. Thank you, Mr. Speaker.

Mr. Speaker, as I was indicating, I did some research or had some research done on the laws in other States and on the Federal law, and I do not think it is correct to say that Pennsylvania would have the weakest roving wiretap provisions in the country, because there are, as I understand it, Federal rules which require periodic reporting rather than Pennsylvania statute which says that that is up to the Superior Court judge.

But rather than getting into a debate, I mean, we frequently hear this argument that, gee, we ought to be the leader. What is wrong with being the leader in doing what is right on the wiretap law?

Mr. Speaker, I have not heard any explanation other than some conclusion by some district attorney in Philadelphia — and I do not know on what basis she has reached her conclusion — that this is going to gut the bill. But it seems to me that we fought a Revolutionary War and we wrote a Constitution, and one got passed out here yesterday to every member of this House which dealt with the question of the right of people to be secure in their homes and not to be intruded upon by government except with a warrant issued upon probable cause.

This is not a novel notion that somehow a third party not suspected of any crime at all should have her phone tapped as part of a roving wiretap, and to suggest that that should not happen unless you can provide some probable cause to show that there is actually going to be something said over her phone that involves illegal activity strikes me as totally inconsistent with the whole provisions dealing with probable cause and the U.S. and State Constitutions.

Mr. Speaker, all I am asking for is that we adhere to what our Founding Fathers thought was a good idea, that we ought to have probable cause before the government can break down the door, and what they would have said at the time if there had been phones, that we ought not tap anybody's phone unless we can show that there is a good reason to do it. Thank you, Mr. Speaker.

The SPEAKER. The gentleman, Mr. Chadwick, for the second time.

Mr. CHADWICK. Thank you, Mr. Speaker, and I will be extremely brief.

I mentioned earlier a memorandum I had received from the district attorney of Philadelphia. Let me tell you what she says about this specific amendment: "The first" — meaning this amendment — "removes the proposed change to Section 5709 which creates the 'roving wiretap' exception to the specificity requirement. Removing this language is removing the 'roving wiretap' provisions themselves: they cannot exist without the language in Section 5709."

Voting for this amendment guts roving wiretaps and makes Pennsylvania a giant bull's-eye for drug dealers. I urge a negative vote.

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

The following roll call was recorded:

YEAS—73

Belardi	Gigliotti	Mundy	Shaner
Bishop	Gordner	Myers	Staback
Butkovitz	Gruitza	Nickol	Steelman
Buxton	Haluska	Olasz	Stetler

Caltagirone	Hanna	Oliver	Sturla
Cappabianca	Horsely	Pesci	Surra
Carn	James	Petrarca	Thomas
Casorio	Jarolin	Petrone	Tiguae
Cohen, M.	Josephs	Pistella	Travaglio
Colafiglia	Keller	Ramos	Trich
Colaizzo	Kirkland	Rieger	Veon
Corpora	LaGrotta	Roberts	Vitali
Curry	Laughlin	Robinson	Walco
DeLuca	Lederer	Roebuck	Washington
Dermody	Levdansky	Rooney	Williams, A. H.
DeWeese	Lloyd	Sainato	Williams, C.
Donatucci	Manderino	Santoni	Yewcic
Evans	Michlovic	Scrimenti	Youngblood
George			

NAYS—126

Adolph	Dempsey	Lescovitz	Rubley
Allen	Dent	Lucyk	Sather
Argall	DiGirolamo	Lynch	Saylor
Armstrong	Druce	Maher	Schroder
Baker	Eachus	Maitland	Schuler
Bard	Egolf	Majors	Semmel
Barley	Fairchild	Markosek	Seyfert
Barrar	Fargo	Marsico	Smith, B.
Battisto	Feese	Masland	Smith, S. H.
Belfanti	Fichter	Mayernik	Snyder, D. W.
Benninghoff	Fleagle	McCall	Stairs
Birmelin	Flick	McGeehan	Steil
Blaum	Gannon	McGill	Stern
Boscola	Geist	McIlhattan	Stevenson
Boyes	Gladeck	McNaughton	Strittmatter
Brown	Godshall	Melio	Tangretti
Browne	Gruppo	Micozzie	Taylor, E. Z.
Bunt	Habay	Miller	Taylor, J.
Carone	Harhart	Nailor	True
Cawley	Hasay	O'Brien	Tulli
Chadwick	Hennessey	Orie	Vance
Civera	Herman	Perzel	Van Horne
Clark	Hershey	Phillips	Waugh
Clymer	Hess	Pippy	Wilt
Cohen, L. I.	Hutchinson	Platts	Wogan
Conti	Itkin	Preston	Wojnaroski
Cornell	Jadlowiec	Raymond	Wright, M. N.
Corrigan	Kaiser	Readshaw	Zimmerman
Cowell	Kenney	Reber	Zug
Coy	Krebs	Reinard	
Daley	Lawless	Rohrer	Ryan,
Dally	Leh	Ross	Speaker

NOT VOTING—0

EXCUSED—4

Bebko-Jones	Mihalich	Serafini	Trello
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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.

GUESTS INTRODUCED

The SPEAKER. The Chair is pleased to welcome to the hall of the House today, seated at the rear of the House as guests of Representative Perzel, members of the Pennsylvania Community Providers of Mental Health/Mental Retardation and Drug and Alcohol Services Government Relations Institute. Would these guests please rise.

**CONSIDERATION OF SB 635 CONTINUED**

The SPEAKER. Mr. Horsey, by way of further explanation on the use of the names, Mr. Chadwick was using Ms. Abraham's name in connection with a communication he had received from her, and it would be perfectly proper to use her name in that connection. I am going to send down to you a memorandum that has been circulated with respect to the use of names, and you can use that to refresh your recollection on that point.

**PARLIAMENTARY INQUIRY**

The SPEAKER. The gentleman, Mr. Thomas.  
 Mr. THOMAS. Thank you, Mr. Speaker.  
 Mr. Speaker, I imagine a parliamentary inquiry.

In reference to the clarification that you just provided on the use of the name, my only question is that should the name be used when the communication comes from the office of someone rather than that person specifically?

The SPEAKER. No, as long as it— I will send you a copy of the memorandum, too, and I think the conclusion that I have reached, which I circulated earlier, is as long as it is not used in a derogatory sense or in a derogatory fashion, it is perfectly all right to make reference such as Mr. Chadwick did. All he did was say that he had received a communication from the district attorney, Lynne Abraham, which said, and then he quoted from a letter. Moments before, the minority leader was saying something about, and I really do not remember exactly his words, but it was Attorney General D. Michael Fisher was 100 percent in favor or against some amendment. So he was not knocking the Attorney General; he was making reference to Michael Fisher and that office, and it was not said in a derogatory fashion. So as far as I am concerned, that was all right. But I will send you, too, a copy of this memorandum.

Mr. THOMAS. Well, Mr. Speaker, my concern was for different reasons. I mean, I was not exploring whether or not her name was used in a derogatory or a positive context. It is just that my concern was in reference to a communication that came from her office which she might not necessarily have signed off on. That was my concern.

The SPEAKER. Well, you know, I do not know about that. I assume if a public official writes to another public official about a bill that he is going to have before the floor and it is going to be debated, that that person can pretty well rely on the fact that it is going to be used in the course of a debate. At least I would think they would expect it, but I do not know.

On the question recurring,

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

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

Mr. SURRA. Thank you, Mr. Speaker.

Mr. Speaker, I am going to withdraw amendment A3417. That is a bipartisan effort by Representative Benninghoff and myself dealing with tobacco possession among minors in Pennsylvania. I have a commitment from the majority leader for committee

action on that and a subsequent vote before the full House, and I would appreciate the members' support at that time.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

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

Bill as amended was agreed to.

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

The question is, shall the bill pass finally?

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

**YEAS—179**

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

**NAYS—20**

Bishop	Jadlowiec	Manderino	Seyfert
Brown	James	Myers	Smith, S. H.
Carn	Josephs	Oliver	Thomas
Horsey	Leh	Roebuck	Washington
Hutchinson	Lynch	Rohrer	Youngblood



NOT VOTING—0

EXCUSED—4

Bebko-Jones Mihalich Serafini Trello

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

Ordered, That the clerk return the same to the Senate with the information that the House has passed the same with amendment in which the concurrence of the Senate is requested.

**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:

**SB 45, PN 1167**

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for territorial applicability, for classes of offenses, for limitation of actions and for sentencing for murder; providing for crimes against the unborn; and further providing for harassment and stalking.

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

**APPROPRIATIONS COMMITTEE MEETING**

The SPEAKER. The Chair recognizes the gentleman, Mr. Barley, for the purpose of making a committee meeting announcement.

Mr. BARLEY. Thank you, Mr. Speaker.

I would like to call for an Appropriations Committee meeting immediately upon the recess, and we will be having it in the conference room of the majority Appropriations Committee.

The SPEAKER. There will be no further votes today. The Chair will stay open to receive reports of committee.

For the information of the members, tomorrow will be a token session.

**RECESS**

The SPEAKER. The House will stand in recess to the call of the Chair.

**AFTER RECESS**

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

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

**BILLS REREPORTED FROM COMMITTEE**

**HB 10, PN 2194** By Rep. BARLEY

An Act amending Title 30 (Fish) of the Pennsylvania Consolidated Statutes, providing for marking of dams.

**APPROPRIATIONS.**

**HB 155, PN 165** By Rep. BARLEY

An Act requiring counties committing offenders to the Department of Corrections to provide certain background information at the time of commitment.

**APPROPRIATIONS.**

**HB 207, PN 229** By Rep. BARLEY

An Act requiring all prison inmates to wear identifiable prison uniforms at all times.

**APPROPRIATIONS.**

**HB 601, PN 2227 (Amended)** By Rep. BARLEY

An Act providing for community education councils and for powers and duties of community education councils.

**APPROPRIATIONS.**

**HB 681, PN 1785** By Rep. BARLEY

An Act providing for a tax credit for business creation.

**APPROPRIATIONS.**

**HB 1108, PN 1254** By Rep. BARLEY

An Act amending the act of August 9, 1955 (P.L.323, No.130), known as The County Code, further providing for contract procedures.

**APPROPRIATIONS.**

**HB 1111, PN 1257** By Rep. BARLEY

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, further regulating public records.

**APPROPRIATIONS.**

**HB 1113, PN 1749** By Rep. BARLEY

An Act amending the act of May 9, 1949 (P.L.908, No.250), entitled "An act relating to public records of political subdivisions other than cities and counties of the first class; authorizing the recording and copying of documents, plats, papers and instruments of writing by photostatic, photographic, microfilm or other mechanical process, and the admissibility thereof and enlargements thereof in evidence; providing for

the storage of duplicates and sale of microfilm copies of official records and for the destruction of other records deemed valueless; and providing for the services of the Department of Property and Supplies to political subdivisions," further providing for methods for the copying of certain records, for identification of records, for duplicates of records, for the sale of certain records, for the destruction or disposal of certain records, for records requiring special care and for Pennsylvania Historical and Museum Commission services to political subdivisions.

APPROPRIATIONS.

**HB 1114, PN 1260**

By Rep. BARLEY

An Act amending the act of August 14, 1963 (P.L.839, No.407), entitled, as amended, "An act creating a county records committee; imposing powers and duties upon it; authorizing the Pennsylvania Historical and Museum Commission to assist and cooperate with it; defining county records; and authorizing the disposition of certain county records by county officers in counties of the second to eighth class," further providing for definitions; providing for a definition of "county" and clarifying the application of the act to include home rule counties; and further providing for the disposition of county records.

APPROPRIATIONS.

**HB 1116, PN 1262**

By Rep. BARLEY

An Act amending the act of May 11, 1949 (P.L.1076, No.311), entitled "An act authorizing the recording, copying and recopying, of documents, plats, papers, written instruments, records and books on file or of record, and the replacement and certification of originals previously filed and of record, by officers of counties of the first class and of cities of the first class, by photostatic, photographic, microphotographic, microfilm, or other mechanical process; relating to the effect and use of such copies, records, reproductions, replacements and transcripts, or certified copies thereof, and providing for additional methods for revision of and entries to be made on originals and copies so produced or replaced," further providing for additional methods for the recording, copying and maintenance of records.

APPROPRIATIONS.

**HB 1463, PN 1742**

By Rep. BARLEY

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.

APPROPRIATIONS.

**HB 1494, PN 1801**

By Rep. BARLEY

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

APPROPRIATIONS.

**HB 1520, PN 1842**

By Rep. BARLEY

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for bail.

APPROPRIATIONS.

**HB 1759, PN 2184**

By Rep. BARLEY

An Act repealing the act of April 14, 1905 (P.L.162, No.118), entitled "An act regulating the method and procedure in the erection of line or partition fences."

APPROPRIATIONS.

**HB 1760, PN 2185**

By Rep. BARLEY

An Act repealing the act of May 13, 1925 (P.L.663, No.355), entitled "An act providing for the enumeration of registered persons in the Commonwealth, and the publication of a tabulation thereof by the Secretary of the Commonwealth; and imposing certain duties upon registrars, assessors, registry assessors, and county commissioners."

APPROPRIATIONS.

**HB 1761, PN 2186**

By Rep. BARLEY

An Act repealing the act of December 1, 1965 (P.L.977, No.357), entitled "An act authorizing cities of the first class and counties of the first class to adopt the food stamp program and providing for payment of the costs of administration thereof."

APPROPRIATIONS.

**HB 1762, PN 2187**

By Rep. BARLEY

An Act amending the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, repealing the food stamp program.

APPROPRIATIONS.

**HB 1763, PN 2188**

By Rep. BARLEY

An Act repealing certain parts of acts as being supplemented or superseded by other acts or otherwise obsolete.

APPROPRIATIONS.

**HB 1764, PN 2189**

By Rep. BARLEY

An Act repealing the act of May 8, 1889 (P.L.125, No.138), entitled "An act providing for the paving and curbing of such portions of Third street, Fourth street, Walnut street and North street in the City of Harrisburg, as the Public Grounds of the Commonwealth abut on, as is properly chargeable to the State, and making appropriation for the cost of the same."

APPROPRIATIONS.

**HB 1765, PN 2190**

By Rep. BARLEY

An Act repealing certain acts as being supplemented or superseded by other acts or otherwise obsolete.

APPROPRIATIONS.

**HB 1766, PN 2291**

By Rep. BARLEY

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, providing for additional credits for investments by private companies in enterprise zones and for a tax credit for business creation; and making a repeal.

APPROPRIATIONS.

**SB 176, PN 1306 (Amended)**

By Rep. BARLEY

Amending the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, providing mastectomy and breast cancer reconstructive surgery coverage standards for health insurance policies.

APPROPRIATIONS.

**SB 207, PN 1180**

By Rep. BARLEY

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for survival action and for the definition of "local agency" for purposes of governmental immunity.

APPROPRIATIONS.

**SB 279, PN 279**

By Rep. BARLEY

An Act designating a section of Route 3813 in Westmoreland County, Pennsylvania, as the C. Vance DeiCas Memorial Highway.

APPROPRIATIONS.

### BILLS ON SECOND CONSIDERATION

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

**HB 10, PN 2194; HB 155, PN 165; HB 207, PN 229; HB 601, PN 2227; HB 681, PN 1785; HB 1108, PN 1254; HB 1111, PN 1257; HB 1113, PN 1749; HB 1114, PN 1260; HB 1116, PN 1262; HB 1463, PN 1742; HB 1494, PN 1801; HB 1520, PN 1842; SB 176, PN 1306; SB 207, PN 1180; and SB 279, PN 279.**

### ADDITIONS AND DELETIONS OF SPONSORS

The SPEAKER pro tempore. The Chair acknowledges receipt of additions and deletions for sponsorships of bills, which the clerk will file.

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

### ADJOURNMENT

The SPEAKER pro tempore. The Chair recognizes the lady, Ms. Williams, from Montgomery County.

Ms. WILLIAMS. Madam Speaker, I move that this House do now adjourn until Wednesday, September 24, 1997, at 11 a.m., e.d.t., unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 4:18 p.m., e.d.t., the House adjourned.