

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

MONDAY, JUNE 11, 1990

SESSION OF 1990 174TH OF THE GENERAL ASSEMBLY

No. 38

HOUSE OF REPRESENTATIVES

The House convened at 1 p.m., e.d.t.

THE SPEAKER (ROBERT W. O'DONNELL) PRESIDING

PRAYER

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

Let us pray:

Almighty God, come into our midst this day and remain with us in all the days to come, for we know that You are from everlasting to everlasting. May we feel Your divine Spirit flooding all of our being, and may we hear Your still small voice directing all of our movements.

Inspire our hearts and illumine our minds that we may clearly discern Your will and Your way. Show us Your paths already at our feet. Give us courage and vision to follow in faith Your ways of love and right until our own lives become Your revelation.

Transform our deliberations into right deeds to advance the cause of each citizen of this great Commonwealth.

In Your dear name we pray. Amen.

PLEDGE OF ALLEGIANCE

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

JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, the approval of the Journal of Wednesday, June 6, 1990, will be postponed until printed. The Chair hears no objection.

JOURNAL APPROVED

The SPEAKER. The Journal of Tuesday, May 22, 1990, is in print and, without objection, will be approved.

HOUSE BILLS INTRODUCED AND REFERRED

No. 2661 By Representatives FREEMAN, TELEK,
MELIO, DEMPSEY, VAN HORNE,

McHALE, TIGUE, JOHNSON, PESCI,
RYBAK, LAUGHLIN, TRELLO,
SCRIMENTI and BELARDI

An Act amending the act of May 23, 1945 (P. L. 903, No. 362), entitled "An act authorizing cities of the third class to establish an optional retirement system for officers and employees independently of any pension system or systems existing in such cities," providing for cost-of-living increases.

Referred to Committee on URBAN AFFAIRS, June 11, 1990.

No. 2662 By Representatives BOWLEY,
PRESSMANN, FREEMAN, TIGUE,
STISH, MELIO, MERRY, TRELLO,
S. H. SMITH, BATTISTO, GODSHALL,
HALUSKA and BELARDI

An Act amending the act of July 28, 1988 (P. L. 556, No. 101), known as the "Municipal Waste Planning, Recycling and Waste Reduction Act," further providing for municipal implementation of recycling programs in municipalities with small populations or with low population densities.

Referred to Committee on CONSERVATION, June 11, 1990.

No. 2663 By Representatives ITKIN, JOHNSON,
MICHLOVIC, WILLIAMS, LAUGHLIN,
BATTISTO, LINTON, McHALE,
HUGHES, ADOLPH, D. R. WRIGHT,
JAMES, MORRIS, CALTAGIRONE,
FAIRCHILD, KASUNIC, MAINE,
VROON, TANGRETTI, RYBAK, TRELLO,
FARGO, BILLOW, EVANS, MARSICO,
PRESTON, BELARDI, McCALL,
PISTELLA, TIGUE, WAMBACH and
CAPPABIANCA

An Act providing that payments to contractors under contracts for the erection, construction, completion, alteration or repair of public buildings or other public work or public improvement are impressed with a trust for payment to persons furnishing labor or material; and providing penalties.

Referred to Committee on STATE GOVERNMENT, June 11, 1990.

SENATE BILLS FOR CONCURRENCE

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

SB 1440, PN 1888

Referred to Committee on TRANSPORTATION, June 11, 1990.

SB 1588, PN 2153

Referred to Committee on TRANSPORTATION, June 11, 1990.

SENATE MESSAGE

**HOUSE BILL
CONCURRED IN BY SENATE**

The clerk of the Senate, being introduced, returned **HB 2247, PN 3001**, with information that the Senate has passed the same without amendment.

BILLS REMOVED FROM TABLE

The SPEAKER. The Chair recognizes the majority leader. Mr. DeWEESE. Mr. Speaker, I move that the following bills be removed from the table and placed on the active calendar:

- HB 683;
- SB 295;
- SB 932;
- SB 1307; and
- SB 1516.

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

BILL SIGNED BY SPEAKER

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

HB 2247, PN 3001

An Act designating a section of Pennsylvania Route 43 as the James J. Manderino Memorial Highway.

LEAVES OF ABSENCE

The SPEAKER. Are there requests for leaves of absence? The Chair recognizes Mr. Fee.
Mr. FEE. Thank you, Mr. Speaker.
The gentleman from Westmoreland, Mr. PETRARCA, for today, and the gentleman from Philadelphia, Mr. MAIALE, for today.

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

The Chair recognizes Mr. Hayes, who requests a leave of absence for the gentleman from Montgomery County, Mr. NAHILL, for the day; the gentleman from Dauphin, Mr. DININNI, for the day; and the gentleman from Delaware, Mr. R. C. WRIGHT, for the day.

Without objection, leaves are granted.

MASTER ROLL CALL

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

The following roll call was recorded:

PRESENT—196

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

ADDITIONS—0

NOT VOTING—1

Howlett

EXCUSED—5

Dininni Nahill Petrarca Wright, R. C.
Maiale

LEAVES ADDED—2

Durham Saloom

RULES SUSPENDED

The SPEAKER. The Chair recognizes the majority leader.

Mr. DeWEESE. Mr. Speaker, I move that rule 30 be suspended to permit HB 387 and HB 946, which are bills on concurrence in Senate amendments, to be immediately read across the desk and placed on the calendar without referral to the Rules Committee.

On the question,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—189

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

NAYS—1

Reber

NOT VOTING--7

Civera	Hershey	Langtry	Saloom
DeWeese	Howlett	Raymond	

EXCUSED—5

Dininni	Nahill	Petrarca	Wright, R. C.
Maiale			

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

SENATE MESSAGE

**AMENDED HOUSE BILLS
RETURNED FOR CONCURRENCE**

The clerk of the Senate, being introduced, returned **HB 387, PN 3641**; and **HB 946, PN 3655**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested.

WELCOMES

The SPEAKER. The Chair is pleased to welcome Jeremy Fernsler, who is the guest page of Representative Jackson.

Also, Mr. Herman and the Overlook Elementary School, who are campaigning to add the word "Pennsylvania" to the State flag. They are the guests of Representative Fox and Representative Argall. They are in the balcony.

Also, C. J. Tici, the newly elected president of the Titusville Chamber of Commerce, who is the guest of Representative Connie Maine. She is to the left of the Speaker.

Will the guests please rise.

CALENDAR

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **SB 258, PN 1311**, entitled:

An Act amending Title 24 (Education) of the Pennsylvania Consolidated Statutes, further providing for termination of annuities.

On the question,

Will the House agree to the bill on third consideration?

BILL RECOMMITTED

The SPEAKER. The Chair recognizes the majority leader.

Mr. DeWEESE. Mr. Speaker, I move that SB 258 be recommitted to the Appropriations Committee for a fiscal note.

On the question,

Will the House agree to the motion?

Motion was agreed to.

* * *

The House proceeded to third consideration of **HB 786, PN 3619**, entitled:

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

amount of work of any nature which can be performed on property owned by a school district without advertising and without competitive bids; and increasing the amount of furniture, equipment and supplies that can be purchased without advertisement.

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

BILL RECOMMENDED

The SPEAKER. The Chair recognizes the majority leader.
Mr. DeWEESE. Mr. Speaker, I move that HB 786 be recommitted to the Appropriations Committee.

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

* * *

The House proceeded to third consideration of **HB 1911, PN 2814**, entitled:

An Act amending the act of July 7, 1980 (P. L. 380, No. 97), known as the "Solid Waste Management Act," providing that no bond shall be required as a condition for issuance of a permit or license to a municipality.

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

BILL TABLED

The SPEAKER. The Chair recognizes the majority leader.
Mr. DeWEESE. Mr. Speaker, I move that HB 1911 be placed upon the table.

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

* * *

The House proceeded to third consideration of **HB 1912, PN 2815**, entitled:

An Act amending the act of July 7, 1980 (P. L. 380, No. 97), known as the "Solid Waste Management Act," providing that no bond shall be required as a condition for issuance of a permit to a municipality for land application of sewage sludge.

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

BILL TABLED

The SPEAKER. The Chair recognizes the majority leader.
Mr. DeWEESE. Mr. Speaker, I move that HB 1912 be placed upon the table.

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

BILLS REMOVED FROM TABLE

The SPEAKER. The Chair recognizes the majority leader.
Mr. DeWEESE. Mr. Speaker, I move that HB 1911 and HB 1912 be taken from the table.

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

WELCOMES

The SPEAKER. The Chair welcomes Edmund DeVenney of Boiling Springs High School as a guest page. He is the guest of Representative Nailor and Representative Broujos. He is located in the front of the Speaker.

Also, the Chair welcomes Randy Bishop, a summer intern, a senior at Messiah College, who is the guest of Representative Elinor Taylor of Chester County.

Will these guests please rise.

LEAVE OF ABSENCE

The SPEAKER. The Chair recognizes Representative Fee.
Mr. FEE. Thank you, Mr. Speaker.

Would you return to leaves, please?

The SPEAKER. The gentleman is recognized and may proceed.

Mr. FEE. I ask leave for the gentleman from Westmoreland, Mr. SALOOM, for today.

The SPEAKER. Without objection, leave is granted.

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

HB 887, PN 1005

By Rep. TRELLO

An Act amending the act of March 11, 1971 (P. L. 104, No. 3), known as the "Senior Citizens Rebate and Assistance Act," freeing property tax of all senior citizens and certain widowed and divorced persons; and providing reimbursement to school districts for lost tax revenues.

FINANCE.

BILLS ON THIRD CONSIDERATION CONTINUED

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

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

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

Mr. ARGALL offered the following amendments No. A1900:

Amend Sec. 1, page 1, lines 6 and 7, by striking out "The definition of "all-terrain vehicle" in section" and inserting

Section

Amend Sec. 1, page 1, line 8, by inserting after "amended" by adding a definition

Amend Sec. 1 (Sec. 7702), page 1, lines 17 and 18, by striking out "is designated as a Class III all-terrain vehicle"

On the question,

Will the House agree to the amendments?

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

Mr. ARGALL. Thank you, Mr. Speaker.

This is a technical amendment to bring the bill into its original intent as requested by the Governor's Office and the Department of Environmental Resources.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—187

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

NAYS—0

NOT VOTING—9

Burd	Flick	LaGrotta	Snyder, D. W.
Civera	Howlett	Miller	Wambach
Durham			

EXCUSED—6

Dininni	Nahill	Saloom	Wright, R. C.
Maiale	Petrarca		

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

On the question,

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

BILL PASSED OVER

The SPEAKER. HB 1849 will be over for today.

* * *

The House proceeded to third consideration of **HB 2416, PN 3299**, entitled:

An Act amending the act of August 23, 1967 (P. L. 251, No. 102), known as the "Industrial and Commercial Development Authority Law," further providing for projects eligible for financial assistance; expanding the activities for which bond proceeds may be used; providing for alternative forms of financing using sources of funds other than bond proceeds; further providing for financing by the Pennsylvania Economic Development Financing Authority; and eliminating certain approvals by the secretary.

On the question,

Will the House agree to the bill on third consideration?

Mr. LASHINGER offered the following amendments No. A2013:

Amend Title, page 1, line 30, by inserting after "proceeds;" and

Amend Title, page 2, line 1, by inserting a period after "Authority"

Amend Title, page 2, lines 1 and 2, by striking out "; and eliminating certain" in line 1 and all of line 2

Amend Sec. 2 (Sec. 2), page 3, line 16, by striking out the bracket before "and"

Amend Sec. 2 (Sec. 2), page 3, line 16, by striking out "']"

Amend Sec. 2 (Sec. 2), page 3, lines 16 and 17, by striking out "and Purposes"

Amend Sec. 2 (Sec. 2), page 3, line 30; by striking out the bracket before ", manufacturing"

Amend Sec. 2 (Sec. 2), page 3, line 30; page 4, line 1, by striking out "'] and other economic activities"

Amend Sec. 2 (Sec. 2), page 4, line 5, by striking out the bracket before ", manufacturing"

Amend Sec. 2 (Sec. 2), page 4, line 6, by striking out "'] and other economic"

Amend Sec. 2 (Sec. 2), page 4, line 16, by striking out the brackets before and after "specialized, and"

Amend Sec. 2 (Sec. 2), page 4, line 16, by striking out the bracket before "enterprises"

Amend Sec. 2 (Sec. 2), page 4, lines 16 and 17, by striking out "'] and other economic activities"

Amend Sec. 2 (Sec. 2), page 4, lines 19 through 30; page 5, lines 1 and 2, by striking out all of said lines and inserting

(6) That many existing industrial, specialized and commercial enterprises throughout the Commonwealth could become

more competitive and could expand more rapidly if such additional means of financing were available for modern buildings, plant facilities and modern machinery and equipment;

(7) That additional industrial, specialized, and commercial enterprises could be attracted to the Commonwealth if such additional means of financing were available to construct, rehabilitate and expand industrial, specialized facilities, or commercial buildings, or plants and in conjunction therewith equip the same with modern machinery and equipment;

Amend Sec. 2 (Sec. 2), page 5, lines 10 through 19, by striking out all of said lines and inserting

(9) That the provisions of the Constitution of Pennsylvania guaranteeing the residents of the Commonwealth clean air and water and their implementation through the establishment of quality standards relating to abatement or elimination of air and water pollution have resulted in the need for additional means of financing to assist and encourage industrial, specialized, and commercial enterprises to comply with such air [and water], water, sewage disposal and pollution control standards;

Amend Sec. 2 (Sec. 2), page 5, line 25, by striking out the bracket before "enterprises"

Amend Sec. 2 (Sec. 2), page 5, line 25, by striking out "] projects"

Amend Sec. 2 (Sec. 2), page 5, lines 26 through 30; page 6, lines 1 through 7, by striking out all of said lines on said pages and inserting

(11) That to protect the health, safety and general welfare of the people of the Commonwealth and to further encourage economic development within the Commonwealth by providing basic services and facilities, it is necessary to provide additional or alternative means of financing certain transportation and other facilities, industrial parks, nursing homes, energy conversion facilities and facilities for the furnishing of gas or through the use of coal-fired generating facilities, gas, or water available on reasonable demand to members of the general public.

Amend Sec. 2 (Sec. 2), page 6, line 10, by striking out " economic activities"

Amend Sec. 2 (Sec. 2), page 6, line 17, by striking out the bracket before "purpose"

Amend Bill, page 6, lines 24 through 30; pages 7 through 17, lines 1 through 30; page 18, lines 1 through 5, by striking out "] purposes" in line 24 and all of lines 25 through 30, page 6, all of lines 1 through 30, pages 7 through 17, and all of lines 1 through 5, page 18, and inserting

Section 3. The definitions of "cost of the industrial development project, specialized development project or commercial development project" and "pollution control facilities" in section 3 of the act, amended December 19, 1975 (P.L.576, No.165), are amended and the section is amended by adding definitions to read:

Section 3. Definitions.—As used in this act:

"Cost of the industrial development project, specialized development project or commercial development project" or "cost of the project" or "cost" means and includes the expense of construction, the expense of acquisition of all structures, lands and other property rights and interests in land necessary to the project. The terms also include the expense of demolishing, removing or relocating any buildings or structures on lands acquired or to be acquired, including the expense of acquiring any lands to which such buildings or structures may be moved or relocated, the expense of sewage treatment, waste treatment and pollution control facilities, railroad sidings, spurs, or branch lines and of all labor, materials, machinery and equipment, financing charges and other costs of financing and refinancing and issuing bonds, interest on all bonds prior to and during construction, and for a period of six months thereafter, cost of engineering, financial and legal services, plans, specifications, studies, surveys nec-

essary or incidental to determining the feasibility or practicability of constructing an industrial, specialized, or commercial development project, administrative expenses, reserves for interest and for extensions, enlargements, additions and improvements, and such other expenses as may be necessary or incidental to the construction of industrial, specialized, or commercial development projects and the placing of the same in operation.

"Municipal authority" means an authority organized and existing under the act of May 2, 1945 (P.L.382, No.164), known as the "Municipality Authorities Act of 1945."

"Pollution control facilities" means any property, real or personal, which is to be used to abate or reduce or aid in the prevention, control, collection, treatment, disposal or monitoring of noise, air, water or thermal pollution, solid waste, sewage or other pollutants without limitation thereto and may include property or equipment which is to be installed primarily to supplement or to replace existing property or equipment not meeting acceptable pollution control standards or which is to be supplemented or replaced to comply with an order or citation to eliminate pollution issued by any Federal, [State] Commonwealth or local agency having jurisdiction.

"Project" means any land, interests in land, easements, appurtenances, improvements, buildings, structures, equipment, furnishings, or other real or personal tangible property, or interest in them, or any combination of them, including public and private infrastructure facilities, and other capital needs related to industrial, commercial and other economic activities, the acquisition and/or financing or refinancing of which an authority or the financing authority finds and determines by resolution will accomplish one or more of the legislative purposes set forth in section 2 of this act. Such financing or refinancing may be with tax-exempt bonds or taxable bonds issued pursuant to this act, and may be direct through application of bond proceeds or other funds to pay project costs or such other means as an authority or the financing authority may approve. Projects satisfying the legislative purposes set forth in section 2 of this act may include, but shall not be limited to, industrial facilities, commercial facilities, disaster relief projects, energy conversion facilities, energy producing facilities and pollution control facilities.

"Project applicant" means any individual, public or private corporation, partnership, association, firm, or other entity, whether or not created for the purpose of making a profit, or any Commonwealth instrumentality or agency or any municipality, or any municipal authority which requests an authority or the financing authority to participate in the financing of one or more projects in the manner provided by this act for use by one or more project users.

"Project user" means any individual, public or private corporation, partnership, association, firm, or other entity, whether or not created for the purpose of making a profit, which owns, leases or uses all or any part of a project, and may include a project applicant.

"Taxable bonds" means bonds or other evidences of indebtedness the interest on which is includable in gross income for Federal income taxation purposes.

"Tax-exempt bonds" means bonds or other evidences of indebtedness the interest on which is excludable from gross income for Federal income taxation purposes.

Amend Sec. 5, page 18, lines 6 and 7, by striking out "5. Section 6 of the act, amended or added September 1, 1972 (Sp.Sess. No.1, P.L.2015, No.2)," and inserting

4. Section 6(a) and (b) of the act, amended

Amend Sec. 5, page 18, line 8, by striking out "is" and inserting

are

Amend Sec. 5 (Sec. 6), page 19, line 18, by striking out the brackets before and after "acquisition"

Amend Sec. 5 (Sec. 6), page 19, line 19, by striking out the bracket before "construction"

Amend Sec. 5 (Sec. 6), page 19, line 20, by striking out "] acquisition of"

Amend Sec. 5 (Sec. 6), page 19, line 22, by striking out the bracket before "industrial"

Amend Sec. 5 (Sec. 6), page 19, lines 26 and 27, by striking out "] projects where acquisition is by a project applicant or a project user"

Amend Sec. 5 (Sec. 6), page 19, line 28, by striking out the bracket before "industrial,"

Amend Sec. 5 (Sec. 6), page 20, line 1, by striking out "] projects"

Amend Sec. 5 (Sec. 6), page 22, line 2, by inserting after "users"

, including projects which meet the definition of "project" and which meet the criteria for obtaining assistance established under section 10(a) of the provisions of the act of March 1, 1988 (P.L.82, No.16), known as the "Pennsylvania Infrastructure Investment Authority Act," (PENNVEST)

Amend Sec.5 (Sec. 6), page 22, line 9, by striking out the bracket before "(16)"

Amend Sec. 5 (Sec. 6), page 22, lines 19 through 30; page 23, lines 1 through 28, by striking out the bracket after "States." in line 19 and all of lines 20 through 30, page 22, all of lines 1 through 28, page 23, and inserting

* * *

Amend Sec. 6, page 23, line 29, by striking out "6" and inserting

5

Amend Sec. 6, page 23, line 29, by striking out "6.3" and inserting

6.3(a), (g) and (h),

Amend Sec. 6 (Sec. 6.2), page 25, line 6, by striking out the bracket before "mortgage"

Amend Sec. 6 (Sec. 6.2), page 25, line 6, by striking out "] mortgages"

Amend Sec. 6 (Sec. 6.2), page 26, line 19, by inserting after "users"

, including projects which meet the definition of "project" and which meet the criteria for obtaining assistance established under section 10(a) of the provisions of the act of March 1, 1988 (P.L.82, No.16), known as the "Pennsylvania Infrastructure Investment Authority Act," (PENNVEST)

Amend Sec. 6 (Sec. 6.3), page 27, lines 21 through 30; page 28, lines 1 through 30; page 29, lines 1 through 8, by striking out all of said lines on said pages and inserting

* * *

Amend Sec. 6 (Sec. 6.3), page 32, lines 20 through 30; page 33, lines 1 through 14, by striking out all of said lines on said pages and inserting

* * *

Amend Sec. 6 (Sec. 6.4), page 33, line 15, by striking out the bracket before "No"

Amend Sec. 6 (Sec. 6.4), page 33, lines 16 and 17, by striking out "] In making loans, the financing authority shall ascertain to its satisfaction that"

Amend Sec. 6 (Sec. 6.4), page 33, line 29, by striking out the brackets before and after "construction,"

Amend Sec. 6 (Sec. 6.4), page 33, line 29, by striking out the brackets before and after ", rehabilitation or improvement"

Amend Sec. 6 (Sec. 6.4), page 34, lines 5 and 6, by striking out the bracket before "has" in line 5 and after "and" in line 6

Amend Sec. 6 (Sec. 6.4), page 34, line 6, by striking out the bracket before "any"

Amend Sec. 6 (Sec. 6.4), page 34, line 6, by striking out "] all"

Amend Sec. 6 (Sec. 6.5), page 35, lines 15 and 16, by striking out the bracket before "or" in line 15 and after "Commerce" in line 16

Amend Sec. 6 (Sec. 7), page 37, line 13, by striking out the bracket before "construction,"

Amend Sec. 6 (Sec. 7), page 37, lines 14 and 15, by striking out "] acquisition"

Amend Sec. 6 (Sec. 7), page 38, line 6, by striking out the bracket before "construction,"

Amend Sec. 6 (Sec. 7), page 38, line 7, by striking out "] acquisition"

Amend Sec. 6 (Sec. 7), page 38, line 20, by striking out the bracket before "(f)"

Amend Sec. 6 (Sec. 7), page 39, line 27, by striking out "] (f)"

Amend Sec. 8, page 43, line 13, by striking out "Sections 13 and" and inserting

Section

Amend Sec. 8, page 43, line 14, by striking out "are" and inserting

is

Amend Sec. 8 (Sec. 13), page 43, lines 15 through 30; page 44, lines 1 through 11, by striking out all of said lines on said pages

On the question,

Will the House agree to the amendments?

The SPEAKER. Will the gentleman, Mr. Lashinger, indicate if this amendment has been circulated.

Mr. LASHINGER. Mr. Speaker, it has not. It just came down from the Reference Bureau. I have just signed it and given it to the amendment clerk, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

BILL PASSED OVER

The SPEAKER. HB 2416 will be passed over for the day.

VOTE CORRECTIONS

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

Mr. WAMBACH. Mr. Speaker, in the interim I would like to correct the record.

On the Argall amendment A1900 to HB 1849, I would like to be recorded in the affirmative.

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

Mr. HALUSKA. Mr. Speaker, I would like to correct a vote on an amendment.

The SPEAKER. The gentleman may proceed.

Mr. HALUSKA. Mr. Speaker, I would like to cast my vote in the affirmative on amendment A1763 to HB 941.

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

ANNOUNCEMENT BY SPEAKER

The SPEAKER. For the information of the House, when a bill is on the calendar and you wish to have an amendment considered, the amendment should be printed, submitted to the caucus chairmen, and circulated ahead of time.

For the information of the members, if anyone has any amendments to any other bills that are going to be considered today, get them circulated now.

FILMING PERMISSION

The SPEAKER. The Chair gives permission to "The People's Business" for photography on the floor of the House during debate.

WELCOME

The SPEAKER. The Chair also welcomes Dawn Erin Cathcart as a guest page, the guest of Representative Paul Wass, located in front of the Speaker. Will the guest please rise.

BILLS ON THIRD CONSIDERATION CONTINUED

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

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

On the question recurring,

Will the House agree to the bill on third consideration?

Mr. PICCOLA offered the following amendments No. A1738:

Amend Sec. 1 (Sec. 13), page 1, line 15, by striking out "TWO-THIRDS" and inserting

a majority

Amend Sec. 1 (Sec. 13), page 2, line 25, by inserting brackets before and after "two-thirds" and inserting immediately thereafter

a majority

Amend Sec. 1 (Sec. 13), page 2, line 26, by striking out the bracket before " , except"

Amend Sec. 1 (Sec. 13), page 2, line 27, by striking out the bracket after "majority"

On the question,

Will the House agree to the amendments?

The SPEAKER. The House is about to take up the merit selection bill, **HB 941**.

The Chair recognizes the gentleman, Mr. Piccola. The gentleman may proceed.

Mr. PICCOLA. Thank you, Mr. Speaker.

HB 941, when it was originally introduced, contained a provision that said that the judicial candidate sent by the Governor to the Senate would require a simple majority for confirmation. During the process of this bill coming to the floor and in the Judiciary Committee specifically, an amendment was offered and passed by the committee to change that to a two-thirds majority confirmation. This amendment will revert back to the bill in its original form and require a majority confirmation in the Senate.

It seems to me that we are—and I think this point has been brought out in debate—we are removing the selection of judges from the direct election of the people, but we are keeping the selection of judges in the hands of the representatives of the people; namely, the Governor and the Senate of Pennsylvania.

To require a two-thirds majority confirmation has all sorts of practical as well as philosophical problems, in my estimation. The practical problem is that when a vacancy occurs on the court - any one of the appellate courts - and the Governor submits a recommendation, usually what will happen is that that person will not be confirmed until some sort of a deal is struck with the minority in the Senate, and that has the potentiality of leaving vacancies in the appellate courts of the Commonwealth for indefinite periods of time.

The philosophical problem that I see is that with the removal of the judicial selection process from the direct election, there has to be put in its place some form of accountability, and it seems to me that a candidate for judicial office that must submit to the two-thirds confirmation process, in order to become confirmed, would have to be virtually accountable to everybody and yet accountable to no one. We will be creating people that are acceptable to every major interest group in the Commonwealth before they will be allowed to be confirmed, and no one will know, if the decisions come down poorly, who is to be held accountable for that person's decision. By making a simple majority confirmation after recommendation from the Governor, it is quite clear who is accountable. The Governor is accountable and the majority of the Senate is accountable for the performance of that individual in judicial office.

I think, Mr. Speaker, by allowing the two-thirds requirement to remain in this bill, we leave the potential of having judges who are philosophical eunuchs, who really please everyone and yet will please no one.

I therefore urge, Mr. Speaker, that we adopt this amendment and require a simple majority for confirmation for the appellate courts of this Commonwealth. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Mr. Bortner.

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

I think there are arguments on both sides of the two-thirds majority confirmation issue. The bill, as Representative Piccola has pointed out, originally contained a provision for confirmation by a majority of the Senate. Before the House Judiciary Committee, that provision of the bill was changed to a two-thirds confirmation process.

As I said, I think there are arguments on both sides of this issue. There are some different philosophies on what the confirmation process ought to do and how it ought to act.

I intend to support the amendment. I think that members can follow their conscience on how they feel about this aspect of the confirmation process. Thank you.

The SPEAKER. The Chair recognizes Mr. Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, I would urge the defeat of this amendment. I think merit selection has tremendous problems to begin with, and further narrowing the number of people who are going to have a say in who the judges are, as this amendment will do, would aggravate the problems in merit selection. What this would do is mean that the minority party in the Senate, whichever party is in the minority, would have no influence at all when it comes time to confirm the merit selection nominee.

Representative Piccola is worried about philosophical eunuchs. I am worried about people who have an agenda that may be strongly against the public interests. We ought to have people who are broadly acceptable.

Right now you have to be acceptable to a majority of the voters in Pennsylvania. If we are going to get rid of a requirement of majority acceptability to the voters, we ought not to get rid also of the requirement of two-thirds acceptability to the State Senate.

The compromise backed by the Senate Judiciary Committee was at least a very limited step in the direction of retaining broad acceptability of judicial nominees. I would strongly urge that that Senate Judiciary compromise be retained, and that if we have to have merit selection, we have a merit selection procedure that at least allows the Senate minority—whichever party that is over the long run—to have some influence in the selection of the candidates.

I would urge a "no" vote on this amendment.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—105

Allen	Cole	Heckler	Phillips
Angstadt	Cornell	Herman	Piccola
Argall	Coy	Hershey	Pitts
Barley	Davies	Hess	Pressmann
Battisto	Dempsey	Itkin	Reinard
Belardi	Dieterick	Jackson	Robbins
Belfanti	Distler	Jadlowiec	Ryan
Birmelin	Donatucci	Jarolin	Saurman
Black	Dorr	Johnson	Scheetz
Blaum	Fairchild	Josephs	Schuler
Bortner	Fargo	Kondrich	Semmel
Bowley	Farmer	Kukovich	Serafini
Boyes	Fleagle	Langtry	Smith, B.
Brandt	Flick	Lashinger	Smith, S. H.
Bunt	Foster	Lee	Snyder, D. W.
Burd	Fox	Leh	Snyder, G.
Burns	Freeman	Lloyd	Stairs
Bush	Freind	McHale	Strittmatter
Caltagirone	Gallen	McVerry	Taylor, E. Z.
Cappabianca	Gannon	Maine	Telek
Carlson	Geist	Marsico	Wass
Cawley	Gladeck	Melio	Wilson
Cessar	Godshall	Merry	Wozniak
Chadwick	Gruppo	Michlovic	
Clark, D. F.	Hagarty	Morris	O'Donnell,
Clark, J. H.	Hasay	Mowery	Speaker
Clymer	Hayes	Noye	

NAYS—88

Acosta	Gruitza	Moehlmann	Serimenti
Adolph	Habaska	Mrkonjc	Staback
Billow	Harper	Murphy	Steighner
Bishop	Hayden	Nailor	Stish
Broujos	Hughes	O'Brien	Stuban

Civera	James	Olasz	Tangretti
Clark, B. D.	Kaiser	Oliver	Taylor, F.
Cohen	Kasunic	Perzel	Taylor, J.
Colafrella	Kenney	Pesci	Thomas
Colaizzo	Kosinski	Petrone	Tigue
Corrigan	LaGrotta	Pievsky	Trello
Cowell	Laughlin	Pistella	Trich
DeLuca	Lescovitz	Preston	Van Horne
DeWeese	Levdansky	Raymond	Veon
Daley	Linton	Reber	Vroon
Dombrowski	Lucyk	Richardson	Wambach
Durham	McNally	Rieger	Weston
Evans	Markosek	Ritter	Williams
Fee	Mayernik	Robinson	Wogan
Gamble	Micozzie	Roebuck	Wright, D. R.
George	Mihalich	Rudy	Wright, J. L.
Gigliotti	Miller	Rybak	Yandrisevits

NOT VOTING—3

Carn	Howlett	McCall
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EXCUSED—6

Dininni	Nahill	Saloom	Wright, R. C.
Maiale	Petrarca		

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

On the question,

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

Mr. LASHINGER offered the following amendments No. A3300:

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

election

Amend Sec. 1, page 1, line 8, by striking out "13, 14 and 15" and inserting

13(a) and (14)

Amend Sec. 1 (Sec. 13), page 1, line 10, by striking out the bracket before "Election"

Amend Sec. 1 (Sec. 13), page 1, line 10, by striking out "] Selection"

Amend Sec. 1 (Sec. 13), page 1, lines 12 through 15; page 2, lines 1 through 14, by striking out all of said lines on said pages

Amend Sec. 1 (Sec. 13), page 2, line 15, by striking out the bracket before "(a)"

Amend Sec. 1 (Sec. 13), page 2, line 15, by striking out "] (c)"

Amend Sec. 1 (Sec. 13), page 2, line 20, by inserting after "serve."

Justices of the Supreme Court and Judges of the Superior Court and Commonwealth Court shall be elected in the manner heretofore provided, following nomination by the Judicial Nominating Commission.

Amend Sec. 1 (Sec. 13), page 2, lines 21 through 30; page 3, lines 1 through 30; page 4, lines 1 through 4, by striking out all of said lines on said pages

Amend Sec. 1 (Sec. 14), page 4, line 24, by striking out "appointment" and inserting

election

Amend Sec. 1 (Sec. 14), page 6, line 19, by striking out "Governor" and inserting

Department of State

Amend Sec. 1 (Sec. 14), page 6, line 25, by striking out "Governor" and inserting

Department of State

Amend Sec. 1 (Sec. 14), page 6, line 27, by striking out "to the Governor"

Amend Sec. 1 (Sec. 14), page 6, line 29, by striking out “to the Governor”

Amend Sec. 1 (Sec. 14), page 7, line 3, by striking out all of said line

Amend Sec. 1 (Sec. 14), page 7, lines 20 and 21, by striking out all of said lines and inserting

This list shall be submitted to the electors of the Commonwealth at the next general or municipal election.

Amend Sec. 1, page 7, lines 22 through 30; page 8, lines 1 through 30; page 9, lines 1 through 3, by striking out all of said lines on said pages

On the question,

Will the House agree to the amendments?

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

Mr. LASHINGER. Thank you, Mr. Speaker.

Mr. Speaker, for some time in an effort to fashion a compromise in this area, somewhere between the efforts to have judicial nominees selected by a merit selection panel and still yet have those nominees presented to the electorate, I have developed language that would still allow for the Judicial Nominating Commission to make the effort to select the nominees and then propose a list of those nominees to the electorate in the Commonwealth.

Mr. Speaker, this would still help resolve part of the concern that continues to exist in the Commonwealth about the method by which we elect our statewide judges, and at the same time, it would still give the electorate one final opportunity at being involved in the process, and that final opportunity would be the ultimate decision on how these judges are elected.

The issue quickly comes to mind as to how this would be resolved or comport with the Election Code. This will require, after adoption, us to come back and to make some major amendments to the Election Code that would say that these judges could only be elected after being appointed by the Judicial Nominating Commission, and that would preclude then additional individuals from filing nominating petitions and yet still appearing on the ballot. So I believe that is the way to resolve that concern.

Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Mr. Bortner.

Mr. BORTNER. Thank you, Mr. Speaker.

If in fact this would be a step forward or even a step toward a compromise that would take us one step further toward a merit selection process, I would consider supporting it.

I think there are a couple of flaws with this process that I would like to point out. First of all, as Representative Lashinger has explained, this does not change the elective process except to the extent that it closes the field or limits the field as to who may file nominating petitions and go before the voters. To that extent, while it may be a compromise, I do not think it is a healthy compromise. I think if we are going to have an appointed system, then the process that we have set up in HB 941 that creates a Nominating Commission where the Governor will make appointments is the way we should go. If the members of the House feel that appointing judges

on a merit basis is not the way that they want to go, I do not think that limiting the field or limiting the candidates that can run for election is a step forward or is even a compromise.

I guess I would also point out that since statewide election is still going to be required, it does not in any way impact or deal with the financial considerations involved with elections that have been pointed out here. The judges that run statewide are still going to have to raise a tremendous amount of money. They are still going to be going to the same lawyers that have traditionally supported these campaigns, and I do not think that it really solves one of the, if not the major objection to the present system of electing judges.

I would urge the members or ask that the members, however they feel on the true merits of HB 941, to defeat this amendment and then consider the question of whether we are going to continue with the present system or in fact going to appoint judges on a merit basis when that comes before all the members for a vote. Thank you.

The SPEAKER. The Chair recognizes Mrs. Hagarty.

Mrs. HAGARTY. Thank you, Mr. Speaker.

Mr. Speaker, I join Mr. Bortner in opposing this amendment.

It seems to me that one of the significantly important factors of merit selection is the Governor's opportunity to be involved in the process. That accountability by an elected representative of the people in choosing among the candidates who have met the screening device is important in the scheme of things, and the Senate confirmation is important in that process. To have a judicial screening board be the threshold and then to go to the voters, it seems to me, simply elevates what is now a process of recommendations, voicing their thoughts on whether candidates are qualified or unqualified, whether it is by the bar or by special interest groups, and the public's ability to pay attention to that or willingness to pay attention to that, which is now voluntary, insures that the public only gets to vote on people who have been put forth by this group but with no public accountability at all, because the Governor has not had the opportunity to recommend to the Senate his candidate.

So unlike the Federal system where we have the President accountable for our Federal judiciary, there is really no accountability in this system and it seems to me does not accomplish any of the purposes that merit selection accomplishes and instead makes the current system, at best, only marginally better. Thank you.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—53

Allen	Cornell	Hayes	Robinson
Angstadt	Davies	Herman	Saurman
Argall	Dempsey	Hess	Scheetz
Barley	Dietterick	Jadlowiec	Schuler
Bishop	Dorr	Johnson	Semmel
Black	Fairchild	Kondrich	Serafini
Boyes	Fleagle	Lashinger	Smith, B.
Brandt	Foster	Maine	Smith, S. H.
Bunt	Fox	Mihalich	Snyder, G.

Burd	Freeman	Mowery	Strittmatter
Bush	Gallen	Mrkonic	Telek
Carlson	Geist	Pesci	Veon
Cessar	Hasay	Phillips	Wass
Clark, J. H.			

NAYS—140

Acosta	Farmer	Linton	Ritter
Adolph	Fee	Lloyd	Robbins
Battisto	Flick	Lucyk	Roebuck
Belardi	Freind	McHale	Rudy
Belfanti	Gamble	McNally	Ryan
Billow	Gannon	McVerry	Rybak
Birmelin	George	Markosek	Scrimenti
Blaum	Gigliotti	Marsico	Snyder, D. W.
Bortner	Gladeck	Mayernik	Staback
Bowley	Godshall	Melio	Stairs
Broujos	Gruitza	Merry	Steighner
Burns	Gruppo	Michlovic	Stish
Caltagirone	Hagarty	Micozzie	Stuban
Cappabianca	Haluska	Miller	Tangretti
Cawley	Harper	Moehlmann	Taylor, E. Z.
Chadwick	Hayden	Morris	Taylor, F.
Civera	Heckler	Murphy	Taylor, J.
Clark, B. D.	Hershey	Nailor	Thomas
Clark, D. F.	Hughes	Noye	Tigue
Clymer	Itkin	O'Brien	Trello
Cohen	Jackson	Olasz	Trich
Colafiglia	James	Oliver	Van Horne
Colaizzo	Jarolin	Perzel	Vroon
Cole	Josephs	Petrone	Wambach
Corrigan	Kaiser	Piccola	Weston
Cowell	Kasunic	Pievsky	Williams
Coy	Kenney	Pistella	Wilson
DeLuca	Kosinski	Pitts	Wogan
DeWeese	Kukovich	Pressmann	Wozniak
Daley	LaGrotta	Preston	Wright, D. R.
Distler	Langtry	Raymond	Wright, J. L.
Dombrowski	Laughlin	Reber	Yandrisevits
Donatucci	Lee	Reinard	
Durham	Leh	Richardson	O'Donnell,
Evans	Lescovitz	Rieger	Speaker
Fargo	Levdansky		

NOT VOTING—3

Carn	Howlett	McCall
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EXCUSED—6

Dininni	Nahill	Saloom	Wright, R. C.
Maiale	Petrarca		

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

On the question recurring,

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

Mr. FREIND offered the following amendments No. A1851:

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

further providing for the free speech of candidates for elected office.

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

That section 7 of Article I be amended to read:

§ 7. Freedom of press and speech; libels.

(a) The printing press shall be free to every person who may undertake to examine the proceedings of the Legislature or any

branch of government, and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write and print on any subject, being responsible for the abuse of that liberty. No conviction shall be had in any prosecution for the publication of papers relating to the official conduct of officers or men in public capacity, or to any other matter proper for public investigation or information, where the fact that such publication was not maliciously or negligently made shall be established to the satisfaction of the jury; and in all indictments for libels the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.

(b) All candidates for elected office, including judicial office, may freely communicate their thoughts and opinions and may freely speak, write and print on any subject, being responsible for the abuse of that liberty. No governmental authority shall attempt to limit the right of candidates to present their views on any legal or political issue or to limit their right to attend any lawful gathering.

On the question,

Will the House agree to the amendments?

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

Mr. FREIND. Thank you, Mr. Speaker.

This amendment is being offered by myself and Representative Foster. It does two things. The first thing that it does is gut the bill and insure that we continue to select our judges the way we do right now - through the people.

Merit, like truth and beauty, is in the eye of the beholder, and merit selection stands for the dangerous and elitist proposition that the people of Pennsylvania are the great unwashed who have to be protected from themselves and who cannot be depended on to select their public officials. All merit selection does is transfer the politics of the people to the politics of a chosen few, and regardless of what Common Cause may think, I do not think that is good government.

You know, Mr. Speaker, maybe I would not care as much about this if judges, both in Pennsylvania and throughout the Nation, were content to confine themselves to their constitutional role of interpreting the laws, the way we studied in civics in sixth grade, that the legislature made the laws, the executive branch carried them out, and the judicial branch interpreted them. But as we all know, the last several decades have seen, more and more, the judiciary moving into the legislative arena. In fact, they are making laws.

In fact, one can make a strong argument that a judge has far more power than a State Rep, a State Senator, a Governor, or in many cases, even a President. I cannot think of any other public official whose performance impacts upon more of our citizens in their everyday life than that of a judge. Given that fact, I think it is completely appropriate that the people elect those public officials.

The argument seems to be that if we go from an elective system to an appointed system, we are going to have nirvana; it will be perfection. Well, let us take a look at the track record of the most famous appointed system, and that is our Federal system. That is a system that has given us leniency to criminals, that has given criminals more rights than law-

abiding citizens. That is a system that has given us a blank check to burn the American flag. That is a system that has given us unfair quotas; forced busing, which no one wanted; no prayer. There is a Federal court judge that said they could not even pray at the graduation at Downingtown last week; a consistent form of judiciary that has said that it is okay to have "In God We Trust" on our currency and it is okay to have a chaplain beginning the House of Representatives and the Senate sessions every day but it is not okay—

The SPEAKER. Will the gentleman suspend.

PARLIAMENTARY INQUIRY

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

Mr. McHALE. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. McHALE. Mr. Speaker, is the gentleman speaking on the amendment or the general subject matter of the bill?

The SPEAKER. It would appear to the Chair that the gentleman is speaking on the subject of freedom of speech, and the Chair is reluctant to curtail him.

The gentleman may proceed.

Mr. FREIND. Thank you, Mr. Speaker.

As I indicated, Mr. Speaker, the first part of this amendment guts merit selection, takes it away, and therefore, Mr. Speaker, in my opinion, any argument against merit selection is completely germane to this amendment.

We were just ticking off some of the things that that Federal system has given us, and just to make the Philadelphia Inquirer happy, since they seem to want to tie everything Steve Freind does to abortion, yes, it is the Federal system that gave us unrestricted, unregulated abortion on demand at any time, for any reason. I just want to make sure the editorial board is happy there. That is that Federal system that we point to, that appointed system that works so well.

You know, the funny thing about it, Mr. Speaker, is no one has raised an argument against the quality of the decisions of our State appellate court judges. No one has raised that at all. I have heard arguments from a good colleague of mine and a friend of mine, well, they do not like the performance of some of the judges with respect to their personal conduct. One raised an issue he did not like in the paper about a telephone call that should or should not have been made. Well, Mr. Speaker, I respond to that, that is fine; that is why we have Bill DeWeese's bill, code of judicial discipline, but the answer is not to throw the baby out with the bathwater.

The SPEAKER. Will the gentleman suspend.

The Chair would urge the gentleman to tie his remarks as quickly as possible to the specifics of his amendment.

Mr. FREIND. Yes, and, Mr. Speaker, once again, this amendment guts merit selection.

I have heard an argument from a person whom I respect very much, well, I do not like merit selection, but we are from the east and we cannot elect any judges. Well, you know, the

last time I checked, there were no more people in the west than there are in the east, and if the people in the west stick together and elect candidates, that is a process we have come to know and love and revere called democracy, and that is the way it ought to be.

I hear the argument that the people do not know whom they are voting for, and let me say to that that the same news media that makes that complaint in editorializing in favor of merit selection has done a miserable job historically of covering judicial campaigns, and maybe if they would spend their time covering those campaigns, we would not have that problem. But you know, Mr. Speaker, that is nothing new. Time and again we have had elections where people did not know for whom they were voting. Did you know we have never had a Presidential election where half or more than half of those eligible to vote, not registered but eligible to vote, have voted? Is the answer then to throw that out, too, and say we will not elect a President; we will appoint him?

You know, we justifiably, years ago, threw out the poll tax and the literacy test because they stood that there should be an elite few making decisions, and we are coming back right here with the same elitist arguments.

Let us take a minute to look at the drafting of this bill and which is why I want to eliminate merit selection. In addition to the philosophy, this bill says that to be qualified to be appointed a judge, for 10 years you had to be a common pleas court judge, a lawyer, or serve in a law-related occupation. Question: What is that? A paralegal? Legal secretary? Township commissioner? Police officer? What is a legal law-related occupation? All we are doing with lousy drafting like that is opening the door wide open for the same courts that we want to select to come in and interpret what we mean.

Let us take a look at this commission that is going to do the appointing or the selecting. It says there has to be fair representation with respect to sex, geography, ethnic, et cetera. What is fair? We do not define it. Are we not once again opening the door wide open for those same courts to come in and interpret what is fair? Once again, a lousy piece of draftsmanship.

So that is the first thing that it does. It says that we the people, all of us, are going to keep that right to select our public officials.

The second thing it does is take off the gag rule. Right now candidates for the judiciary, if they so choose, can hide behind the State Supreme Court's Canon of Judicial Ethics, which states that a candidate is not permitted to discuss his views on disputed legal or political issues, whatever that means. Whom are we kidding? The rationale seems to be, but because we are going to someday maybe have to vote on that issue, we cannot discuss it. Every one of us can say the same thing about every issue. Every State Senator can, every Congressman, every Governor. Keep in mind, Mr. Speaker, that judges are making the law, and because they are making the law and because they impact so much on our lives, it is appropriate to want to know where they stand, where do they come from, where do they stand on such things as the death penalty

and mandatory sentencing and quotas and the burning of the American flag. If that judge candidate does not want to answer it, he does not have to. All this is saying is that he or she cannot hide behind that gag rule anymore.

Let us look at that beautiful Federal system for a minute. We only have to go back to that televised zoo of a couple years ago, the hearings on Judge Bork, where the Senators asked him where he stood on every issue under the sun. The only thing they did not ask him is how many times he went to the bathroom every day, and the only reason they did not ask that is because they ran out of time. But somehow that is okay because that is an appointed system.

To put it succinctly, Mr. Speaker, in my opinion, merit selection is a disservice to the people and should be defeated. We should continue to elect our public officials, and we should give them the right to take a stand on where they stand on the important issues facing all Pennsylvanians.

I sincerely hope we adopt this amendment. Thank you, Mr. Speaker.

FILMING PERMISSION

The SPEAKER. The Chair gives permission to Nell McCormack of WITF for footage on the House floor.

CONSIDERATION OF HB 941 CONTINUED

The SPEAKER. The Chair recognizes Mr. McHale.

Mr. McHALE. Thank you, Mr. Speaker.

Mr. Speaker, though it took the gentleman a while to get to it, the heart of his amendment is contained in subparagraph (b). What the gentleman, I think, somewhat inaccurately refers to as the "gag rule" would, from my point of view, override due process of law.

For those members of the chamber who support the elective system, there will be an opportunity, probably within the next half hour or so, to vote to retain that system and to reject, if you so choose, merit selection.

The issue before the House now is not a general referendum on merit selection versus the elective process but specifically the language contained in Mr. Freind's subparagraph (b) with regard to the current restriction of Canon 7, a restriction that I very strongly support.

Mr. Speaker, the amendment sponsored by the gentleman, Mr. Freind, would, if enacted, bring about a radical and destructive change in our system of justice. Controversial cases would be decided on the basis of campaign platforms. The judiciary would in effect be transformed into a third legislative chamber, elected expressly by reference to specific political issues and responsive to well-organized and financially powerful special interest groups. A judge's personal opinion or biased perception of the public will would replace due process of law. Men would be sent to the electric chair not as a result of a quest for dispassionate justice but under a real or apparent cloud of campaign rhetoric. Candidates for appellate judicial office could be asked how they would rule in specific pending cases. Some candidates, inevitably and regrettably, would answer those questions.

Cloaked in a garb of free expression, Mr. Freind's amendment would thoroughly politicize the judicial branch of government, placing in grave jeopardy the ability or willingness of judges to enforce controversial legal rights, including fundamental First Amendment freedoms which might not, in a given circumstance or during the course of a particular campaign, command popular political support.

In the name of greater democracy, Mr. Freind is willing to destroy one of constitutional democracy's most fundamental characteristics: an unbiased, impartial, and politically independent judiciary.

Any judge worthy to sit upon the bench knows that he or she is under a duty to faithfully and impartially interpret the law, consistent with legislative and constitutional intent and without fear or reference to short-term popularity or past campaign promises. Good judges must be prepared to enforce statutes with which they personally disagree and for which they would not, or even did not, vote if previously faced while serving as a member of the legislature.

Consistent with the rule of law, cases cannot be decided before the litigants enter the courtroom. Yet, that is precisely the intended result should the Freind amendment become law.

Writing in yesterday's Philadelphia Inquirer, Judge Phyllis Beck noted, and I quote,

Judges must be neutral players. They have to make legal calls based on the evidence before them, and not on their personal vision of what is true or right or wrong. They cannot inject their own point of view. Instead they must uphold the Federal and State Constitutions and the laws of the land.

The Allentown Morning Call captured this same spirit yesterday in an editorial which bluntly stated,

Anyone who thinks it is a good idea to force potential judges to go on record on abortion or any other issue, whether it be the death penalty or how to determine accident liability, does not understand the proper function of judges.

Mr. Speaker, in my view, the common will of the people should be forged in the heated and thoroughly political debate of the legislative process. But once enacted, our laws should be dispassionately interpreted and impartially enforced by judges who are, by design, insulated from short-term public opinion and dedicated exclusively to the rule of law.

The recognition that each branch of government has a distinct role to play in defining the public will and preserving the rule of law is at the heart of American constitutional democracy. That distinction is explicitly rejected by the Freind amendment.

I therefore urge, as strongly as I can, a negative vote.

The SPEAKER. The Chair recognizes Mr. Bortner.

Mr. BORTNER. Thank you, Mr. Speaker.

I would also urge the members to vote "no" on this amendment, and I would make the same appeal that Representative McHale did. Regardless of how you feel on the issue of appointing judges or electing judges, this amendment not only continues the present system, as Representative Freind has

pointed out, by gutting the merit selection provisions from the bill, but it would further politicize the system, and I think you ought to be very aware of some of the consequences that that could have.

This is a very easy issue to demagogue on. It is an issue that has some populist appeal. But I think once we stop and think about it, the major flaw is that it confuses the role that judges play in a democratic system of government, and I think at its most basic level, that is the problem with this amendment. The maker of the amendment has not studied his civics close enough.

The judicial branch of government is and ought to be different from the executive and the legislative branches. The role of the judiciary in a democratic form of government is not to reflect public opinion in its deliberations nor is it to satisfy public opinion with its decisions, and unlike the executive branch or the legislative branch of government, it is not intended to respond to the will of the people or the majority, and in fact, it is frequently called upon to protect the interest of an unpopular minority. The primary purpose of the judiciary is to interpret laws in an evenhanded fashion and to insure that any laws enacted by the legislature are not contrary to or in conflict with the Constitution.

What we ask judges to do when they are elected—and I would admit that it is sometimes a difficult thing to do—but it is to put aside their individual views, put aside their own biases, and to decide cases, based on the facts, by applying the law to the facts of those cases. Judges do not represent individuals and they do not represent interest groups, and I think to confuse those roles is a very, very serious mistake.

One part of this amendment—and I would like to point out, I think, the literal language of this amendment—would permit a candidate not only to comment on issues but to actually comment on pending cases that may already be before the court. It would permit you to comment on cases that you may actually have to decide as a judge. Now, I do not know what the response to that would be if you were elected, if it would be to refuse yourself or be disqualified, but the language of this amendment says that you may speak on any issue and on any matter. I think that creates a very serious problem.

I think we ought to also recognize that there are a number of people who make important decisions in government who are not necessarily elected. I can recall in one of my first sessions the issue came up about electing Public Utility Commission members. That was rejected by this legislative body. I believe there have also been amendments to elect the Insurance Commissioner. That has been rejected. These are people who also make very important decisions that affect the lives of each of our constituents.

I am not going to stand here and try to defend the decisions of every Federal court across the United States of America, but I think you also ought to remember a couple things: The same courts that did impose forced busing—and I think that most people here would be able to or would be willing to state their opposition to that—also guaranteed the rights of some of those very same students to just get in the schoolhouse

door, and the same Federal courts that banned prayer in public schools just last week made a decision that guaranteed the rights of students to meet after school or during school as associations for religious purposes.

I think the biggest problem of this amendment is that we sometimes try to portray where the majority is going to be on any one issue, and as I tried to point out, frequently what we ask courts to do is to protect the rights of a minority.

I think that this amendment would erode public confidence in the courts. I think, if nothing else, we have got to guarantee that our judges are independent, and whether we agree or disagree with an individual decision, that is the system. That system of independent judges has lived with us since the days of our very founding. Longer than the time that we have been debating whether we should elect or appoint judges, we have always had that tradition of independent judges. Let us not tear it down today. Thank you.

The SPEAKER. The Chair recognizes Mr. Foster.

Mr. FOSTER. Thank you, Mr. Speaker.

I rise to urge each member of the House to adopt the amendment that we have before us.

I have listened quite carefully to the statement which the gentleman, Mr. McHale, read into the record. I have listened to the points that he and Mr. Bortner have raised in objection to the amendment, and both of the gentlemen ignore the clear fact that members of the judiciary no longer act like members of the judiciary. If they would resume the roles that were assigned them under the Federal Constitution and the State Constitution, perhaps we would not be standing here debating the amendment. But, Mr. Speaker, when judicial bodies act like legislative bodies, then they ought to be held accountable like legislative bodies.

If we, as members of the General Assembly, are asked to take positions on controversial issues, why cannot a judge give you some idea of his feelings on capital punishment or sentencing guidelines? Is that too much to ask? Now, would it not be ludicrous if we, as candidates for the General Assembly, when asked, what is your position on Act 195, would respond, oh, I do not think I should answer that question because I may be called upon to act and vote on Act 195. If we were asked our views on capital punishment or any of the other multitude of issues that we address in this House and if we were to dodge the issue in that fashion or to get some favorable court ruling as to why we should not answer those questions, would that not make a mockery of the democratic process?

Now, I am appreciative of the role of the judiciary and the divisions of government in our scheme of government. I do not say that we ask every member of the judiciary to elucidate on every single point of the law that they might be called upon to adjudicate, but is it too much to ask them in general terms, are you for or against capital punishment; how do you feel about the issue of gay rights; were you offended by the court decision on flag burning? Is it too much to expect an answer on those kinds of questions?

Now, Mr. Speaker, the proponents of merit selection say that the reason the system is in trouble in Pennsylvania is because people are voting blindly. They are voting on the basis of ethnic names or geography or political affiliation. Mr. Speaker, I say if people are voting blindly, it is because they do not know what judicial candidates stand for, and we are going to allow judicial candidates to tell us what they stand for, and an informed and interested electorate will demand that they tell us what they stand for. If that is done, I submit, at that point we will not be voting blindly. For example, would I, as someone of English descent, who happens to see the name Foster or Forrester on the Republican side of the ballot, vote for that same candidate if he tells me he is against capital punishment, that he thinks flag burning is a good idea? No way on earth.

Let us give the process back to the people through this method rather than remove the process from the people through the elitist approach of merit selection.

I could not ask you more strongly to vote in favor of the Freind-Foster amendment.

The SPEAKER. The Chair recognizes Mr. Olasz.

Mr. OLASZ. Mr. Speaker, would the maker of the amendment stand for a brief interrogation, and I would then like to make a comment based upon his response.

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

Mr. OLASZ. Mr. Speaker, is it accurate that if this amendment passes, the merit selection bill is dead?

Mr. FREIND. Yes, it is, Mr. Speaker.

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

The SPEAKER. The gentleman is recognized and may proceed.

Mr. OLASZ. I would like to know who is kidding whom. Here we are approximately 1 year from an election, and I do not know what bed of sand some of my colleagues have their heads in, but every political rally I went to, I have seen all these aspirants for judicial office showing their faces. Now, are they just coming to bid us all well and good luck, or are they planting a seed for their future elections? Let us be realistic about it. They are politically motivated; they are politically inclined.

After all these years of having placed acceptability in the hands of the voters, here we are telling them today, you are not intelligent enough to cast a reasonable vote for a man on the bench. This is after decades of all these immigrants coming to this country with little or no education at all, who hardly could speak the English language in this country, going to the polls en masse to voice their support of democracy.

Here we are in this Commonwealth with every educational group coming before us at this budget time, give us more and more millions. We spend approximately \$8 billion annually in the Commonwealth of Pennsylvania, and I am telling all these people who have been brought up in the last two or three decades, you are not intelligent enough to vote; let me pick your slate of candidates.

I would like to know who is fixing this horse race and who is going to give the urine analysis when it is all over. Yes, you better think about it.

The SPEAKER. Think about it.

Mr. OLASZ. If you are in favor of this merit selection of judges, then you better think about something else, and I want to hear your response about merit selection for the legislature. Think about it.

The SPEAKER. The Chair recognizes Mrs. Hagarty.

Mrs. HAGARTY. Thank you, Mr. Speaker.

First, before getting to what is the substance of this amendment—and that is judicial views and their public statement—I just want to comment briefly on some of the prior remarks which did direct themselves to the ultimate issue of merit selection.

First, I want to remind this chamber, as I spoke last week, that this was not inherent in our Constitution. In fact, our Founding Fathers, our great models for democracy for not only this State but this country, envisioned our judiciary as appointed, and the first three Constitutions of Pennsylvania in fact provided for merit selection. It was not until much later that the election of judges began in our State.

Secondly, I think it is important to remember that we are not today taking away anyone's opportunity to vote for judges. We are allowing a constitutional amendment to go on the ballot on a topic that is much debated, with many different points of view and very divergent public opinion. This is a constitutional amendment which will allow the voters of this State to determine whether or not they believe that the best judges will be seated in our courts by the elective process or by the merit process.

Third, even under the selection process, that initial appointment is for 4 years, and so there is an opportunity after 4 years to elect.

Speaking now to the issue of whether or not we want our judges to give their views on every popular opinion of the day, let me suggest that as Peck Foster has said, if judges acted like judges, I think his statement was, it would be okay if they did not then state their views.

If we adopt this amendment, we accept what the court has become, we accept what those who are critical of the court believe, we accept that judges may be overly political, and what do we do? Instead of trying to return with idealism, with a system of government that encompasses the three separate branches of government, we overly politicize the court even more. We make those judges, whom we do not applaud now because they are too political, more political, and we do turn the court into a legislature. And much as I like this process and believe in this process and believe that this is the best branch of government, we do live under a system with a separate branch of government and a separate function for that other branch of government, the judiciary.

What we want from that judiciary is not judges judged on the basis of what is the popular issue of the day, because that is what will happen. We will have single-issue judges just as we now have single-issue elections when there is one heated

emotional issue, and while that may be okay for some of us to be elected that way, I suggest that in a court of last resort, in a place where you may go, in a place where you need the public to know that there is an opportunity for just a fair shot, just a neutral arbiter, just someone who is learned in the law and will apply the principles of the law, you do not want to turn that court into people who are sitting there because they have the most popularly accepted view on the most popular issue of the day, and that is surely what you will do if you accept this amendment.

I strongly urge a "no" vote. Thank you.

The SPEAKER. The Chair recognizes Mr. Piccola.

Mr. PICCOLA. Thank you, Mr. Speaker.

I would first like to thank the Chair for not calling on me and asking me to follow Mr. Olasz. That was a difficult act to follow.

I rise in opposition to this amendment as well, and I do so as one who had to be convinced that we had to go the route of merit selection. I was not convinced of that fact when I came to the General Assembly almost 14 years ago, but over a course of a number of years, it has occurred to me that we simply are not able to elect judges in the manner that we presently do and get the most qualified and competent courts available on a statewide basis.

I have searched diligently for an alternative to merit selection, short of disbanding the election process, and if I thought for one moment that simply amending the Constitution, as Mr. Freind would suggest that we do that, that that would be the magic solution to getting people to elect competent judges and to get judges to enunciate views on issues, I would vote for it, but, Mr. Speaker, Mr. Freind's solution is not the answer to the problem. Mr. Freind is saying that the problem is that we do not allow the judges to speak on issues. The problem is, the people do not listen, even if they were able to speak in the detail that might be required. That is the main reason for my opposition to this amendment.

The other reason is that this amendment is addressed specifically at a rule of court contained in the Code of Judicial Conduct, specifically Canon 7, dealing with campaign conduct, and a subsection which states that a judicial candidate "...should not...announce his views on disputed legal or political issues..." Now, why do you have that in there, Mr. Speaker? Well, we have been talking about some of the real sexy issues - capital punishment, abortion, those kinds - where you want the judge to speak out on those particular issues. That is all well and good for perhaps the Supreme Court and the Superior Court, but what happens when you get down to the Commonwealth Court, where the judges talk about issues like workers' compensation and unemployment compensation and insurance law and very arcane and esoteric areas of the law?

Now, I could foresee—and I address my Republican colleagues primarily on this issue—I could see a very populist candidate, operating under this amendment as it now exists, campaigning for the Commonwealth Court on the theme that corporations and business ought to pay more in unemploy-

ment compensation claims, more in workers' compensation claims; we ought to grant every claim that is made by every worker in this State. Then one of our constituents, a poor litigant, a small businessman back in your district, comes before that judge, after he has been elected in a landslide, on a workers' compensation claim which he knows to be bogus or improper or invalid, and he comes before this judge who has already enunciated his views on that issue. That is why we have that rule in the Canons of Ethics. It is not only to protect the minorities that might be more responsive to the other side of the aisle but it is also to represent and protect the minorities on our side of the aisle, too, Mr. Speaker.

We do not want a demagogue on either side of these issues when it comes to judges, and I suggest, Mr. Speaker, that is what we are trying to create, demagogues becoming elected judges, and I do not want to see that in Pennsylvania. I do not think the majority of this House wants to see it, and for that reason, Mr. Speaker, I urge we reject the Freind amendment.

The SPEAKER. The Chair recognizes Mr. Ryan.

Mr. RYAN. Thank you, Mr. Speaker.

Mr. Speaker, for many, many years of my service here in Harrisburg, I resisted the idea that judges, be they of the appellate court or the common pleas court, should be appointed. I felt very strongly that they should be elected. However, I guess over the past I am going to say 10 years—I am not really sure—I really had a change in my thinking, and I guess one of the things as much as anything that led me to believe that the use of a merit selection process made some sense was indeed the Federal system itself. It plucked from the courts of Pennsylvania into their system two of our former members - Bill Hutchinson, a member of the Supreme Court of Pennsylvania; Tony Scirica, a member of the Commonwealth Court, later the district court, and now on the Federal appellate court - and I was listening to some of the remarks being made here about people who are appointed, and they are the only two whom I really know very well on the Federal bench, and I thought they did not do too bad by these two.

The other thing—and I guess being truthful about it—that bothers me is I am bothered by the present geographic makeup of the Supreme Court, and I am concerned that that will continue. I heard the arguments against it that if the press would do their job and tell the people what was going on, if the political systems would do their job and tell the people what was going on, we would not have a situation such as we have today where five of the seven members of the Supreme Court are from one county. Now, I think that is unfair. I think a Governor would have a great deal of trouble, be it Governor Casey, Thornburgh—if this were in during his tenure in office—I think they would have a great deal of trouble loading up the courts that way. We the people loaded them up, and I think we loaded them up that way because we did not know the candidates, because the western part of the State has always—at least it has been exhibited over the past 10, 15 years—has always been very parochial. And I am not being critical of that; I commend them for it, but nevertheless, they can gang up on us in the various primaries, and the smaller counties stand to lose.

I think, frankly, that any member of this House from outside of Philadelphia and Allegheny who would support doing away with the idea of merit selection, even in this amendment, is making a mistake. I think the people from our counties deserve representation, and I honestly believe the only way we are going to get it is if we do it through merit selection.

I am not going to take up any more time of the House. If this amendment fails and we are up on final passage of the bill, I will probably have more to say at that time. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Mr. Vroon.

Mr. VROON. Mr. Speaker, there has been a lot of rhetoric on the floor of this House on this subject. I am not going to try to hold your attention for more than maybe 1 or 2 minutes at the most.

Mr. Speaker, judges have a stronger impact on society, on the rights of individuals and the protection of the people, than almost any other public official appointed or elected. With the elimination of the gag rule, the people will then be able to intellectually judge the merits of the judge candidates. They are entitled to that right. It is the gag rule, in my opinion, which has created the unfavorable condition today which has given rise to agitation for merit selection.

Merit selection is a gross violation of the basic fundamentals of democracy. It is a step backward. We are taking it away from the people and we are giving it to a few intellectual people. And do not tell me for a minute that we do not run the risk of conflicts of interest by the legal profession. I say we very definitely will.

The current system is, I believe, very weak and faulty, but the best remedy is to make democracy work, not to destroy it. Vote for this amendment, please.

The SPEAKER. The Chair recognizes Mr. McHale.

Mr. McHALE. Mr. Speaker, would the gentleman, Mr. Freind, stand for interrogation?

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

Mr. McHALE. Mr. Speaker, as I understand it, the second half of your amendment would allow a judicial candidate to be questioned on any issue without restriction. Is that correct?

Mr. FREIND. Yes. The second part of the amendment is the First Amendment right for everyone, including judicial candidates.

Mr. McHALE. So those candidates, for instance, could be questioned on the subject of abortion or reproductive rights?

Mr. FREIND. Abortion, death penalty, mandatory sentencing, you name it.

Mr. McHALE. Once a judicial candidate had, by answering those questions, established a political agenda, what in your view should be the impact of that agenda on that judge once he or she is on the bench?

Mr. FREIND. Remember this, Mr. Speaker: It permits them to state how they philosophically feel. Now in fact if they are on a lower court, they have to follow the law anyway. But remember with respect to appellate courts, there is no

magic here. They can overturn existing court decisions, and therefore, the philosophy of an individual enters into it. Nothing magic happens when you put on a robe.

Mr. McHALE. The philosophy enters into it. You then, Mr. Speaker, as I understand it, do expect that once the judge—the appellate judge, let us say—is on the bench, that you expect that judge not to be a hypocrite and to rule in conformity with the statement of philosophy upon which he was elected.

Mr. FREIND. Not necessarily, Mr. Speaker. I have always said that in this life you do not get points for standing with your feet in concrete. Many public officials over the years have changed their positions, as they have in the appointed system.

Mr. McHALE. But let us assume that the judge does not change his position, that he in fact still feels personally, once he is on the bench, the same way he said he felt when he was running for office. My question, Mr. Speaker, is very straightforward: What impact does that personal philosophy, that personal opinion, have on the decisionmaking process of that judge once we put him on the court?

Mr. FREIND. Now in an elective system, now in an appointed system, the philosophy of a human being has a tremendous impact on how he or she will vote on the issues. That has always been and it always will be.

Mr. McHALE. I agree with that, Mr. Speaker, but I do not believe that is responsive to my question. Let me paraphrase it. Let me put it in a very practical context, Mr. Speaker, as someone who voted for the 1989 Abortion Control Act and who would do so again today if given another opportunity. Let us say that we have a judicial candidate who runs as an avowedly prochoice candidate, who clearly runs television commercials throughout this State saying that he or she is prochoice, and that person has been elected to the appellate court. When that judge is called upon to impartially enforce the 1989 Abortion Control Act, where you and I happen to agree but where that judicial candidate elected as a prochoice judge disagrees, what is the moral and legal responsibility of that judge to carry out the will of this legislature?

Mr. FREIND. Mr. Speaker, a judge's requirement is to abide by the law. If in fact they are on a lower court and there is a higher court decision that rules, then it is the responsibility of that judge, if he or she is doing his or her duty properly, to abide by that higher court decision. However, if that judge is on a higher court and a court is permitted to overturn an existing ruling, then clearly the philosophy will enter into it.

Mr. McHALE. My question then, Mr. Speaker, is, we elect a prochoice justice of the Pennsylvania Supreme Court, the highest court in our State. That prochoice justice has announced during the course of his or her campaign for the Supreme Court that he or she is vigorously opposed to the 1989 Abortion Control Act. Now, my belief, Mr. Speaker, just commenting momentarily, is that that judge, whatever his or her personal feelings, should enforce the will of this legislature and enforce the 1989 Abortion Control Act. But under your scheme, Mr. Speaker, I am asking of you, what is the

duty of a prochoice judge on the Pennsylvania Supreme Court to enforce a piece of legislation against which he or she would have voted had he or she been here? That, Mr. Speaker, I think is your dilemma.

Mr. FREIND. I do not have a dilemma, Mr. Speaker. You have just given a blueprint for a thing that we call democracy. I do not have a problem with that at all; no problem whatsoever.

Mr. McHALE. Mr. Speaker, may I speak for the second time on the amendment?

The SPEAKER. The gentleman is recognized and may proceed.

Mr. McHALE. The gentleman, Mr. Freind, and I have a very different view of what constitutional democracy is all about. I believe in heated political debate right here. I believe that candidates for public office running for the General Assembly should be questioned in detail on the most controversial of subjects. But once we make a decision under a constitutional democracy, it is not up to an appellate judge at any level to second-guess our judgment.

I will answer the question, Mr. Speaker, that I presented to you: What happens if we elect a prochoice judge? That prochoice judge is under a moral and legal duty to put aside personal conviction, and so long as what we have done in this chamber conforms to the Constitution, that judge should enforce the law as we have passed it.

Now, Mr. Speaker, I would emphasize to the members of this House that if you are against merit selection, save your vote a couple of minutes. There are two parts to the Freind amendment.

Now, there can be an honest difference of opinion as to whether or not the current system of justice is functioning properly, and you will have the opportunity in the next few minutes, after the Freind amendment is continued, to reject merit selection if that is your choice. But the Freind amendment contains two components. Not only if you vote "yes" on the Freind amendment will you be rejecting merit selection, you will be taking a step back into the legal Dark Ages. We might as well return to trial by combat.

The Freind amendment would allow judges to talk, in advance of hearing a case, about how they would specifically rule when that case, for instance, which might be in the Superior Court, would ultimately wind its way into the Supreme Court. Is that a system of justice? Is that due process of law?

I think the gentleman, Mr. Freind, misunderstands what this chamber is all about. We settle the political questions. We make the tough choices. We, as the gentleman, Mr. DeWeese, is fond of pointing out, stand in the arena, and we, by majority vote, decide the will of the people as enacted into law. It is not the responsibility, it is not the right in a constitutional democracy for a judge, who may well be acting in good faith, to override the collective decision of the people's chamber. That is precisely what the gentleman, Mr. Freind, advocates.

And he had great difficulty, as you noted, in answering my question, what is the duty of a prochoice judge when we pass prolife legislation? My belief is that in a constitutional democ-

racy, that prochoice judge should enforce the law as we have passed it. Now, if we do otherwise, as suggested by the gentleman, Mr. Freind, we become nothing more than an advisory body to some appellate judge. How are our citizens of the Commonwealth to know what the law of the land is if the content of that law is based on the subjective judgment of the jurist who is ultimately assigned the case? How are people to know what the law is when judge X is prolife and judge Y is prochoice? That leaves our citizens in an absolute quandary as to what the law expects of them.

I do not believe that the General Assembly is a mere advisory body. I do not think that the judiciary should become a third legislative chamber where a judge can or cannot, if he or she chooses, accept the law as we had passed it or override it blatantly and irresponsibly if that judge believes that we had acted wrongly. That kind of judgment is not left to our jurists in a constitutional democracy.

Let me close with one final point. Let me speak with passion on this point. We adopted a Bill of Rights shortly after the United States Constitution, not to protect the majority—the majority can always protect itself—but rather to protect basic rights of an oppressed and perhaps unpopular minority. Are we to have freedom of speech only so long as it is popular? Are we to have freedom of religion only if the beliefs are conventional and compatible with the prevalent wisdom? Are we to have freedom of the press only so long as the content of what is written is not offensive?

I believe as strongly as I believe in anything that minority rights - Mr. Freind's, Ms. Ritter's, anybody else's minority viewpoint - should be protected whether or not it is popular. But how are we going to elect judges willing to enforce the Bill of Rights on behalf of unpopular defendants if they are expected to state those views and then be elected by definition on a platform that is unpopular? That view of the Bill of Rights does not conform to the view that James Madison had or Alexander Hamilton had. It may conform to Mr. Freind's view of the Constitution but not mine or the Founding Fathers.

If you believe that a citizen has the right to know what the law is when we pass it here, if you believe that the General Assembly should be more than an advisory body to the courts, and if you believe that the Bill of Rights should be enforced on behalf of everyone, whether or not it is popular, you will vote against the Freind amendment.

LEAVE OF ABSENCE

The SPEAKER. Without objection, on request of the minority whip, the lady, Mrs. DURHAM, will be granted a leave of absence for the remainder of the day.

CONSIDERATION OF HB 941 CONTINUED

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

Mr. WOZNIAK. Yes, Mr. Speaker.

The SPEAKER. The gentleman is recognized and may proceed.

Mr. WOZNIAK. Just for a few moments.

After Representative McHale gave such oratory skill, I hear the "Battle Hymn of the Republic" in the back of my head. But, Mr. Speaker, I think there is an issue at hand here, and I rise to oppose the Freind amendment.

This legislative body, along with the Senate, its job is to determine what law shall be and attempt to get it passed, signed by the Governor, et cetera. We all know that system. The responsibilities of the judges of this Commonwealth are to take that law, do their best job of interpretation, and dispense justice. Now, justice is not what their mind's eye perceives justice as being but rather the culmination of the various laws and the case law that has been determined over the years in this Commonwealth. By allowing their own personal opinion to be foretold, so to speak, in the election process or in the merit process is wrong.

They talked about the polarization of the judges in Philadelphia and Pittsburgh. I go to my candidate, and obviously as political animals, we look at him politically, but we also look at the stature and how he stands on his knowledge of the law itself, which is the most important effort that a judge is responsible for.

I am opposed to the concept of merit selection, and many people are saying, support the Freind amendment; we will categorically kill merit selection. But I think this amendment should rise or fall on its own merits. I think it is bad precedent. I think it is bad to take the judicial branch and make it now an interpretive branch.

I would ask for a negative vote on this amendment. Let us get on with the regular amendments and we will discuss merit on its own merit. Thank you very much.

The SPEAKER. The Chair recognizes Mr. Saurman.

Mr. SAURMAN. Thank you, Mr. Speaker.

Very briefly, Mr. Speaker, I think this boils down to a choice between two things, and we ought to weigh that choice on the basis of what a judge should be. I think the question as to what the qualifications of a judge are is something that can better be determined by a group of people empowered to investigate rather than in this case the electorate who are not able to get that kind of information. They will in fact base their judgment, if allowed to, for the judges who speak on the popular response to questions. We do not need that kind of a judge. We need a judge who understands the law. We need a judge who is temperamentally sound. We need a judge that a panel can look into the background of that individual and find out whether in fact he or she will or will not perform the job, not on whether he or she says what is the popular thing to say.

I think that if we support this amendment, we will have aborted the opportunity to put the kind of judges in that all of us feel we should have, and the absence of them has created the concern which has given rise to this whole merit selection and judicial reform movement.

Thank you. I hope that we vote down this amendment.

The SPEAKER. The Chair recognizes Mr. Broujos.

Mr. BROUJOS. Mr. Speaker, there has been an attempt by some speakers to equate the judicial branch with the executive in the sense that they should be subject to the whims of the people and that they should be subject to the same type of selection process and the same mores and influences that are associated with the legislative function.

I am going to quote from the Federalist Papers, Madison, No. 51, and commend this to the consideration of the members when they vote: We must so contrive—

...the interior structure of the government, as that its several constituent parts may, by their mutual relations, be the means of keeping each other in their proper places.

There must be—

...separate and distinct exercise of the different powers of government, which to a certain extent, is admitted...to be essential to the preservation of liberty,...each department should have a will of its own; and...should be so constituted, that the members of each should have as little agency as possible in the appointment of the members of the others....Some deviations therefore from the principle must be admitted. In the constitution of the judiciary department in particular, it might be inexpedient to insist rigorously on the principle; first, because peculiar qualifications being essential in the members, the primary consideration ought to be to select that mode of choice, which best secures these qualifications; secondly, because the permanent tenure by which the appointments are held in that department, must soon destroy all sense of dependence on the authority conferring them.

And I might add, on conferring them by the power of the people if necessary.

It is equally evident that the members of each department should be as little dependent as possible on those of the others, for the emoluments annexed to their offices.

Thank you.

The SPEAKER. The Chair recognizes Mr. Gallen.

Mr. GALLEN. Would the gentleman, Mr. McHale, stand for interrogation?

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

Mr. GALLEN. Mr. Speaker, it seems to me that recently you ran for the appellate court, and several years ago Representative Hutchinson ran for the Supreme Court, and he was a former district attorney. Did he not express views as a member of this legislature—did you not?—on the death penalty?

Former district attorneys and former members of this legislature, should they be barred from consideration by a merit selection committee since they have already expressed views?

Mr. McHALE. Mr. Speaker, the answer is yes, of course. Mr. Hutchinson, Judge Hutchinson now of the third circuit, expressed views while he was here; I did the same, and

perhaps your argument would be correct under the theory of law that is advanced by Mr. Freind.

But you make my point very clearly. I have been here since 1982. I have voted for a lot of bills; I voted against a lot of bills. I can assure you—and I am certain this is the case for Judge Hutchinson, though I do not mean to speak for him—if I had gone to the Commonwealth Court, I would have routinely and vigorously enforced laws that I opposed while a member of the General Assembly. It is not my purpose, or would not have been my purpose as a judge, to second-guess the General Assembly. I might have been opposed to it here, but so long as it did not violate the Constitution, I would have vigorously and impartially enforced that law while a member of the bench. And that is a very traditional philosophy of law. It is not pie in the sky. Most judges are fully capable of doing that and in fact do so on a daily basis.

Mr. GALLEN. However, Mr. Speaker, as a former member of this General Assembly, indeed as a common pleas court judge or as a district attorney or assistant district attorney, those views are out there and they are known, because that is where you are coming from. You as a former assistant district attorney have asked for the death penalty, and it seems to me that the greater number of people in this country, in this State, favor the death penalty.

Now, you never having expressed a public view on an issue like this, would you not be at a disadvantage were you not able to express a view if you were a candidate for merit selection?

Mr. McHALE. Might you be at a political disadvantage? The answer is yes.

When I ran for the Commonwealth Court, there is no doubt that some good folks, many of whom are standing out back right now and who are opposed to my position today, supported me vigorously because of the stands that I took here in the General Assembly. But the point is this: The expression of one's private opinion as to the wisdom of a particular public policy has historically, in our country at least, been considered irrelevant in determining whether or not a judge should enforce a law.

Quite clearly, Mr. Speaker, a good judge should be someone—if he has prior legislative experience—who sits here and votes on the wisdom or lack thereof concerning a particular piece of legislation but who, when he goes to the court, has a completely different viewpoint from that personal political opinion. If we are to have a democracy, the law should be worked out here by 102 votes and then should be enforced by a judge, who may think it the silliest law in the world, but so long as it complies with the Constitution, it is his duty under his oath of office to enforce that law even if he would not have or did not vote for it while sitting as a member of the General Assembly.

Now, Mr. Freind's amendment completely obliterates that distinction. His amendment says that someone states a personal viewpoint on the law, and that personal viewpoint prevails, regardless of what the General Assembly might have said the law should be. That is not democracy in my book.

Mr. GALLEN. Mr. Speaker, if this legislation should pass without the Freind amendment, what do you consider to be the power of the Senate? Can they have hearings on these candidates?

Mr. McHALE. Yes. I would be happy to answer that. I think that probably goes beyond the scope of the amendment.

Mr. GALLEN. Would they be limited in what areas they could ask questions?

Mr. McHALE. Yes. And Mr. Freind completely misunderstood Federal law when he cited the Bork hearings a bit earlier. Judge Bork, for whom I would not have voted on confirmation had I been a member of the United States Senate, acted very wisely and appropriately, and let me compliment him. Whenever some United States Senators, with some of whom I might agree philosophically, asked him improper questions, and those Senators tended to be from my party, Judge Bork correctly declined to answer in order to preserve due process of law. Judge Bork is a scholarly gentleman and could have gone on at great length in answering some of Senator Kennedy's questions and some of Senator Biden's questions. He had the ability to answer those questions, but he realized, as I realize, that due process of law is not served when the judge announces his opinion before he has met the litigants or before he has read the appellate record. So while I would not have supported Judge Bork on confirmation, I praise him for exercising judicial restraint in refusing to answer the very same kinds of improper questions that Mr. Freind would now like to make part of our Constitution.

Mr. GALLEN. But during Senate hearings under this legislation, what restrictions are placed?

Mr. McHALE. The Senators can ask stupid questions and some did. A wise judicial nominee will decline to answer. Judge Bork did.

Mr. GALLEN. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Mr. Tigue.

Mr. TIGUE. Thank you, Mr. Speaker.

Mr. Speaker, I stand to vigorously support the Freind amendment because it does two things which I would like to see done in this Commonwealth of Pennsylvania. One is it does away with the concept of merit selection; and secondly, of course, it allows the judges to say, and let me quote what the amendment says, "...may freely communicate their thoughts and opinions and may freely speak, write and print on any subject, being responsible for the abuse of that liberty."

Earlier Mr. McHale mentioned the fact, or the example he used, of the prolife or prochoice judge being elected—or candidate, at least—speaking his voice. Do you really believe that if a person does not say what he is, he is not? In other words, if I do not stand up and say I am prochoice or prolife, does that make me any less prochoice or prolife as a candidate because the law prohibits me from saying that? Of course not.

What we are saying is kind of ironic. The proponents of merit selection have said that the current system does not work. The electorate has not been informed. The electorate has not, as Mr. Ryan said, been properly educated or

schooled by the political party. Well, this is one way the electorate will know some of the opinions and thoughts of the judicial candidates. Does that prohibit a candidate from being objective? Of course not.

I think each one of us knows that we stand up every 2 years, or in fact more often because we run in a primary and a general election, and we state our opinions, our thoughts, our beliefs, but yet I think most of us will say without question that we can make, and we do make, objective decisions.

The Freind amendment says, let the people decide who will be their judges, who will dispense justice, but let us give them some basis of making a qualified selection. Do you think for one minute that a commission who receives candidates will not ask questions, will not have preconceived ideas? It is ridiculous to think they would. Every one of us has our personal beliefs, our personal ideas. It is not necessarily logical to think that they interfere with how we view the law, the Constitution or whatever.

Therefore, I am asking each and every one of you, allow the people of Pennsylvania to determine who their judges will be, but also allow them to hear some of the thoughts and ideas those candidates have. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Mr. Foster.

Mr. FOSTER. Thank you, Mr. Speaker.

I once more rise to strongly urge the passage of this amendment, and I will not formally engage in interrogation with the gentleman, Mr. Bortner, or the gentleman, Mr. McHale, because I think the purpose of interrogation is to elicit information that you are not sure of on their position. I am at this point convinced that both of the gentlemen do not want the electors of Pennsylvania to elect judges. They have made that abundantly clear, and I think they have the feeling that this elitist body of 16 members can do a better job than the 12 million people of Pennsylvania, and I think that is ludicrous. Can you really fool 12 million people for that long? If we have five justices from Pittsburgh, Allegheny County, on the Supreme Court, do you mean to tell me that the people of the other 66 counties cannot change that at any time they think there is something radically wrong?

I think this is just a retrogression away from popular elections. Slightly less than 100 years ago we did away with the election of U.S. Senators by the Congressmen of a State and we had the popular election of U.S. Senators. For the life of me I cannot see why we cannot trust Pennsylvanians to elect their judges, especially when under this amendment we give them the criteria necessary to make that decision. Maybe they have voted blindly before; small wonder when they do not know for what a justice stands.

I can only say this, that we just eliminated the two-thirds confirmation in the Senate, and I voted for that. I think it was a good move, because that is a deal-making process. But, Mr. Speaker, is not the 16-member commission in itself nothing more than a deal-making process?

I strongly urge support for the current amendment.

The SPEAKER. The Chair recognizes Mr. Bortner.

Mr. BORTNER. Thank you, Mr. Speaker.

I would like to focus on the Freind amendment again but also answer a couple issues that have been raised through the debate which go more to the bill than to the amendment.

I guess the first point I would like to point out is that if I or other sponsors of this bill and those who support it are opposed to electing judges, we could have done that in the bill, and perhaps some people speaking may not be totally familiar with the legislation. It does not eliminate the election of all judges. It eliminates the election and replaces it with an appointive system for 31 appellate judges - 7 Supreme Court judges; at the present time, 15 Superior Court judges; and 9 Commonwealth Court judges.

The charge was made that this is elitist, and I suppose if you are trying to defeat an amendment and not deal with the issue itself, that is the kind of charge you may want to resort to.

I would submit to you that the Founding Fathers knew a little bit about democracy and that the founders of Pennsylvania knew a little bit about the same, because they both originally provided for the appointment of judges. So agree or disagree on the issue. I think to try to dismiss it as some sort of an attempt by some blueblood lawyers to take over the process of deciding who are going to be judges in Pennsylvania ignores history and also ignores the provisions of the bill.

I would remind you that the 16-member commission cannot have any more than 8 lawyers on it, and there is no guarantee that there be any. But at the very most, it will have eight lawyers and eight laypeople, and they would be selected on a bipartisan basis.

The focus of the supporters of this amendment seems to be to try and find fault with some individual cases that have been decided by the judiciary, particularly the Federal judiciary, and as I said earlier, I would not try to defend those cases on an individual basis. I think what we do forget, though, when we point out some of those bad cases is that we forget about the cases where the courts have enforced or respected our own positions.

I know Representative Foster has said that the real problem with the judiciary is that they have gone beyond their traditional role, and perhaps they have in some cases, and he argues that that is why this amendment is necessary. But I would ask you to consider, even if you believe that that is the case, what this amendment would mean, because if you believe that judges have gone beyond their traditional roles now and are engaging in lawmaking or policy making, what are they going to do when they run for election and they are not only permitted but encouraged to go out and make promises on how they are going to decide cases and how they are going to react to issues that are going to come before them when they are judges? Other speakers have made this point very well, but I would say to you that when that happens, if in fact we would go to that kind of a system, then the jobs of legislators, the jobs of the people that sit in this chamber, pretty much become irrelevant, because the judges will already be deciding how they are going to decide cases and they will be

ignoring the law that is made by the House and made by the Senate.

I think that the biggest surprise I have is how few people seem to understand the most basic concept of the American Constitution—the United States Constitution and the American political system—and that is the separation of powers. Representative Broujos quoted from the Federalist Papers, but it is very, very basic. We have the legislative branch, whose responsibility is to make the law; we have an executive branch, whose job is to administer and implement the law; and we have a judicial branch, whose responsibility is to interpret the law. It has been that way for over 200 years, and whether you believe judges ought to be elected or whether you believe that they ought to be appointed, that is one role of judges that should not change. They need to be neutral and they need to be independent.

Just consider for a moment how you would like to have a case going to a court and be told before you go in there that the judge that you are going before has already indicated how he would decide this case or a similar case on the same merits. And I do not care what the issue is, whether it is the question of whether to grant an injunction where there is labor strife or whether it is a question dealing with the amount of damages that is to be awarded to a plaintiff. I do not think that we want judges making those decisions in advance.

Regardless of how you feel on the issue of merit selection or electing judges, I hope you will defeat this issue and move on to a vote on the merits. Thank you.

The SPEAKER. The Chair recognizes Mr. Colafella.

Mr. COLAFELLA. Thank you, Mr. Speaker.

Mr. Speaker, this amendment simply boils down to one thing: If you want our voters and our people to know a great deal about how judicial candidates feel about very, very important issues, you will vote for this amendment. If you want your voters or your people to go in and vote and to know as little as possible about the judicial candidates such as simply what schools they have graduated from, then you will vote against this amendment.

I urge you to vote for this amendment. I think it is a good amendment. I think it is a responsible amendment, and I think it is an educational amendment. Thank you.

The SPEAKER. The Chair recognizes Mrs. Langtry.

Mrs. LANGTRY. I have a question for the maker of the amendment, Representative Freind.

The SPEAKER. The gentleman indicates he will submit to interrogation. The lady may proceed.

Mrs. LANGTRY. The original bill permits a public ballot vote on the question. Does your amendment, Mr. Speaker, remove the right to vote on this question?

Mr. FREIND. No, Mr. Speaker. This is still a constitutional amendment, and as any constitutional amendment, it first has to be passed in two consecutive legislative terms, and then it has to be approved by the people through a vote at the next general election.

Mrs. LANGTRY. All right.

To just clarify once more, then the public would have a right to vote on your proposal.

Mr. FREIND. Absolutely.

Mrs. LANGTRY. Thank you.

The SPEAKER. The Chair recognizes Mr. Freind.

Mr. FREIND. Thank you, Mr. Speaker. I will try to be very brief.

The one thread that we have heard time and again from many of the individuals who oppose this amendment is a fear of the decision of the people. I heard Representative Piccola say—and I respect him very much—but the people will not listen. So what that argument says is that because the people will not conform to our code, our standard, we should take that right away from the people.

I heard Representative McHale say that we have to protect the rights of the minority, and I agree, but what we are doing here is taking away the right from the majority and the minority. We are taking away their right to select judges and we are placing it in the hands of 16 individuals, half of whom can be attorneys who will practice before those judges.

Now, let us be honest. There is no magic here. A judge, like every one of us here, is a human being and remains a human being after he or she puts on a robe. That does not change. Clearly a judge's job, regardless how he feels about an issue, is to abide by the law. But we know that in law, unlike math, there are no hard and fast answers. There are many occasions where there is great latitude for a judge to make a decision whether or not a particular law is constitutional or not, and we are kidding ourselves if we believe that their philosophy will not enter into that. The State Supreme Court and our Superior Court have the right, depending on the case, to overturn previous court rulings. We are kidding ourselves if we say that the philosophy of each human being on that court will not enter into it. We are kidding ourselves if we say that these people who put themselves up to be judges do not have opinions. What we are saying here if we oppose the amendment is it is okay to have the opinions, just do not state them.

Mr. McHale referred to "government by combat." Instead what we will have if our amendment goes down and we have merit selection is government by stealth. The people will not have a right to know, and those decisions will be made for them.

You know, I want to tell you something, Mr. Speaker. I have been here for 14 1/2 years, and the thing that I think is magical is this: For all the problems, the system works. Is it efficient? No, not completely. Democracy by its very nature is an inherently inefficient form of government. If we want efficiency, we want a dictatorship - hopefully a benevolent one, but a dictatorship. But there is a magic in a system that goes on very well with the people making the decisions.

This system has worked very well in the Commonwealth of Pennsylvania. I do not think we should change that system. I do not fear, I do not distrust the people, and I believe that they have the right and the ability to judge and elect those public officials who more than anyone else will have a huge impact on their lives. I sincerely ask my colleagues to pass this amendment. Thank you, Mr. Speaker.

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

The following roll call was recorded:

YEAS—112

Adolph	Dietterick	Kaiser	Reber
Allen	Distler	Kasunic	Rieger
Angstadt	Dombrowski	Kenney	Robbins
Argall	Donatucci	Kondrich	Rybak
Barley	Dorr	Kosinski	Schuler
Belardi	Fairchild	LaGrotta	Semmel
Belfanti	Fee	Laughlin	Serafini
Billow	Fleagle	Leh	Smith, B.
Birmelin	Foster	Lescovitz	Smith, S. H.
Black	Freind	Lucyk	Snyder, D. W.
Bunt	Gallen	McNally	Snyder, G.
Burd	Gamble	Marsico	Steighner
Bush	Gannon	Micozzie	Stish
Caltagirone	Geist	Miller	Strittmatter
Carlson	George	Moehlmann	Stuban
Cawley	Gigliotti	Mowery	Tangretti
Cessar	Godshall	Mrkonic	Taylor, E. Z.
Chadwick	Gruitza	Nailor	Taylor, F.
Cjvera	Gruppo	Noye	Taylor, J.
Clark, B. D.	Haluska	O'Brien	Telek
Clark, D. F.	Hasay	Olasz	Tigue
Clark, J. H.	Hayes	Perzel	Trello
Clymer	Herman	Pesci	Van Horne
Colafella	Hershey	Petrone	Vroon
Coy	Hess	Phillips	Wass
DeLuca	Jadlowiec	Pitts	Weston
Davies	Jarolin	Pressmann	Wright, D. R.
Dempsey	Johnson	Preston	Yandrisevits

NAYS—80

Acosta	Fargo	McCall	Robinson
Battisto	Farmer	McHale	Roebuck
Bishop	Flick	McVerry	Rudy
Blaum	Fox	Maine	Ryan
Bortner	Freeman	Markosek	Saurman
Bowley	Gladeck	Mayernik	Scheetz
Boyes	Hagarty	Melio	Scrimenti
Brandt	Harper	Merry	Staback
Broujos	Hayden	Michlovic	Stairs
Burns	Heckler	Mihalich	Thomas
Cappabianca	Itkin	Morris	Veon
Carn	Jackson	Murphy	Wambach
Cohen	James	Oliver	Williams
Colaizzo	Josephs	Piccola	Wilson
Cole	Kukovich	Pievsky	Wogan
Cornell	Langtry	Pistella	Wozniak
Corrigan	Lashinger	Raymond	Wright, J. L.
Cowell	Lee	Reinard	
DeWeese	Levdansky	Richardson	O'Donnell,
Daley	Linton	Ritter	Speaker
Evans	Lloyd		

NOT VOTING—3

Howlett	Hughes	Trich
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EXCUSED—7

Dininni	Majale	Petrarca	Wright, R. C.
Durham	Nahill	Saloom	

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

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

The SPEAKER. The Chair is in possession of amendments submitted by Representatives Hagarty and Leh, two amendments by Representative Wright, and an amendment by Representative Wozniak. With the exception of one amendment by Representative Wright, none of these amendments can be considered by the House since they amend sections that are no longer in the bill. The only amendment at this point that can be offered is the amendment by Representative Wright.

For what purpose does the gentleman, Mr. Cohen, rise?
Mr. COHEN. Mr. Speaker, I would like to make a motion to recommit this bill to the State Government Committee.

PARLIAMENTARY INQUIRY

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

Mr. GALLEN. Parliamentary inquiry, Mr. Speaker.
The SPEAKER. The gentleman will state his inquiry.

Mr. GALLEN. Mr. Speaker, in view of what you said, if this motion to recommit would go down, would it be possible for Mr. Freeman and me to offer the same amendment that we offered last week? Or since the bill is changed, would we have to have it redrafted?

The SPEAKER. First, the motion that was just mentioned by the gentleman, Mr. Cohen, is not before the House. The inquiry of the Chair was, for what purpose does the gentleman rise? The gentleman's response was, to make a motion to recommit. The gentleman has not been recognized for that purpose. That matter is not currently before the House.

If the motion was made and was adopted by the House, then the bill would be recommitted and not available for consideration.

Mr. GALLEN. Since there is no motion before the House at the moment, I would like to be able to offer the amendment that Mr. Freeman and I offered last week.

The SPEAKER. As long as the bill remains before the House and the gentleman's amendment is germane, the gentleman is free to offer it. But the Chair would urge the gentleman, if this matter stays before the House, that he have that amendment drafted and circulated just as soon as possible.

Mr. GALLEN. Well, it was circulated last week. Do you mean it has to be redrafted, Mr. Speaker?

The SPEAKER. I will ask the Parliamentarian to check on that right now. Thank you.

It does not appear—and we will revisit the issue—but it does not appear that the amendment requires redrafting. It would, however, require reconsideration to revisit that issue.

Mr. GALLEN. Thank you, Mr. Speaker.
At the proper time, I would like to be recognized so that we can offer the reconsideration motion.

The SPEAKER. The Chair thanks the gentleman.

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

Mr. D. R. WRIGHT offered the following amendments
No. A1984:

Amend Title, page 1, line 2, by striking out "changing and"
Amend Title, page 1, line 3, by striking out "the selection"
and inserting

recall

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

(1) That Article V be amended by adding a section to read:

§ 19. Recall of justices of the Supreme Court and judges of the
Superior Court and the Commonwealth Court.

(a) Justices of the Supreme Court and judges of the Superior
Court and the Commonwealth Court shall be subject to recall
during any ten-year term he or she is serving.

(b) Recall is the power of the electors to remove a justice of
the Supreme Court, a judge of the Superior Court or a judge of
the Commonwealth Court.

(c) Recall is initiated by delivering to the Secretary of the
Commonwealth a petition alleging reason for recall.

(d) A petition to recall a statewide officer must be signed by
electors equal in number to 20% of the last vote for the office,
with signatures from each of five counties equal in number to at
least 1% of the last vote for the office in the county.

(e) The Secretary of the Commonwealth shall maintain a
continuous count of the signatures certified to that office.

(f) Upon receiving certification of the sufficiency of the
recall petitions from the Secretary of the Commonwealth, the
Governor shall make or cause to be made, publication of notice
for the holding of such election. Officers charged by law with
duties concerning elections shall make all arrangements for such
election. The election shall be held at the same time as the
primary, general or municipal election next occurring more than
120 days after the date of certification of the sufficiency of the
recall petitions. The election shall be conducted, returned, and
the result declared, in all respects as are other State elections.

(g) A simple majority of the votes cast at such recall election
shall be sufficient to remove the individual justice or judge.

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes
the gentleman, Mr. Wright.

Mr. D. R. WRIGHT. Thank you, Mr. Speaker.

I really have no idea whether anybody in this House agrees
with the amendment which I am offering, but it seems to me
that we cannot consider the issue of merit selection of judges
or the election of judges without considering an important
procedure which 15 States in our country have, and that is the
matter of recall. The amendment that you have before you
simply would provide for a recall process, which would be
triggered upon the petition of 20 percent of the last vote for
the particular office.

Mr. Speaker, throughout much of the world today, people
are clamoring to express their democratic right of partici-
pation, their voting rights, and here we are today considering
a move that would take away the rights, prior to the Freind
amendment, and my amendment proposes that we hold on to
that which the rest of the world strives to hold on to by further
strengthening those rights with the power of recall, to further
encourage our people to more fully participate in the selection
of our judges.

For those reasons, Mr. Speaker, I would offer this amend-
ment and would ask for its favorable consideration.

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

The following roll call was recorded:

YEAS—179

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

NAYS—11

Blaum	Gruitza	Lloyd	Piccola
Fox	Haluska	Lucyk	Ritter
Freeman	Lee	McHale	

NOT VOTING—5

Freind	Howlett	Linton	Richardson
George			

EXCUSED—7

Dininni	Maiale	Petrarca	Wright, R. C.
Durham	Nahill	Saloom	

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

On the question recurring,

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

AMENDMENT A1617 RECONSIDERED

The SPEAKER. The Chair is in possession of a motion to reconsider the vote by which amendment A1617 to HB 941 was defeated on the 5th day of June.

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

The following roll call was recorded:

YEAS—185

Table listing names of members who voted 'YEAS' (185 total). Includes names like Acosta, Adolph, Allen, Angstadt, Argall, Barley, Battisto, Belardi, Belfanti, Billow, Birmelin, Bishop, Blaum, Bortner, Bowley, Boyes, Brandt, Broujos, Bunt, Burd, Burns, Bush, Caltagirone, Cappabianca, Carlson, Carn, Cawley, Cessar, Chadwick, Civera, Clark, B. D., Clark, D. F., Clark, J. H., Clymer, Cohen, Colafella, Colaizzo, Cole, Cornell, Corrigan, Cowell, Coy, DeLuca, DeWeese, Daley, Davies, Dempsey, Dietterick, Distler, Dombrowski, Donatucci, Dorr, Evans, Fairchild, Fargo, Farmer, Fee, Fleagle, Flick, Foster, Freeman, Freind, Gallen, Gamble, Gannon, Geist, George, Gigliotti, Gladeck, Godshall, Gruitza, Grupp, Hagarty, Haluska, Harper, Hasay, Hayden, Hayes, Heckler, Herman, Hershey, Hess, Hughes, Jackson, Jadlowiec, James, Jarolin, Johnson, Josephs, Kaiser, Kasunic, Kenney, Kondrich, Kosinski, Kukovich, LaGrotta, Lashinger, Laughlin, Lee, Leh, Lescovitz, Levdansky, Linton, Lloyd, Lucyk, McCall, McHale, McNally, Maine, Marsico, Mayernik, Melio, Merry, Michlovic, Micozzie, Miller, Moehlmann, Morris, Mowery, Mrkonic, Nailor, Noye, O'Brien, Olasz, Oliver, Perzel, Pesci, Petrone, Phillips, Piccola, Pievsky, Pistella, Pitts, Pressmann, Preston, Raymond, Reber, Reinard, Richardson, Rieger, Ritter, Robbins, Robinson, Roebuck, Rudy, Ryan, Rybak, Saurman, Scheetz, Schuler, Scrimenti, Semmel, Serafini, Smith, B., Smith, S. H., Snyder, D. W., Snyder, G., Staback, Stairs, Steighner, Stish, Strittmatter, Stuban, Tangretti, Taylor, E. Z., Taylor, F., Taylor, J., Telek, Thomas, Tigue, Trello, Trich, Van Horne, Veon, Wambach, Wass, Weston, Williams, Wilson, Wogan, Wozniak, Wright, D. R., Wright, J. L., Yandrisevits, O'Donnell, Speaker.

NAYS—1

Fox

NOT VOTING—9

Table listing names of members who did not vote (9 total). Includes names like Black, Howlett, Itkin, Langtry, Markosek, Mihalich, Murphy, Vroon.

EXCUSED—7

Table listing names of members who were excused (7 total). Includes names like Dininni, Durham, Maiaie, Nahill, Petrarca, Saloom, Wright, R. C.

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

On the question recurring, Will the House agree to the amendments? The clerk read the following amendments No. A1617:

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

providing for the election of certain justices and judges.

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

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

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

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

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

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

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

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

The SPEAKER. On the amendment, the Chair recognizes Mr. Freeman.

Mr. FREEMAN. Thank you, Mr. Speaker.

Mr. Speaker, this amendment deals with the issue of regional election. Now that the House's will has been demonstrated on merit selection and has turned merit selection down, I would urge the membership to embrace regional election as a reasonable alternative, a reasonable compromise, a middle course, if you will. With regional election, we would benefit by having a better opportunity to know our candidates - their qualifications, their reputations. We would also insure that all sections of the Commonwealth would be properly represented on the bench, that we would be able to draw on the legal talent of across the Commonwealth.

I urge the membership to reconsider this vote, to vote in favor of the Freeman amendment. Let us provide for some real judicial reform, judicial reform that makes sense by making the electoral process far more easier for the voters to understand. I would urge a "yes" vote.

PARLIAMENTARY INQUIRY

The SPEAKER. The Chair recognizes Mr. McHale.

Mr. McHALE. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his inquiry.

Mr. McHALE. Mr. Speaker, in light of the Freind amendment that we passed a few minutes ago and the resulting impact that the Freind amendment had on the underlying bill, what would be the result of passing the Freeman amendment at the current time? Specifically, how would the Freeman amendment affect the Freind amendment?

The SPEAKER. As a parliamentary matter, the two amendments can both be adopted by this House. Now, as to the legal impact of both of those operating together, it is probably beyond the scope of a parliamentary inquiry.

Mr. McHALE. Mr. Speaker, then if we vote for the Freeman amendment and that goes into the law, we have regional elections. Is that correct, Mr. Speaker?

The SPEAKER. That would appear to the Chair to be the meaning of the amendment, but the gentleman, Mr. Freeman, should probably be the person to be interrogated on the substance of the amendment.

Mr. McHALE. All right. Mr. Speaker, if we could accept for the moment that that is the substance of the amendment, my concern is whether or not there is any conflict between the first half of the Freind amendment, which eliminated merit selection, and the current content of the Freeman amendment. Should we adopt the Freeman amendment, where do we stand?

The SPEAKER. The language in the beginning of the Freeman amendment and the language in the beginning of the Freind amendment are parallel in that they eliminate similar sections. In the second part of each amendment, they amend separate parts of the bill, and as such, there is no conflict as a parliamentary matter, and the Freeman amendment is now available to the House for consideration as a parliamentary matter. As a matter of law, how those two amendments play out in law together is beyond the scope of a parliamentary inquiry.

Mr. McHALE. Thank you, Mr. Speaker.

Mr. Speaker, may I speak briefly on the Freeman amendment?

The SPEAKER. The gentleman is recognized and may proceed.

Mr. McHALE. Mr. Speaker, until I received the answer to that parliamentary inquiry, I had planned on voting for the Freeman amendment. This is an amendment that we are taking up on reconsideration.

The other day I voted against the Freeman amendment calling for regional elections, because I thought at that time it

was premature to consider the issue of regional elections before we got to the substance of merit selection. I now believe that we have reached the substance of merit selection. I am greatly concerned as a supporter of merit selection that it would appear that the votes simply are not there to adopt merit selection today, and therefore, when Representative Freeman brought his amendment up on reconsideration, I had planned to vote for it. I think the current system is inferior to that which is proposed by Mr. Freeman, and I recognize that regional elections would come with their own host of difficulties, but the current system is so intolerable, from my point of view, that I am prepared, by comparison to the status quo, to support the Freeman amendment and call for regional elections, though it certainly is not my first choice, that first choice being merit selection.

However, I am going to vote against the Freeman amendment, not because of anything in the Freeman amendment but because the bill would still contain the unlimited discussion of issues contained in the second half of the Freind amendment.

PARLIAMENTARY INQUIRY

Mr. McHALE. Mr. Speaker, another brief parliamentary inquiry.

The SPEAKER. The gentleman will state his inquiry.

Mr. McHALE. If we adopt the Freeman amendment, are there other amendments that we are going to be considering?

The SPEAKER. The Chair is in possession of a few amendments, none of which are appropriate, so at this point, it is the observation of the Chair, there will be no further amendments.

Mr. McHALE. All right. So we would move from the Freeman amendment to final passage?

The SPEAKER. That is correct.

Mr. McHALE. Mr. Speaker, in the words of "Saturday Night Live," "Never mind."

The SPEAKER. The Chair thanks the gentleman.

Mr. McHALE. What I am going to call for, Mr. Speaker, is the following: that we vote for the Freeman amendment as an alternative to the status quo. I then, on final passage, will vote "no," not because of anything in the Freeman amendment but because I think that Mr. Freind's amendment, and specifically the second half of it, is an absolute disaster under due process of law.

So I would urge an affirmative vote on the Freeman amendment and then a negative vote on final passage. Thank you, Mr. Speaker.

PARLIAMENTARY INQUIRY

The SPEAKER. The Chair recognizes Mr. Wozniak.

Mr. WOZNIAK. Thank you, Mr. Speaker.

Two questions. The first one is, would we have an opportunity to amend the amendment?

The SPEAKER. The answer to the gentleman's parliamentary inquiry is no.

Mr. WOZNIAK. What if we suspended the rules to allow some of the other amendments that are interested to be incorporated into the Freind amendment?

The SPEAKER. The amendments that have been offered are inappropriate not because they violate the rules but because they attempt to amend sections of the bill that have been removed by the Freind amendment.

Mr. WOZNIAK. I understand that.

The SPEAKER. So a suspension of the rules would not in any way cure that defect.

Mr. WOZNIAK. Well, if we suspended the rules and passed the bill over temporarily, we would be able to rewrite our amendments then, would we not?

The SPEAKER. If the bill were reprinted with the Freind amendment in it, the content of the bill could then be amended again, even if it touched on sections that are currently the subject of the amendment before the House, the Freeman amendment, or the Freind amendment. But specifically in answer to the gentleman's question, even on a reprint of the bill, the amendments the Chair has in its possession amend parts of the bill that would no longer be in the reprint, so they would be utterly without effect.

Mr. WOZNIAK. I do not seem to be following you here. You are telling me that the Freind amendment gutted the bill, put the free-language-type provisions into it, and—

The SPEAKER. That is correct.

Mr. WOZNIAK. Okay. Now, there are some provisions such as one of my amendments that I have in front of the desk right now. What would be the process that would allow that to be able to be discussed on the House floor?

The SPEAKER. The gentleman is referring to amendment A1848?

Mr. WOZNIAK. Is that the terms of office? Amendment 1848, Mr. Speaker.

The SPEAKER. Will the gentleman suspend.

The Chair thanks the gentleman for his patience. Amendment 1848 amends in the bill page 7, line 24, et cetera. Page 7 was taken out by the Freind amendment.

Mr. WOZNIAK. We know that.

The SPEAKER. If the gentleman seeks to change the term of office of justices, judges, and justices of the peace under section 15, the gentleman would have to have a reprint of this bill and then offer a redraft of his amendment that made a different reference to a different part of the bill.

Mr. WOZNIAK. And to do that?

The SPEAKER. The other opportunity for the gentleman is to have the Reference Bureau redraft his amendment making reference to the bill as it currently stands with Representative Freind's amendment in it.

Mr. WOZNIAK. Would I have time to do that today before final passage and allow free bantering to exist in this distinguished House?

The SPEAKER. That is dependent upon the patience of the House.

Mr. WOZNIAK. Would they gag a duly elected official of the Commonwealth and allow them to do that?

Mr. Speaker, in light of the late time and the prodding of my colleagues, I will let that go for another opportunity. I understand there is a bill that has that opportunity in it.

The SPEAKER. The Chair thanks the gentleman.

Mr. WOZNIAK. May I speak on the amendment?

The SPEAKER. The gentleman is recognized and may proceed.

Mr. WOZNIAK. Thank you, Mr. Speaker.

Last week we spoke about the Freeman amendment, and I thought it had merit, and I do believe that it still continues to have merit. I think it satisfies an incredible desire that the merit people have brought up; that is, questioning that the large population at large does not know who the heck they are voting for and that they do not have any personal contact with their particular judges on a statewide basis.

I think by creating districts and regions, we allow each of the four corners of Pennsylvania - urban, rural, and every place in between - to legitimately have somebody of their philosophy, of their neighborhood, sitting on some of the most important benches in this Nation. I think that the Freeman amendment goes a long way in creating that fairness that everybody has been attempting to get to.

I take a little question to—although I had some difficulties in Cambria County—we keep continuing to say they, them, the judges, and I think that we might have some problems in Pennsylvania, but I would certainly take it to task if they would say they in the legislature and whitewash us all as being bad and evil. I think that the majority of the people speaking over the past number of days on this issue do not really mean that the entire judiciary is a mess and that the individuals sitting there do not know what they are doing or are not upholding the letter of the law.

I think this gives an opportunity for each and every individual to have the opportunity to know somebody from their own region to sit on the important benches, and I would appreciate an affirmative vote for the Freeman amendment. Thank you very much.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—112

Adolph	Davies	Jackson	Rudy
Allen	Dempsey	Jadlowiec	Ryan
Angstadt	Dietterick	Johnson	Rybak
Argall	Distler	Lashingier	Saurman
Barley	Donatucci	Lee	Scheetz
Battisto	Dorr	Leh	Schuler
Belardi	Fairchild	Lloyd	Semmel
Belfanti	Fargo	Lucyk	Serafini
Billow	Fleagle	McHale	Smith, B.
Birmelin	Flick	Marsico	Smith, S. H.
Black	Foster	Merry	Snyder, D. W.
Bowley	Fox	Micozzie	Snyder, G.
Boyes	Freeman	Miller	Stairs
Brandt	Gallen	Moehlmann	Stish
Broujos	Gannon	Morris	Strittmatter
Bunt	Geist	Mowery	Suban
Burd	George	Nailor	Tangretti
Burns	Gladeck	Noye	Taylor, E. Z.
Bush	Godshall	Pesci	Taylor, F.
Caltagirone	Gruitza	Phillips	Telek

Carlson	Gruppo	Piccola	Tigue
Cawley	Hagarty	Pitts	Trich
Chadwick	Hasay	Pressmann	Vroon
Civera	Hayes	Raymond	Wambach
Clark, D. F.	Heckler	Reber	Wass
Clark, J. H.	Herman	Reinard	Wilson
Clymer	Hershey	Ritter	Wozniak
Coy	Hess	Robbins	Wright, D. R.

NAYS—80

Acosta	Freind	Levdansky	Preston
Blaum	Gamble	Linton	Richardson
Bortner	Gigliotti	McCall	Rieger
Cappabianca	Haluska	McNally	Robinson
Carn	Harper	McVerry	Roebuck
Cessar	Hayden	Maine	Scrimenti
Clark, B. D.	Hughes	Markosek	Staback
Cohen	Itkin	Mayernik	Steighner
Colafiglia	James	Melio	Taylor, J.
Colaizzo	Jarolin	Michlovic	Trello
Cole	Josephs	Mihalich	Van Horne
Cornell	Kaiser	Mrkonic	Veon
Corrigan	Kasunic	Murphy	Weston
Cowell	Kenney	O'Brien	Williams
DeLuca	Kondrich	Olasz	Wogan
DeWeese	Kosinski	Oliver	Wright, J. L.
Daley	Kukovich	Perzel	Yandrisevits
Dombrowski	LaGrotta	Petrone	
Evans	Langtry	Pievsky	O'Donnell,
Farmer	Laughlin	Pistella	Speaker
Fee	Lescovitz		

NOT VOTING—3

Bishop	Howlett	Thomas
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EXCUSED—7

Dininni	Maiale	Petrarca	Wright, R. C.
Durham	Nahill	Saloom	

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

On the question recurring,

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

Bill as amended was agreed to.

The SPEAKER. 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—99

Adolph	Davies	Hess	Reinard
Allen	Dempsey	Jackson	Robbins
Angstadt	Dietterick	Jadlowiec	Rudy
Argall	Distler	Johnson	Ryan
Barley	Dorr	Lashingner	Saurman
Belardi	Fairchild	Lee	Schuler
Belfanti	Fargo	Leh	Semmel
Billow	Fleagle	Lloyd	Serafini
Birmelin	Flick	Lucyk	Smith, B.
Black	Foster	Marsico	Smith, S. H.
Bowley	Fox	Merry	Snyder, D. W.
Boyes	Freeman	Micozzie	Snyder, G.
Brandt	Freind	Miller	Stairs
Broujos	Gallen	Moehlmann	Stish
Bunt	Gannon	Morris	Strittmatter
Burd	Geist	Mowery	Stuban
Burns	Gladeck	Nailor	Tangretti
Bush	Godshall	Noye	Taylor, E. Z.
Carlson	Gruitza	Pesci	Tigue

Cawley	Gruppo	Phillips	Vroon
Chadwick	Hagarty	Piccola	Wass
Civera	Hasay	Pitts	Wilson
Clark, D. F.	Hayes	Pressmann	Wozniak
Clark, J. H.	Herman	Raymond	Wright, J. L.
Clymer	Hershey	Reber	

NAYS—93

Acosta	Farmer	Linton	Roebuck
Battisto	Fee	McCall	Rybak
Bishop	Gamble	McHale	Scheetz
Blaum	George	McNally	Scrimenti
Bortner	Gigliotti	McVerry	Staback
Caltagirone	Haluska	Maine	Steighner
Cappabianca	Harper	Markosek	Taylor, F.
Carn	Hayden	Mayernik	Taylor, J.
Cessar	Hughes	Melio	Telek
Clark, B. D.	Itkin	Michlovic	Thomas
Cohen	James	Mihalich	Trello
Colafiglia	Jarolin	Mrkonic	Trich
Colaizzo	Josephs	Murphy	Van Horne
Cole	Kaiser	O'Brien	Veon
Cornell	Kasunic	Olasz	Wambach
Corrigan	Kenney	Oliver	Weston
Cowell	Kondrich	Perzel	Williams
Coy	Kosinski	Petrone	Wogan
DeLuca	Kukovich	Pievsky	Wright, D. R.
DeWeese	LaGrotta	Pistella	Yandrisevits
Daley	Langtry	Preston	
Dombrowski	Laughlin	Rieger	O'Donnell,
Donatucci	Lescovitz	Ritter	Speaker
Evans	Levdansky	Robinson	

NOT VOTING—3

Heckler	Howlett	Richardson
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EXCUSED—7

Dininni	Maiale	Petrarca	Wright, R. C.
Durham	Nahill	Saloom	

Less than the majority required by the Constitution having voted in the affirmative, the question was determined in the negative and the bill fell.

* * *

The House proceeded to third consideration of **HB 539, PN 3611**, entitled:

A Joint Resolution proposing amendments to the Constitution of the Commonwealth of Pennsylvania, providing for the election of certain justices and judges; changing provisions relating to judicial discipline; and providing for financial disclosure.

On the question recurring,

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

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

DECISION OF CHAIR RESCINDED

The SPEAKER. The Chair reconsiders its decision by which the majority leader was recognized for the amendment. The matter before the House is HB 539. The Chair reconsiders its decision that this matter is now before the House.

The Chair returns to page 6 of the calendar and directs the attention of the members to HB 941. The Chair anticipates a

motion for reconsideration and would urge anyone who is in favor of such a motion to get it to the Chair.

HB 941 RECONSIDERED

The SPEAKER. The Chair is in possession of a motion to reconsider the vote by which HB 941, PN 2510, was defeated on the 11th day of June.

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

The following roll call was recorded:

YEAS—192

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

NAYS—0

NOT VOTING—3

Carn Howlett Vroon

EXCUSED—7

Dininni Maiale Petrarca Wright, R. C.
Durham Nahill Saloom

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

On the question recurring,
Shall the bill pass finally?

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

YEAS—92

Adolph	Dempsey	Jackson	Reinard
Allen	Dietterick	Jadlowiec	Robbins
Angstadt	Distler	Johnson	Rudy
Argall	Dorr	Lee	Ryan
Barley	Fairchild	Leh	Schuler
Belardi	Fargo	Lloyd	Semmel
Belfanti	Fleagle	Lucyk	Serafini
Birmelin	Flick	Marsico	Smith, B.
Black	Foster	Merry	Smith, S. H.
Bowley	Fox	Micozzie	Snyder, D. W.
Broujos	Freeman	Miller	Snyder, G.
Bunt	Freind	Moehlmann	Stairs
Burd	Gallen	Morris	Stish
Burns	Gannon	Mowery	Strittmatter
Bush	Geist	Nailor	Stuban
Carlson	Godshall	Noye	Taylor, E. Z.
Cawley	Gruitza	Pesci	Telek
Chadwick	Gruppo	Phillips	Tigue
Civera	Hasay	Piccola	Vroon
Clark, D. F.	Hayes	Pitts	Wass
Clark, J. H.	Herman	Pressmann	Wozniak
Clymer	Hershey	Raymond	Wright, D. R.
Davies	Hess	Reber	Wright, J. L.

NAYS—101

Acosta	Evans	Lescovitz	Robinson
Battisto	Farmer	Levdansky	Roebuck
Billow	Fee	Linton	Rybak
Bishop	Gamble	McCall	Saurman
Blaum	George	McHale	Scheetz
Bortner	Gigliotti	McNally	Scrimenti
Boyes	Gladeck	McVerry	Staback
Brandt	Hagarty	Maine	Steighner
Caltagirone	Haluska	Markosek	Tangretti
Cappabianca	Harper	Mayernik	Taylor, F.
Carn	Hayden	Melio	Taylor, J.
Cessar	Heckler	Michlovic	Thomas
Clark, B. D.	Itkin	Mihalich	Trello
Cohen	James	Mrkonic	Trich
Colaafella	Jarolin	Murphy	Van Horne
Colaizzo	Josephs	O'Brien	Veon
Cole	Kaiser	Olasz	Wambach
Cornell	Kasunic	Oliver	Weston
Corrigan	Kenney	Perzel	Williams
Cowell	Kondrich	Petrone	Wilson
Coy	Kosinski	Pievsky	Wogan
DeLuca	Kukovich	Pistella	Yandrisevits
DeWeese	LaGrotta	Preston	
Daley	Langtry	Richardson	O'Donnell,
Dombrowski	Lashingner	Rieger	Speaker
Donatucci	Laughlin	Ritter	

NOT VOTING—2

Howlett Hughes

EXCUSED—7

Dininni Maiale Petrarca Wright, R. C.
Durham Nahill Saloom

Less than the majority required by the Constitution having voted in the affirmative, the question was determined in the negative and the bill fell.

WELCOME

The SPEAKER. The Chair is pleased to welcome to the hall of the House Mrs. Monica Barnes, a member of the Irish Parliament, and her hostess, Mrs. La Wanda Givler of Easton, Pennsylvania. They are the guests of Representatives Gruppo and Freeman. Will the guests please rise.

VOTE CORRECTIONS

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

Mr. McCALL. Thank you, Mr. Speaker. To correct the record.

On amendment 3300 and amendment 1738 to HB 941, my vote was not recorded. I would like the record to reflect I would have voted in the negative.

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

The Chair recognizes the gentleman, Mr. Trich.

Mr. TRICH. Mr. Speaker, I also would like to correct a vote taken on HB 941, amendment 1851. My switch did not function. Had it functioned, it would have been a resounding "no" vote.

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

Mr. FREIND. Mr. Speaker, on the David Wright amendment A1984 to HB 941, the recall amendment, my switch failed to operate. I would like to be recorded in the affirmative. Thank you.

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

The Chair recognizes the gentleman, Mr. Black.

Mr. BLACK. Mr. Speaker, on HB 941, amendment A1617, I was not recorded. I would like to be recorded in the affirmative for consideration of that amendment. Thank you.

The SPEAKER. The Chair recognizes Mr. Heckler.

Mr. HECKLER. Thank you, Mr. Speaker.

On the first vote on final passage of HB 941, my vote was not recorded. Had it been, I would have voted in the negative. Thank you.

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

The Chair recognizes Mr. Vroon.

Mr. VROON. Mr. Speaker, will you please have the record corrected to indicate that my affirmative vote on the Wright amendment A1984 to HB 941 should be shown in the negative. Thank you, sir.

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

BILLS ON THIRD CONSIDERATION CONTINUED

The House proceeded to third consideration of **HB 539, PN 3611**, entitled:

A Joint Resolution proposing amendments to the Constitution of the Commonwealth of Pennsylvania, providing for the election of certain justices and judges; changing provisions relating to judicial discipline; and providing for financial disclosure.

On the question recurring,

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

Mr. DeWEESE offered the following amendments No. A1803:

Amend Title, page 1, lines 2 and 3, by striking out "PROVIDING FOR THE ELECTION OF CERTAIN JUSTICES AND JUDGES;"

Amend Sec. 1, page 1, lines 9 through 14; page 2, lines 1 through 27, by striking out all of lines 9 through 14, page 1, all of lines 1 through 26 and "(2)" in line 27, page 2, and inserting

(1)

Amend Sec. 1, page 4, line 2, by striking out "(3)" and inserting

(2)

Amend Sec. 1, page 9, line 9, by striking out "(4)" and inserting

(3)

Amend Sec. 3, page 14, line 14, by striking out ", (3) AND (4)" and inserting
and (3)

On the question,

Will the House agree to the amendments?

The SPEAKER. On the amendment, the Chair recognizes Mr. DeWeese.

Mr. DeWEESE. Mr. Speaker, the amendment A1803 simply eliminates the regional language from the substance of the bill.

I would respectfully request its adoption. Thank you.

The SPEAKER. The Chair recognizes the minority leader.

Mr. RYAN. Would the gentleman explain his amendment?

The SPEAKER. The gentleman, Mr. Ryan, is seeking recognition to interrogate. The question is, will the gentleman explain the amendment? The gentleman, Mr. DeWeese, has the floor and may proceed.

Mr. DeWEESE. The amendment A1803 simply removes the regional election of Commonwealth, Superior, and Supreme Court judges by region from the bill. Mr. Freeman and Mr. Gallen had interjected this language into the bill on judicial discipline on a previous occasion, and we are anxious that this measure concerning the disciplining of our judiciary go to the Senate without amendment or with as few amendments as possible. I have had lengthy dialogue with the other side of the aisle as well as my own side, and understanding some of the amendments that were offered earlier in the day, I am anxious for this language to be taken out of my HB 539.

So it simply takes out the regional election of judges from the judicial discipline bill.

The SPEAKER. The Chair understands the gentleman, Mr. Ryan's interrogation to be completed.

The Chair recognizes Mr. Freeman.

Mr. FREEMAN. Thank you, Mr. Speaker.

Mr. Speaker, I find myself in a somewhat awkward position. Obviously, as the prime sponsor with my colleague, Mr. Gallen, of the regional election amendment, I favor the concept of regional election. I see it as an improvement over the current system and far better than the merit selection proposal. However, the majority leader was very gracious in giving Representative Gallen and myself the opportunity to put forward our concept. The House in one sense embraced and in another sense decided not to embrace the proposal.

The issue of judicial discipline is too important to be mired in the controversy currently before this chamber of how we should select our judges. It is critical that we have a strong judicial discipline bill.

I therefore urge support of the DeWeese amendment. I urge the membership of this body to pass a clean judicial discipline bill and get on with the business of this legislature. Thank you.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—155

Acosta	Coy	Kukovich	Robinson
Adolph	DeLuca	LaGrotta	Roebuck
Allen	DeWeese	Langtry	Rudy
Angstadt	Daley	Lashinger	Ryar
Argall	Dempsey	Laughlin	Rybak
Barley	Dietterick	Lescovitz	Saurman
Battisto	Distler	Levdansky	Scheetz
Belardi	Dombrowski	Linton	Schuler
Belfanti	Donatucci	Lloyd	Scrimenti
Billow	Evans	Lucyk	Semmel
Bishop	Farmer	McCull	Serafini
Black	Fee	McHale	Snyder, D. W.
Blaum	Foster	McNally	Staback
Bortner	Fox	McVerry	Stairs
Bowley	Freeman	Maine	Steighner
Boyes	Freind	Markosek	Stish
Brandt	Gamble	Marsico	Stuban
Broujos	Gannon	Mayermik	Tangretti
Bunt	George	Melio	Taylor, F.
Burd	Gigliotti	Merry	Taylor, J.
Burns	Gladeck	Michlovic	Telek
Bush	Godshall	Mihalich	Thomas
Caltagirone	Gruitza	Morris	Tigue
Cappabianca	Gruppo	Mrkonic	Trello
Carlson	Hagarty	Murphy	Trich
Carn	Haluska	Nailor	Van Horne
Cawley	Harper	O'Brien	Veon
Cessar	Hayden	Olasz	Wambach
Chadwick	Heckler	Perzel	Weston
Civera	Itkin	Pesci	Williams
Clark, B. D.	Jadlowiec	Petrone	Wilson
Clark, J. H.	James	Pievsky	Wogan
Clymer	Jarolin	Pistella	Wozniak
Cohen	Josephs	Pressmann	Wright, D. R.
Colafiglia	Kaiser	Preston	Wright, J. L.
Colaizzo	Kasunic	Raymond	Yandrisevits
Cole	Kenney	Reinard	
Cornell	Kondrich	Rieger	O'Donnell,
Corrigan	Kosinski	Ritter	Speaker
Cowell			

NAYS—35

Birmelin	Geist	Leh	Robbins
Clark, D. F.	Hasay	Miller	Smith, B.
Davies	Hayes	Moehlmann	Smith, S. H.
Dorr	Herman	Moery	Snyder, G.
Fairchild	Hershey	Noye	Strittmatter
Fargo	Hess	Phillips	Taylor, E. Z.
Fleagle	Jackson	Piccola	Vroon
Flick	Johnson	Pitts	Wass
Gallen	Lee	Reber	

NOT VOTING—5

Howlett	Micozzie	Oliver	Richardson
Hughes			

EXCUSED—7

Dininni	Maiate	Petrarca	Wright, R. C.
Durham	Nahill	Saloom	

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

On the question recurring,

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

Mr. BORTNER offered the following amendments No. A1846:

Amend Title, page 1, lines 2 and 3, by striking out "PROVIDING FOR THE ELECTION OF CERTAIN JUSTICES AND JUDGES" and inserting changing and adding provisions relating to the selection of justices and judges

Amend Sec. 1, page 1, lines 9 through 14; page 2, lines 1 through 27, by striking out all of said lines on said pages and inserting

(1) That sections 13, 14, 15, 17 and 18 of Article V be amended to read:

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

(a) Justices of the Supreme Court and judges of the Superior Court and the Commonwealth Court shall be appointed to their initial term by the Governor, with the advice and consent of a majority of the members elected to the Senate. Within 45 days, but after 30 days of the date on which he first receives the list of recommendations from the Judicial Nominating Commission, the Governor shall nominate from the list one person for each vacancy with respect to which the list of recommendations has been submitted. The Senate shall act on each nomination within 45 days of its submission. If the nomination is made during a recess or after adjournment sine die, the Senate shall act upon it within 45 days after its return or reconvening. If the Senate has not voted upon a nomination within 40 days following such submission, or the return or reconvening of the Senate, if applicable, any five members of the Senate may, in writing, request the presiding officer of the Senate to place the nomination before the entire Senate body whereby the nomination must be voted upon prior to the expiration of 45 days. If the Senate fails to act upon a nomination submitted to it within the required 45 days, the nominee shall take office as if the Senate had consented to the nomination.

(b) A vacancy in the office of justice of the Supreme Court or judge of the Superior Court or the Commonwealth Court shall be filled by the procedure provided in section 13(a).

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

[(b) (d) A vacancy in the office of [justice,] judge, other than judge of the Superior Court or the Commonwealth Court, or justice of the peace shall be filled by appointment by the Governor. The appointment shall be with the advice and consent of [two-thirds] a majority of the members elected to the Senate[, except in the case of justices of the peace which shall be by a majority]. The person so appointed shall serve for a term ending on the first Monday of January following the next municipal election more than ten months after the vacancy occurs or for the remainder of the unexpired term whichever is less[, except in the case of persons selected as additional judges to the Superior Court, where the General Assembly may stagger and fix the length of the initial terms of such additional judges by reference to any of the first, second and third municipal elections more than ten months after the additional judges are selected]. The manner by which any additional judges are selected shall be provided by section 13(b) and this section for the filling of vacancies in judicial offices.

[(c) (e) The provisions of section 13(b) and section 13(d) shall not apply [either] in the case of a vacancy to be filled by retention election as provided in section 15(b)[, or]. Section 13(d) shall not apply in the case of a vacancy created by failure of a justice or judge to file a declaration for retention election as provided in section 15(b). In the case of a vacancy occurring at the expiration of an appointive term under section [13(b)] 13(d), the vacancy shall be filled by election as provided in section [13(a)] 13(c).

[(d) At the primary election in 1969, the electors of the Commonwealth may elect to have the justices and judges of the Supreme, Superior, Commonwealth and all other statewide courts appointed by the Governor from a list of persons qualified for the offices submitted to him by the Judicial Qualifications Commission. If a majority vote of those voting on the question is in favor of this method of appointment, then whenever any vacancy occurs thereafter for any reason in such court, the Governor shall fill the vacancy by appointment in the manner prescribed in this subsection. Such appointment shall not require the consent of the Senate.

[(e) (f) Each justice of the Supreme Court or judge of the Superior Court or the Commonwealth Court appointed by the Governor under section [13(d)] 13(a) or section 13(b) shall hold office for an initial term of four years ending the first Monday of January following the next municipal election more than [24] 48 months following the appointment.

§ 14. [Judicial Qualifications Commission] Judicial Nominating Commission.

[(a) Should the method of judicial selection be adopted as provided in section 13 (d), there shall be a Judicial Qualifications Commission, composed of four non-lawyer electors appointed by the Governor and three non-judge members of the bar of the Supreme Court appointed by the Supreme Court. No more than four members shall be of the same political party. The members of the commission shall serve for terms of seven years, with one member being selected each year. The commission shall consider all names submitted to it and recommend to the Governor not fewer than ten nor more than 20 of those qualified for each vacancy to be filled.

[(b) During his term, no member shall hold a public office or public appointment for which he receives compensation, nor shall he hold office in a political party or political organization.

[(c) A vacancy on the commission shall be filled by the appointing authority for the balance of the term.]

[(a) There shall be a Judicial Nominating Commission which shall evaluate the qualifications of applicants for appointment to the office of justice of the Supreme Court or judge of the Superior Court or the Commonwealth Court. The commission shall include a fair representation of men and women and shall reflect fairly the geographical, political, economic and ethnic diversity of the Commonwealth.

(b) The commission shall consist of 16 Pennsylvania residents, of whom eight shall be appointed by the Governor and two each shall be appointed by the President pro tempore of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader and the House Minority Leader. Of the eight members appointed by the Governor, only four shall be members of the bar of the Supreme Court, and no more than four shall be enrolled in the same political party. Not more than one of the two members appointed by the President pro tempore of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader and the House Minority Leader shall be a member of the bar of the Supreme Court.

(c) Each commissioner shall be appointed for a full four-year term, except as provided for initial commissioners. The initial commissioners shall serve as follows: the commissioners appointed by the Governor, two for one year, two for two years, two for three years and two for four years; the commissioners appointed by the President pro tempore of the Senate, one for four years and one for one year; the commissioners appointed by the Speaker of the House of Representatives, one for four years and one for one year; the commissioners appointed by the Minority Leader in the Senate, one for three years and one for two years; and the commissioners appointed by the Minority Leader in the House of Representatives, one for three years and one for two years. The Governor shall designate one of the commissioners as chairman of the commission. The chairman shall serve at the pleasure of the Governor.

(d) No commissioner shall be appointed to more than two successive full four-year terms. An appointment to fill an unexpired term which has less than two years to run shall not be deemed a full term. A vacancy on the commission shall be filled for the balance of the term in the same manner that the vacating member was appointed. During his term of service, no commissioner shall hold a public office or public appointment, compensated or uncompensated, nor shall he hold office in any political party or political organization.

(e) Each commissioner shall receive a reasonable per diem in compensation for his service and shall be reimbursed for reasonable expenses incurred in the exercise of his duties.

(f) Whenever a vacancy occurs in the office of justice of the Supreme Court or judge of the Superior Court or the Commonwealth Court, the commission shall publicly advertise such vacancy and solicit applications. From the applications received, the commission shall prepare and submit to the Governor a list of at least five but not more than seven persons who are qualified to hold that judicial office. Each person recommended to the Governor shall, for an aggregate of ten years, have either practiced law or served as judge of a court or courts of record in Pennsylvania or have been engaged in a law-related occupation. The list shall be submitted to the Governor no later than 90 days after the vacancy occurs. When more than one vacancy on the same court exists, the number of persons on the list which is submitted to the Governor shall be increased by two persons for each additional vacancy.

(g) The list submitted to the Governor shall contain the names of those persons who received affirmative votes from ten or more commissioners, provided that the number of persons shall not exceed the limitations imposed by subsection (f). Immediately following submission to the Governor, the list shall be made public by the commission. No list submitted to the Governor shall contain the name of any person if the appointment of that person would result in more than three justices of the Supreme Court or more than one-third of the judges of the Superior or Commonwealth Courts residing in any one county. The list shall be submitted to the Governor no later than 60 days after the vacancy occurs. When more than one vacancy on the same court exists, the number of persons on the list which is submitted to the Governor shall be increased by two persons for each additional vacancy.

§ 15. Tenure of justices, judges and justices of the peace.

(a) The regular term of office of justices and judges shall be ten years and the regular term of office for judges of the municipal court and traffic court in the City of Philadelphia and of justices of the peace shall be six years. The tenure of any justice or judge shall not be affected by changes in judicial districts or by reduction in the number of judges.

(b) A justice or judge [elected under section 13(a),] of the Superior Court or the Commonwealth Court appointed under section [13(d)] 13(a) or section 13(b) or retained under this section 15(b) or a judge elected under section 13(c) or retained under this section 15(b) may file a declaration of candidacy for retention election with the officer of the Commonwealth who under law shall have supervision over elections on or before the first Monday of January of the year preceding the year in which his term of office expires. If no declaration is filed, a vacancy shall exist upon the expiration of the term of office of such justice or judge, to be filled by [election] appointment under section 13(a) or by [appointment] election under section [13(d)] 13(c) [if applicable]. If a justice or judge files a declaration, his name shall be submitted to the electors without party designation, on a separate judicial ballot or in a separate column on voting machines, at the municipal election immediately preceding the expiration of the term of office of the justice or judge, to determine only the question whether he shall be retained in office. If a majority is against retention, a vacancy shall exist upon the expiration of his term of office, to be filled by appointment under section 13(b) or under section 13(d) [if applicable]. If a majority favors retention, the justice or judge shall serve for the regular term of office provided herein, unless sooner removed or retired. At the expiration of each term a justice or judge shall be eligible for retention as provided herein, subject only to the retirement provisions of this article.

Amend Sec. 1, page 4, line 2, by striking out all of said line

Amend Sec. 1, page 9, line 9, by striking out "(4)" and inserting

2

Amend Sec. 1, page 13, by inserting between lines 21 and 22

§ 22. Appointment of justices and judges of appellate courts.

An individual nominated as a justice of the Supreme Court, a judge of the Superior Court or a judge of the Commonwealth Court who does not receive a confirmation vote of a majority of the members elected to the Senate shall not thereafter be appointed by the Governor to the same court during the one-year period following the vote of the Senate.

Amend Sec. 3, page 14, lines 14 and 15, by striking out all of line 14 and "section 1 shall each" in line 15 and inserting

Section 3. Each proposed amendment shall

On the question,

Will the House agree to the amendments?

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

Mr. BORTNER. Thank you, Mr. Speaker.

I will be brief in offering this amendment, but let me explain so all the members are sure what is being offered and what this amendment does.

Before you is an amendment which puts into the bill that is presently before us, dealing with judicial discipline, the contents of HB 941. It includes majority confirmation, an amendment that was originally in HB 941 and was previously voted on by the members as an amendment a short time ago to HB 941. It also contains language that was the subject of an amendment that was never offered but which is also part of

this amendment on the last page, and it says this: The nominations that would be made by the Judicial Nominating Commission for the Supreme Court could not include more than three judges from one county, and in the other two courts, nominations could not be made if more than one-third of the members were already from a single county.

Those are the only two changes from what had been HB 941 as it came before this House. I am not going to take a lot of time on the merits of merit, because we have already debated that. I would only like to say that before you, being offered by the majority leader, is really one-half of the report of the Governor's Judicial Reform Commission.

I would urge you to support this amendment, placing into the bill and moving one step further true judicial reform, and would urge the members to please support the amendment. Thank you.

The SPEAKER. The Chair recognizes Mr. Pressmann.

Mr. PRESSMANN. Thank you, Mr. Speaker.

Mr. Speaker, will the gentleman, Mr. Bortner, stand for a very brief period of interrogation?

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

Mr. PRESSMANN. Mr. Speaker, are you saying that your amendment, so we all get this perfectly clear, this is your merit selection bill in total?

Mr. BORTNER. Yes.

Mr. PRESSMANN. Yes. Okay. And is this with the majority or the two-thirds Senate confirmation?

Mr. BORTNER. Majority.

Mr. PRESSMANN. Majority. Okay.

Mr. Speaker, I thank the gentleman.

Mr. Speaker, I would like to speak on the amendment.

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

Mr. PRESSMANN. Thank you, Mr. Speaker.

Mr. Speaker, I am glad that Mr. Bortner decided to offer this amendment to Mr. DeWeese's bill. All day today and other votes that we have taken in the past, there have been all kinds of smokescreens made about the issue of merit selection, that we should vote this way or that way because it affects this or it affects that. Now, I am sure that someone is going to rise and say that we should vote against this because we do not want it to affect Mr. DeWeese's discipline bill.

Mr. Speaker, I think it is time for this House to take a definitive vote on merit selection. Are you for it or are you against it? I mean, let us do it once and for all. Let us tell the people of Pennsylvania where we stand. I mean, right now, with the votes we took already today, you can say you are for regional elections; you can say you are against regional elections; you can say you are for merit selection; you can say you are against merit selection; you can say you are for Freind; you can say you are against Freind, with the votes we have taken today. In this process today, we have totally confused the voters; we have totally confused ourselves. Now we have the opportunity to say yes or no - are you for merit selection?

I personally urge a "no" vote on this system of merit selection, and let us vote it down once and for all.

The SPEAKER. The Chair recognizes Mr. Chadwick.

Mr. CHADWICK. Thank you, Mr. Speaker.

Mr. Speaker, I have long been a believer in regional elections. I introduced a bill for regional elections. I think they would solve our problem. I even polled in my district all of the attorneys who have to actually practice in front of these appellate judges. Fifty-eight percent of them supported regional elections. Forty percent supported merit selection. Only 2 percent of the attorneys in my county said the current system was the way to go.

I cannot have regional elections. We lost. But merit selection is the next best thing. If we cannot have regional elections, we should support merit selection. It is the best way to go, given the circumstances that we have to deal with. I say we should support this amendment. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes Mr. Cohen.

Mr. COHEN. Mr. Speaker, I, too, would like to thank Representative Bortner for his persistence in this. I was kind of afraid because of the vote on the Freind amendment that I would be listed as a vote for merit selection.

I think that we know what the arguments are. Merit selection is not true merit selection. All merit selection is is judicial appointment by the Governor. There are other names. It could be judicial patronage selection. It would be just as good a name for it as merit selection. It has nothing to do with merit. All it has to do with is taking basic rights away from the people. Giving the people a chance to vote on having their rights taken away from them is no real choice. We do not want to have people given a chance to give up their rights to vote for State legislators. We do not want people to have a chance to give up their rights to vote for Governor.

This is not a step forward. This is a tremendous step backward, taking rights away from people. I urge the defeat of this amendment.

The SPEAKER. The Chair recognizes Mr. Freeman.

Mr. FREEMAN. Thank you, Mr. Speaker.

Mr. Speaker, I rise to oppose the Bortner amendment.

At best, merit selection is a misguided utopian attempt to remove politics from a process born of politics. At worst, it is an elitist concept that denies the people from whom all power is derived in a democracy of their most basic right to select those who preside over them within that democracy.

On its merits alone, this so-called merit selection should go down. But for those of you who support merit selection, I urge you to turn the Bortner amendment away today. I urge you to leave this judicial discipline bill intact, to let us deal solely with this issue, which is so very important to our constitutional system here in Pennsylvania.

Defeat the Bortner amendment. Let us get on with the business of judicial discipline. Thank you.

The SPEAKER. The Chair recognizes Mr. Freind.

Mr. FREIND. Very briefly, Mr. Speaker. I thought that about 10 minutes ago we sent a strong message of how we felt about the so-called merit selection. For all of the reasons set

forth in that debate, I hope that this House - the people's House - once more stands up for the people and rejects the so-called merit selection of judges. Thank you.

The SPEAKER. The Chair recognizes Mr. McHale.

Mr. McHALE. Thank you, Mr. Speaker.

Mr. Speaker, it was said a few moments ago that the Bortner amendment is a step backward, and indeed it is. It is a step backward all the way to Wednesday, July 18, 1787. I am reading to the members of the House from the Notes of Debates in the Federal Convention as transcribed by the father of our Bill of Rights, James Madison. This is a direct quote from Mr. Madison's notes:

Mr. MADISON, suggested that the Judges might be appointed by the Executive with the concurrence of 1/3 at least, of the 2d branch. This would unite the advantage of responsibility in the Executive with the security afforded in the 2d branch against any incautious or corrupt nomination by the Executive.

James Madison was the most articulate and forceful spokesperson on behalf of our Bill of Rights. He kept the most cogent system of notes recording the Constitutional Convention in Philadelphia.

If merit selection was good enough for James Madison, it is good enough for me. Madison was never known as an elitist. Neither will the members of the House be known as elitists when they support the Bortner amendment.

I urge an affirmative vote.

The SPEAKER. The Chair recognizes Mr. Foster.

Mr. FOSTER. Thank you, Mr. Speaker.

I strongly urge the House to reject the Bortner amendment.

I thought we had disposed of this matter and I thought we were going to leave the power to select judges with the people of Pennsylvania, but if that message is not clear, let us make it abundantly clear right now and reject this amendment so that Mr. DeWeese's bill can be sent to the Senate.

I urge a negative vote.

The SPEAKER. The Chair recognizes Mr. Preston.

Mr. PRESTON. Thank you, Mr. Speaker.

Will the gentleman, Mr. Bortner, answer a brief question for me?

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

Mr. PRESTON. Thank you.

Mr. Speaker, under your proposal, is it possible, for an example, that under the merit selection, if the committee had looked at who were the best candidates all across the Commonwealth of Pennsylvania and found that the best top five would be from Blair County, therefore that the top five really could not be considered, if there were five openings?

Mr. BORTNER. Which court?

Mr. PRESTON. Say, for the Supreme Court.

Mr. BORTNER. No.

Mr. PRESTON. Then explain to me how you were saying that you would have to limit so many of them to—

Mr. BORTNER. Maybe you did not understand my answer. My answer is—maybe the "no" should have been a

“yes”—for the Supreme Court, five judges could not come from the same county. On the Superior Court, as it is presently constructed, they could, because the Superior Court has 15 members and the Supreme Court has 7.

Mr. PRESTON. Right.

Mr. BORTNER. Does that clarify your question?

Mr. PRESTON. Yes and no; yes.

Mr. Speaker, if I could speak on the amendment?

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

Mr. PRESTON. With all due respect to my good colleague, Mr. McHale, as he talked about James Madison, Mr. Madison became historical in publishing what is more commonly known as the Federalist Papers. The Federalist Papers basically proclaim elitism, and to make it simple, or connotatively speaking, it basically says that we who are of government have to protect those people who do not have the latitude and the freedom and the richness of being able to make independent decisions as we do because they do not really have the ability. We have to protect them, and not only that; we cannot and we should not tell them everything, because if we totally informed them, chances are that they will revolt and throw us all out of office. That is the concept almost of elitism, and that is basically the way the Federalist Papers write and what Madisonian thought and theory came across.

It really scares me that we are going to continuously proclaim this even within our own House. Here we have shot down and struck down and limited the rights as far as women are concerned and as far as married couples are concerned. It really makes me nervous that we would continuously take away the thought and theory to say that the people cannot make a decision for themselves.

I think that the common man has an ability to be able to make a decision. Not all the time is it going to be right, and it is something that the common person has to live with, but we should not be able to take that choice away to be able to win or lose, to be right or wrong. They should be able to have that choice, and we should defeat the Bortner amendment.

The SPEAKER. The Chair recognizes Mrs. Langtry.

Mrs. LANGTRY. Thank you, Mr. Speaker.

I have a question for the maker of the amendment.

The SPEAKER. The gentleman indicates he will be interrogated. The lady may proceed.

Mrs. LANGTRY. Thank you.

Once again, we are dealing with HB 539. Under the proposed system for appointment of judges, justices, once again, would the electorate have the opportunity to vote on this proposal in this amendment?

Mr. BORTNER. Mr. Speaker, this is an amendment to the Constitution of the Commonwealth of Pennsylvania. This amendment would become part of a bill that amends the Constitution. The process would remain the same. This bill would again have to pass a session of the legislature next term and then would go before the voters for a referendum. It merely becomes part of a bill that will amend the Constitution, and yes, that process would not be changed.

Mrs. LANGTRY. Yes, so it would have to pass two sessions of the legislature—is that correct?—and then appear on the ballot?

Mr. BORTNER. Two consecutive sessions of the legislature and be approved by a majority of the voters in a referendum.

Mrs. LANGTRY. Right. That is a clarification. Thank you very much.

The SPEAKER. The Chair recognizes Mr. Linton.

Mr. LINTON. Thank you, Mr. Speaker.

Mr. Speaker, I have listened intently throughout the day as we debated the merit selection bill, and the most interesting thing to me is that many people have attacked merit selection under the guise of elitism, that we want to make sure that we do not allow an elitist system to be put in place for selecting judges.

It is interesting to me that we stand here today under the guise of attacking merit selection and elitism, and we in this House have chosen to be elitists ourselves, because what we have done in essence is say to the people of the Commonwealth that we are protecting you from yourself; that you do not have enough wisdom or knowledge to know what system of government you want to operate under. So we therefore are going to deny the voters an opportunity to choose whether or not they would like to have merit selection or not.

I think at the very least we should not be elitists ourselves and we should allow the voters of the Commonwealth an opportunity to cast a vote for this measure. Therefore, I support the Bortner amendment and would ask for the rest of my colleagues to do likewise. Thank you very much, Mr. Speaker.

The SPEAKER. The Chair recognizes Mr. Bortner.

Mr. BORTNER. A couple of points, very quickly.

First of all to the argument that this will somehow do damage to the discipline bill, I might point out that the equivalent to this amendment has already passed the Senate and at the present time languishes in the State Government Committee here in the House. They have also already passed a discipline bill. So I think if we could send them a bill encompassing true judicial reform much as the Senate has seen it, we would be taking one step closer to completing that process.

Secondly, let me assure everybody that I agree with some previous speakers that the purpose of this amendment, make no doubt about it, is to allow members an opportunity for a clean vote on the question of appointing judges at the statewide appellate level. Some people call it merit selection. That name does not really appear in the bill. Some people have some other terms for it which you have already heard. But the purpose of the amendment—I have looked at the other votes; I have looked at the amendments. I want to give everybody an opportunity to vote on this issue, to have a clean vote on the issue so they can be counted on what I think is an extremely important matter, yes or no. That is my intent in offering this amendment, unencumbered by any other amendments that were thrown into or became part of HB 941.

I appreciate the comments made by Representative Linton. I do trust the voters, and I would like to give them an oppor-

tunity statewide to speak on what I think is an extremely, extremely important issue.

Thank you, Mr. Speaker, and I thank the members of the House for their patience as we considered this issue. Thank you.

The SPEAKER. The Chair recognizes Mr. Trello.

Mr. TRELLO. Mr. Speaker, I will be very brief.

The dialogue today on the merit selection of judges, whether the voters are intelligent enough to make the right choice, well, the only thing I can say is I think the voters in my district are the most intelligent voters of all - they elected me. And I am going to tell you something: If they are good enough for me, they are good enough to elect the judges, too. So you know what to do with this turkey: Shoot it down. Thank you.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—48

Acosta	Farmer	Langtry	Nailor
Battisto	Flick	Lashingier	Piccola
Bishop	Fox	Lee	Pistella
Blaum	Gallen	Levdansky	Reinard
Bortner	Gladeck	Linton	Ritter
Brandt	Hagarty	McHale	Ryan
Burns	Hasay	McVerry	Saurman
Carlson	Hayden	Melio	Scheetz
Chadwick	Heckler	Merry	Stairs
Cole	Itkin	Michlovic	
Corrigan	Jackson	Morris	O'Donnell,
Cowell	Jadlowiec	Murphy	Speaker
Fargo	Josephs		

NAYS—142

Adolph	Dietterick	Laughlin	Rybak
Allen	Distler	Leh	Schuler
Angstadt	Dombrowski	Lescovitz	Scrimenti
Argall	Donatucci	Lloyd	Semmel
Barley	Dorr	Lucy	Serafini
Belardi	Evans	McCall	Smith, B.
Belfanti	Fairchild	McNally	Smith, S. H.
Billow	Fee	Maine	Snyder, D. W.
Birmelin	Fleagle	Markosek	Snyder, G.
Black	Foster	Marsico	Staback
Bowley	Freeman	Mayernik	Steighner
Boyes	Freind	Micozzie	Stish
Broujos	Gamble	Mihalich	Strittmatter
Bunt	Gannon	Miller	Stuban
Burd	Geist	Moehlmann	Tangretti
Bush	George	Mowery	Taylor, E. Z.
Caltagirone	Gigliotti	Mrkonic	Taylor, F.
Cappabianca	Godshall	Noye	Taylor, J.
Carn	Gruitza	O'Brien	Telek
Cawley	Gruppo	Olasz	Tigue
Cessar	Haluska	Oliver	Trello
Civera	Harper	Perzel	Trich
Clark, B. D.	Hayes	Pesci	Van Horne
Clark, D. F.	Herman	Petrone	Veon
Clark, J. H.	Hershey	Phillips	Vroon
Clymer	Hess	Pievsky	Wambach
Cohen	James	Pitts	Wass
Colaifella	Jarolin	Pressmann	Weston
Colaizzo	Johnson	Preston	Williams
Cornell	Kaiser	Raymond	Wilson
Coy	Kasunic	Reber	Wogan
DeLuca	Kenney	Rieger	Wozniak
DeWeese	Kondrich	Robbins	Wright, D. R.
Daley	Kosinski	Robinson	Wright, J. L.

Davies	Kukovich	Roebuck	Yandrisevits
Dempsey	LaGrotta		

NOT VOTING—5

Howlett	Richardson	Rudy	Thomas
Hughes			

EXCUSED—7

Dininni	Maiale	Petrarca	Wright, R. C.
Durham	Nahill	Saloom	

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

On the question recurring,

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

Mr. WOZNIAK offered the following amendments No. A1856:

Amend Title, page 1, line 2, by inserting after "ELECTION" and tenure

Amend Sec. 1, page 2, line 27, by striking out "section" and inserting

sections 15 and

Amend Sec. 1, page 2, by inserting between lines 27 and 28

§ 15. Tenure of justices, judges and justices of the peace.

(a) The regular term of office of justices and judges shall be [ten] seven years and the regular term of office for judges of the municipal court and traffic court in the City of Philadelphia and of justices of the peace shall be six years. The tenure of any justice or judge shall not be affected by changes in judicial districts or by reduction in the number of judges.

(b) A justice or judge elected under section 13(a), appointed under section 13(d) or retained under this section 15(b) may file a declaration of candidacy for retention election with the officer of the Commonwealth who under law shall have supervision over elections on or before the first Monday of January of the year preceding the year in which his term of office expires. If no declaration is filed, a vacancy shall exist upon the expiration of the term of office of such justice or judge, to be filled by election under section 13(a) or by appointment under section 13(d) if applicable. If a justice or judge files a declaration, his name shall be submitted to the electors without party designation, on a separate judicial ballot or in a separate column on voting machines, at the municipal election immediately preceding the expiration of the term of office of the justice or judge, to determine only the question whether he shall be retained in office. If a majority is against retention, a vacancy shall exist upon the expiration of his term of office, to be filled by appointment under section 13(b) or under section 13(d) if applicable. If a majority favors retention, the justice or judge shall serve for the regular term of office provided herein, unless sooner removed or retired. At the expiration of each term a justice or judge shall be eligible for retention as provided herein, subject only to the retirement provisions of this article.

On the question,

Will the House agree to the amendments?

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

Mr. WOZNIAK. Thank you, Mr. Speaker. I have an opportunity to offer my amendment today anyhow.

Mr. Speaker, this is a very simple, uncomplicated amendment. What it does is it takes our judges and justices from 10 years' term in office down to 7.

We have already made a statement that failed to eliminate retention. That did not happen. We have made some statements that the judges are out of touch with reality, are not making proper decisions; that is why some people wish to have merit. I did a questionnaire—as Representative Chadwick was saying; he was expounding on his numbers—but I had a tremendous response to this particular issue. They thought that 10 years was too long. They thought that 3 and 5 was too short. They thought and most of the numbers that came across were that 7 years was a good standard for our judges to serve on the bench before they have to go up in front of the public again and ask for retention.

Mr. Speaker, I would appreciate an affirmative vote to send a message that we would like to bring our judges closer to some semblance of reality and bring it to 7 years instead of 10. Thank you very much, Mr. Speaker.

The SPEAKER. The Chair recognizes Mr. Kukovich.

Mr. KUKOVICH. Thank you, Mr. Speaker.

I recognize the appeal to try to shorten these terms, and I may even see some merit in it. However, I think following the lead of Representative Freeman and some of the other members who have wanted to use this as a vehicle but decided not to, I would ask the members to vote “no.” I think that shortening the term would lead to a problem in the Senate. I think the concept of judicial discipline would be compromised by this amendment, and for that reason I would ask the members to vote “no” and try to keep this bill as clean as possible.

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

The following roll call was recorded:

YEAS—26

Angstadt	Caltagirone	Lucy	Richardson
Battisto	Farmer	Marsico	Serafini
Billow	Hasay	Mrkonic	Smith, S. H.
Birmelin	Herman	Noye	Taylor, E. Z.
Bowley	James	Pitts	Wozniak
Boyes	Johnson	Preston	Wright, D. R.
Brandt	Langtry		

NAYS—166

Adolph	Donatucci	Lashingier	Robbins
Allen	Dorr	Laughlin	Robinson
Argall	Evans	Lee	Roebuck
Barley	Fairchild	Leh	Rudy
Belardi	Fargo	Lescovitz	Ryan
Belfanti	Fee	Levdansky	Rybak
Bishop	Fleagle	Linton	Saurman
Black	Flick	Lloyd	Scheetz
Blaum	Foster	McCall	Schuler
Bortner	Fox	McHale	Scrimenti
Broujos	Freeman	McNally	Simmel
Bunt	Freind	McVerry	Smith, B.
Burd	Gallen	Maine	Snyder, D. W.
Burns	Gamble	Markosek	Snyder, G.
Bush	Gannon	Mayernik	Staback
Cappabianca	Geist	Melio	Stairs
Carlson	George	Merry	Steighner
Carn	Gigliotti	Michlovic	Stish
Cawley	Gladeck	Micozzie	Strittmatter
Cessar	Godshall	Mihalich	Stuban
Chadwick	Gruitza	Miller	Tangretti
Civera	Gruppo	Mochlmann	Taylor, F.
Clark, B. D.	Hagarty	Morris	Taylor, J.

Clark, D. F.	Haluska	Mowery	Telek
Clark, J. H.	Harper	Murphy	Thomas
Clymer	Hayden	Nailor	Tigue
Cohen	Hayes	O'Brien	Trello
Colafella	Heckler	Olasz	Trich
Colaizzo	Hershey	Oliver	Van Horne
Cole	Hess	Perzel	Veon
Cornell	Itkin	Pesci	Vroon
Corrigan	Jackson	Petrone	Wambach
Cowell	Jadlowiec	Phillips	Wass
Coy	Jarolin	Piccola	Weston
DeLuca	Josephs	Pievsky	Williams
DeWeese	Kaiser	Pistella	Wilson
Daley	Kasunic	Pressmann	Wogan
Davies	Kenney	Raymond	Wright, J. L.
Dempsey	Kondrich	Reber	Yandrisevits
Dietterick	Kosinski	Reinard	
Distler	Kukovich	Rieger	O'Donnell,
Dombrowski	LaGrotta	Ritter	Speaker

NOT VOTING—3

Acosta	Howlett	Hughes
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EXCUSED—7

Dininni	Maiale	Petrarca	Wright, R. C.
Durham	Nahill	Saloom	

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

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

Mr. FREIND offered the following amendments No. A1969:

Amend Title, page 1, line 2, by inserting after “Pennsylvania,”

establishing trial by jury as a substantive right;

Amend Sec. 1, page 1, by inserting between lines 8 and 9

(1) That section 10(c) of Article V be amended to read:

§ 10. Judicial administration.

(c) The Supreme Court shall have the power to prescribe general rules governing practice, procedure and the conduct of all courts, justices of the peace and all officers serving process or enforcing orders, judgments or decrees of any court or justice of the peace, including the power to provide for assignment and reassignment of classes of actions or classes of appeals among the several courts as the needs of justice shall require, and for admission to the bar and to practice law, and the administration of all courts and supervision of all officers of the Judicial Branch, if such rules are consistent with this Constitution and neither abridge, enlarge nor modify the substantive rights of any litigant, nor affect the right of the General Assembly to determine the jurisdiction of any court or justice of the peace, nor suspend nor alter any statute of limitation or repose. In criminal common pleas court cases, the Commonwealth and the defendant shall have a right to a trial by jury. All laws shall be suspended to the extent that they are inconsistent with rules prescribed under these provisions.

Amend Sec. 1, page 1, line 9, by striking out “(1)” and inserting

(2)

Amend Sec. 1, page 2, line 27, by striking out “(2)” and inserting

(3)

Amend Sec. 1, page 4, line 2, by striking out “(3)” and inserting

(4)

Amend Sec. 1, page 9, line 9, by striking out “(4)” and inserting

(5)

Amend Sec. 2, page 14, line 14, by striking out “AND (4)” and inserting

, (4) and (5)

On the question,

Will the House agree to the amendments?

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

Mr. FREIND. Thank you, Mr. Speaker.

Since I support HB 539, I am not offering the amendment with respect to the gag rule, since the signals were mixed and I do not want to do anything that will make it controversial and might hurt its chances for passage. This is not that amendment. This is an amendment which I think is straightforward and I think we can all support and in no way, in my opinion, will hurt HB 539's chances for passage in the Senate but will in fact enhance it.

This amendment simply states that the Commonwealth, in a criminal court case, the prosecution, has the same right to demand a jury trial as does the defendant. Unlike the Federal Government and most other States, unfortunately, Mr. Speaker, the prosecution, which represents all of the people of Pennsylvania—and that is why they call it the Commonwealth; all of the law-abiding citizens of Pennsylvania—does not have that right.

Now, it is our intention for them to have that right. We passed legislation to make it very clear, in 1978, that the prosecution would have a right to demand a jury trial. Unfortunately, in 1982 the State Supreme Court struck that, not on substance, but stated that this was a procedural matter over which the legislature had no authority; this was a procedural matter over which only the State Supreme Court had authority.

It is, in my opinion, and the opinion of law enforcement—and this is unanimous—essential that the prosecution have the same right as the defendant. No one has quarreled with the right of a defendant to demand that jury trial. The same right has to be available to the prosecution. There are cases, in fact, with mandatory sentencing where without this right, without the right to demand a jury trial, judge shopping can be engaged in. The former district attorney of Philadelphia, Ed Rendell, when we first kicked this off 6 years ago, had a press conference; indicated that in his files he had at least 25 examples of where lesser-included offenses or not-guilties were obtained because the prosecution could not demand a jury trial.

This is identical to HB 1857, which has been reported out of the House Judiciary Committee after a public hearing. This is supported by the District Attorneys Association, the F.O.P. (Fraternal Order of Police), law enforcement in general. It will work no harm to anyone but will provide all of the citizens of Pennsylvania with a tool which is needed.

Obviously, Mr. Speaker, it will not be abused. The prosecution is not going to frequently be demanding a jury trial because of court backlog and expense, but they should have

that right. It is a strong law enforcement provision, and because of that, I think it will have tremendous support in the Senate and will in no way detract from HB 539.

It is necessary to run as an amendment, Mr. Speaker, because it only came out of committee several weeks ago. If it is going to count for this term, because it is a constitutional amendment, it has to be passed between now and the time we break for the summer for advertising reasons.

For those reasons I hope that you will support this law enforcement amendment. Thank you.

The SPEAKER. The Chair recognizes the majority leader.

Mr. DeWEESE. The gentleman, Mr. Freind, has an issue that is certainly worthy of debate, and by separate legislation, I am very competent that the House will deal with the gentleman's issue. I also am hopeful that the Judiciary Committee members that are intimately acquainted with his proposal, on both sides of the aisle, will be able to argue the merits of Mr. Freind's proposal at a subsequent date and at a comparatively near date.

But I would respectfully request that this measure, especially in the middle of June, is not a pressing matter, at least not pressing to the degree that we cannot deal with it tomorrow or next week or later in the session, and I think that our chance to pass a judicial discipline bill is at least slightly jeopardized by the inclusion of this language. With respect for the gentleman and for his proposal, I would like for it to be rejected now and be considered at a subsequent date.

I would ask for a negative vote on the Freind amendment so that HB 539 can go to the Senate unimpeded.

The SPEAKER. The Chair recognizes Mr. Piccola.

Mr. PICCOLA. Thank you, Mr. Speaker.

I agree with the majority leader. This bill is designed to address a problem that exists only in one county in this State, and that is Philadelphia. I do not know of any other county where a district attorney is going to ask for a jury trial when the defendant does not want one. The only time you do that is where you cannot trust the judge and you want to get a crack at a jury, and that only happens in Philadelphia.

I do not think we should be putting this into the Constitution until we at least give a good-faith effort in trying to clean up the judiciary in Philadelphia, and I would rather proceed along those lines. Defeat this amendment and then deal with it later if we cannot deal with the Philadelphia problem.

The SPEAKER. The Chair recognizes Mrs. Hagarty.

Mrs. HAGARTY. Thank you.

May I interrogate the majority leader briefly?

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

Mrs. HAGARTY. I apologize, Mr. Speaker. I do not think I heard all of your remarks.

Did you agree that the bill that was reported out of the Judiciary Committee would have an opportunity to be placed on this House calendar for a vote?

Mr. DeWEESE. Yes.

Mrs. HAGARTY. Okay. Thank you.

May I also briefly address the bill then?

The SPEAKER. The lady is recognized and may proceed.

Mrs. HAGARTY. Thank you.

Mr. Speaker, I support Steve Freind's bill. I did support it in committee, and I do believe that the prosecution should have the opportunity to request a jury trial. As a former prosecutor, I think it is fair. I think that our Constitution only guarantees the defendant a right to a jury trial, not a right to a nonjury trial, and I think that this constitutional amendment is fair.

I do not support the amendment at this time in light of the majority leader's commitment that Mr. Freind will have an opportunity for his bill to be considered. It seems to me that the Judiciary Committee dutifully considered the bill. We reported the bill out, and the bill should have a vote on the floor of this House. I see nothing extraordinary that should call upon this body to amend the judicial discipline bill, a bill that I, in addition to many other members of this chamber, have worked on for several years, several sessions. This is our first real opportunity to accomplish reform of a system that has too long let allegations of misconduct go unsanctioned by a procedure that is protective by the very judges who work with the other judges.

I think that this is an important step to reestablishing confidence in our judiciary, and I do not see any reason why we should debate an amendment that is really totally unrelated to this when we will have another opportunity to amend that. So although I strongly favor the Freind amendment, I think at this point we should vote this down and proceed to what will be the only real opportunity for any type of change in our system of judging judicial misconduct, and that is this judicial discipline bill today. Thank you.

The SPEAKER. The Chair recognizes Mr. McHale.

Mr. McHALE. Thank you, Mr. Speaker.

Mr. Speaker, I agree with the lady, Mrs. Hagarty, and like the lady, Mrs. Hagarty, I, too, support the Freind bill. I voted for it in the Judiciary Committee, and I look forward to the day when I can vote for it here on the floor of the House.

But the majority leader is absolutely correct. This is not the time or place to vote for the Freind amendment. I believe the majority leader has given us a commitment that Mr. Freind's legislation will be promptly brought before the House. At that time I will vote for it.

Today, all of us who believe in the urgent reform of the judicial disciplinary system should vote "no" on the Freind amendment and move forward with the bill. Thank you.

The SPEAKER. The Chair recognizes Mr. Freind.

Mr. FREIND. You know, Mr. Speaker, I would agree with everyone if this were a Johnny-come-lately proposal. The lady, Mrs. Hagarty, said she has worked for several years in judicial discipline, and that is right. This bill has been in the hopper for the last 6 1/2 years. It never got out of committee until 2 weeks ago.

Now, I appreciate the offer of my colleague and my May 10 anniversary soul mate, the majority leader, Mr. DeWeese, to move the bill promptly, but the point of the matter is, for any

constitutional amendment this term to have any effect, it has to be passed by both the House and the Senate before we break for the budget.

Now, I think judicial discipline is a pressing issue. I also believe that the right to demand a jury trial, particularly in mandatory sentencing cases, is a pressing issue, in cases such as mandatory sentencing for crimes against children; for crimes against senior citizens; for repeat violent offenders; for our mandatory sentencing for drugs.

For Mr. Piccola to say this is only a problem in Philadelphia I think seriously misses the mark. If that were the case, the statewide F.O.P., the District Attorneys Association, virtually all of law enforcement would not be in support of this.

The people of Pennsylvania have a right to demand also a jury trial. Judicial discipline is necessary. So is this. I think 6 1/2 years is long enough to wait. I think we do no disservice whatsoever to the bill if we put this amendment in. It is a good, strong law enforcement amendment, as everyone who has debated against it has indicated. I think the time is now after 6 1/2 years.

I would appreciate the courtesy of the House for a "yes" vote on this. Thank you.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—77

Adolph	Dorr	Johnson	Robbins
Allen	Fairchild	Kenney	Ryan
Argall	Fargo	Kondrich	Scheetz
Barley	Farmer	Langtry	Schuler
Birmelin	Fleagle	Lashingner	Semmel
Black	Flick	Leh	Smith, B.
Bunt	Foster	Micozzie	Smith, S. H.
Burd	Freind	Miller	Snyder, D. W.
Bush	Gallen	Moehlmann	Snyder, G.
Carlson	Gamble	Morris	Stairs
Cawley	Gannon	Mowery	Strittmatter
Cessar	Geist	Mrkonic	Taylor, E. Z.
Chadwick	Godshall	Nailor	Taylor, J.
Civiera	Gruppo	Noye	Telek
Clark, D. F.	Hayes	O'Brien	Vroon
Clymer	Herman	Perzel	Wass
Coy	Hershey	Phillips	Weston
Davies	Hess	Pitts	Wogan
Dietterick	Jadlowiec	Raymond	Wright, J. L.
Distler			

NAYS—113

Angstadt	Donatucci	Lloyd	Robinson
Battisto	Evans	Lucyk	Roebuck
Belardi	Fee	McCall	Rudy
Belfanti	Fox	McHale	Rybak
Billow	Freeman	McNally	Saurman
Bishop	George	McVerry	Scrimenti
Blaum	Gigliotti	Maine	Serafini
Bortner	Gladeck	Markosek	Staback
Bowley	Gruitza	Marsico	Steighner
Boyes	Hagarty	Mayernik	Stish
Brandt	Haluska	Melio	Stuban
Broujos	Harper	Merry	Tangretti
Burns	Hasay	Michlovic	Taylor, F.
Caltagirone	Hayden	Mihalich	Thomas
Cappabianca	Heckler	Murphy	Tigue
Carn	Itkin	Olasz	Trello
Clark, J. H.	Jackson	Oliver	Trich
Cohen	James	Pesci	Van Horne

Colafella	Jarolin	Petrone	Veon
Colaizzo	Josephs	Piccola	Wambach
Cole	Kaiser	Pievsky	Williams
Cornell	Kasunic	Pistella	Wilson
Corrigan	Kosinski	Pressmann	Wozniak
Cowell	Kukovich	Preston	Wright, D. R.
DeLuca	Laughlin	Reber	Yandrisevits
DeWeese	Lee	Reinard	
Daley	Lescovitz	Richardson	O'Donnell,
Dempsey	Levdansky	Rieger	Speaker
Dombrowski	Linton	Ritter	

NOT VOTING—5

Acosta	Howlett	Hughes	LaGrotta
Clark, B. D.			

EXCUSED—7

Dininni	Maiale	Petrarca	Wright, R. C.
Durham	Nahill	Saloom	

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

On the question recurring,

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

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—192

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

Cornell	Jarolin	Pievsky	Williams
Corrigan	Johnson	Pistella	Wilson
Cowell	Josephs	Pitts	Wogan
Coy	Kaiser	Pressmann	Wozniak
DeLuca	Kasunic	Preston	Wright, D. R.
DeWeese	Kenney	Raymond	Wright, J. L.
Daley	Kondrich	Reber	Yandrisevits
Davies	Kosinski	Reinard	
Dempsey	Kukovich	Richardson	O'Donnell,
Dietterick	LaGrotta	Rieger	Speaker
Distler	Langtry		

NAYS—0

NOT VOTING—3

Adolph	Howlett	Hughes

EXCUSED—7

Dininni	Maiale	Petrarca	Wright, R. C.
Durham	Nahill	Saloom	

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

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

BILLS AND RESOLUTIONS PASSED OVER

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

For the information of the members, no more votes will be taken on the floor of the House today.

ANNOUNCEMENT BY SPEAKER

The SPEAKER. The Chair requests the attention of the members for an announcement.

The meeting of the House select committee on domestic violence and rape crisis funding scheduled for Wednesday, June 13, at 9 a.m. has been rescheduled for Tuesday, June 12, in room 40, East Wing, after session and has been adjourned for the day.

VOTE CORRECTION

The SPEAKER. The Chair recognizes the lady, Mrs. Rudy. Mrs. RUDY. Mr. Speaker, I would like to record a vote.

On amendment A1846 to HB 539, I was recorded as not voting. I would like to be recorded in the affirmative. Thank you.

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

RULES COMMITTEE MEETING

The SPEAKER. The Chair announces a meeting of the Rules Committee at the majority leader's desk immediately.

**HOUSE RESOLUTION
INTRODUCED AND REFERRED**

No. 331 By Representatives McCALL and
BATTISTO

Commending the founders of the Pocono International Raceway.

Referred to Committee on RULES, June 11, 1990.

The SPEAKER. The Chair recognizes Mr. Cohen.

Mr. COHEN. Mr. Speaker, there will be no caucus now - no caucus now. We will be caucusing shortly after we come back at 11 o'clock tomorrow morning.

The SPEAKER. The Chair thanks the gentleman.

BILLS REREPORTED FROM COMMITTEE

HB 1549, PN 3647 By Rep. DeWEESE

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

RULES.

HB 1899, PN 3648 By Rep. DeWEESE

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

RULES.

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 1549, PN 3647; and HB 1899, PN 3648.

RESOLUTION REPORTED FROM COMMITTEE

HR 331, PN 3688 By Rep. DeWEESE

Commending the founders of the Pocono International Raceway.

RULES.

ADJOURNMENT

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

Mr. SCRIMENTI. Thank you, Mr. Speaker.

I move that this House do now adjourn until Tuesday, June 12, 1990, at 11 a.m., e.d.t., unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 4:27 p.m., e.d.t., the House adjourned.