HOUSE OF REPRESENTATIVES
The House convened at 1:05 p.m., e.d.t.

THE SPEAKER (MATTHEW J. RYAN)
PRESIDING

PRAYER
The SPEAKER. Without objection, the prayer from today’s regular session will be printed in today’s special session Journal.

REV. DR. EMLYN H. JONES, pastor of Stoverdale United Methodist Church, Hummelstown, Pennsylvania, offered the following prayer:

Please bow with me.

Eternal Father, Thou who has been with us from the very beginnings of our Commonwealth, we desire to begin this legislative session seeking Your will for our people and Your guidance for the members of this grand House.

Our people desire resolution of the awesome problems they must deal with daily. Our elderly seek to live their lives in safety and security. They have made significant contributions to the rebuilding of our society, and they now desire to simply live tranquilly in their retirement years. Help us to provide for their needs. Our youth feel the challenge of life and anticipate change for the better. O God, may we provide them with excellent educational opportunities, motivation to be the best and to excel in their chosen disciplines. Grant us wisdom to provide to them the necessary ingredients for successful living.

We must also address the current plague of violence and crime. Only You have adequate answers for youth gone astray and adults who refuse to obey our laws. Grant us, God of wisdom, fair solutions that will rescue our youngsters from deviant behaviors, provide for the general welfare of all our people, restore those who have become victims, and fairly discipline and rehabilitate those who rebel and pray upon their fellow citizens. May Your goodness and mercy guide our decisionmaking.

We are privileged to serve our people. May we do so with a sense of history and with the future always in mind.

We ask Your blessings upon our Governor, upon his Cabinet, upon our legislators and their leaders. Grant each of them Your divine presence. Hear our prayer, O God. Amen.

PLEDGE OF ALLEGIANCE
DISPENSED WITH
The SPEAKER. Without objection, the Pledge of Allegiance will be dispensed with.

JOURNAL APPROVAL POSTPONED
The SPEAKER. Without objection, the approval of the Journal of Tuesday, March 21, 1995, will be postponed until printed. The Chair hears no objection.

LEAVES OF ABSENCE
The SPEAKER. The leaves of absence granted in today’s regular session will also be granted in the special session.

MASTER ROLL CALL
The SPEAKER. The master roll call taken in today’s regular session will also be the master roll call for the special session.

CALENDAR

BILLS ON THIRD CONSIDERATION
The House proceeded to third consideration of SB 4, PN 68, entitled:

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for the composition and powers of the Board of Pardons.

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

Mr. DERMODY offered the following amendment No. A1502:

Amend Sec. 1 (Sec. 9), page 2, lines 16 and 17, by striking out “, with expertise in the prediction of violent behavior”

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

The SPEAKER. On the question of the adoption of the amendment, the Chair recognizes the gentleman, Mr. Dermody.

Mr. DERMODY. Thank you, Mr. Speaker.
Mr. Speaker, SB 4 makes significant changes in the makeup of the Board of Pardons and how the board operates. According to SB 4, the Governor will be required to appoint a psychologist or a psychiatrist with expertise in the prediction of violent behavior. My amendment deletes the language "with expertise in the prediction of violent behavior." If you talk to any of the experts in this field, including the Board of Parole, they will tell you that it is virtually impossible to predict violent behavior.

This bill amends our Constitution. Our Constitution needs to remain an accurate and flexible document, and I submit to you that we are setting ourselves up for failure and the board up for failure if we require the Governor to appoint anybody with so-called expertise in the prediction of violent behavior.

So I would urge the members to please support this amendment. The SPEAKER. On the question of the Derrmody amendment, the Chair recognizes the gentleman, Mr. Piccola, from Dauphin.

Mr. PICCOLA. Thank you, Mr. Speaker.

The arguments in favor of amendment A1502 offered by the gentleman, Mr. Derrmody, have merit, and I would urge the House to concur in the amendment offered by the gentleman.

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

The following roll call was recorded:

YEAS—199

Adolph
Allen
Argall
Armstrong
Baker
Bard
Barley
Battiste
Beck-Irons
Belardi
Belfanti
Birmelin
Bishop
Blau
Boscola
Boyce
Brown
Brown
Bunt
Butkovitz
Butxton
Calagrine
Cambia
Carn
Carone
Cawley
Chadwick
Civera
Clark
Clymer
Cohen, L. I.
Colaffa
Colazzo
Conte
Cornell
Corpora
Corrigan
Coy
Curry
Daley
DeLuca

Mastland
Major
Mandarino
Markocek
Marsico
Mayernik
MccGhan
McGill
Melio
Merry
Michlovic
Micozzi
Mihalic
Miller
Mundy
Nailand
Nickol
Nyce
O'Brien
Olaz
Oliver
Perzel
Pesci
Petrarca
Petrone
Pettit
Phillips
Piciola
Pistella
Pitts
Platts
Preston
Ramos
Raymond
Readshaw
Reber
Richardson
Rieger
Roberts

Saylor
Scheider
Scherer
Scribner
Spermel
Serafini
Schatz
Smith, B.
Smith, S. H.
Snyder, D. W.
Staback
Stairs
Steelman
Stell
Stetler
Stish
Strittmatter
Sturla
Surra
Tangretti
Taylor, E. Z.
Taylor, J.
Thomas
Tigue
Travaglio
Trello
Trich
Trujillo
Tulli
Vance
Van Homem
Vincent
Vitali
Walko
Washington
Waugh
Williams
Wogan
Wozniak

NAYS—0
NOT VOTING—1

Cohen, M.

EXCUSED—3

Cowell
Evans
Reinard

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

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

Mr. Derrmody offered the following amendment No. A1502:

Amend Sec. 1 (Sec. 9), page 2, line 8, by striking out the bracket before "two."

"or"

Amend Sec. 1 (Sec. 9), page 2, line 9, by inserting a bracket before "or"

"or"

Amend Sec. 1 (Sec. 9), page 2, line 9, by inserting a bracket after "majority"

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

The SPEAKER. On the question of the adoption of the amendment, the gentleman is recognized.

Mr. Derrmody. Thank you, Mr. Speaker.

Mr. Speaker, this amendment would require—

The SPEAKER. Will the gentleman yield.

The Chair at this time has asked the lady, Mrs. Vance, temporarily preside.

THE SPEAKER PRO TEMPORE (PATRICIA H. VANCE) PRESIDING

The SPEAKER pro tempore. The gentleman, Mr. Derrmody, proceed.

Mr. Derrmody. Thank you, Madam Speaker.

Madam Speaker, this amendment would require that the member that the Governor recommends to the Senate be confirmed by two-thirds vote of the Senate. Currently members of the Marketing Board, the Pennsylvania Fish Commission, Pennsylvania Game Commission, the Liquor Control Board, Turnpike Commission are required to be confirmed by a two-third
vote of the Senate, and I submit that the members of the Board of Pardons, with their significant responsibilities, deserve at least the same scrutiny as the members of the Fish and Game Commissions. They could literally be making life-and-death decisions, so I submit that a two-thirds vote may make sense in this case and would urge the members to vote for a two-thirds requirement in the Senate to approve the members of the Board of Pardons.

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

Mr. PICCOLA. Thank you, Madam Speaker.

I rise to oppose the Dermody amendment. This amendment would change the present provisions of the Constitution which allow this General Assembly to determine whether a two-thirds majority or a simple majority would be sufficient to confirm a member of the Board of Pardons. That is presently in the Constitution.

The bill conforms the Constitution to the law as the General Assembly adopted it a number of years ago to make the Board of Pardons members confirmed by a simple majority. We have elected to do that, I believe in the Administrative Code. That is the present law. A majority of the Senate confirms a member of the Board of Pardons. Mr. Dermody would have us go to another way of doing business, whereby two-thirds of the Senate would have to confirm the Governor’s appointment to the Board of Pardons. That, in my view and I believe in the view of the majority of the members of the General Assembly over the years, is not appropriate. We enacted a statute which made a simple majority sufficient for confirmation to the Board of Pardons. It has been that way for a number of years. There is no reason set forth in this bill or in the arguments by Mr. Dermody as to why we should change something that has worked very well over the years.

I also would submit that by requiring a two-thirds majority for confirmation, you would tamper a minority in the Senate to play games, political games, with these appointments, as oftentimes happens with judicial appointments which require a two-thirds majority.

We should leave this confirmation at a simple majority so that there is clear accountability with the Governor for making the appointment and the majority of the Senate for confirming that appointment. I would therefore urge the House to defeat the Dermody amendment.

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

Mr. DERMOODY. Madam Speaker, I would just like to point out to the members that if the system was working so well, we would not be here today making these proposed changes to the Board of Pardons, and I would suggest to you that it is important that the minority have a voice in who the members of the Board of Pardons be. They are going to make crucial decisions regarding release decisions, and yes, of life prisoners. Therefore, I suggest to you that it is important that we vote and we have the chance to vote today to change it, as we are going to vote to change many aspects of the Board of Pardons, to require a two-thirds vote in the Senate. Regardless of what the controlling party is, it is important that they have a voice, particularly in matters as serious as this.

So I would ask for your support.

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

The following roll call was recorded:

YEAS—100

| Battisto | Donatucci | Manderino | Santino |
| Belkoo-Jones | Fajt | Markosek | Santini |
| Belardi | Gamble | Mayernik | Scrimenti |
| Belfanti | George | McCall | Shaner |
| Bishop | Gigiotti | McGeehan | Staback |
| Blaum | Gorder | Melo | Steelman |
| Boccola | Gruza | Michiolic | Stetler |
| Butkowitz | Haluska | Mihalich | Sturla |
| Buxton | Hanna | Munday | Surra |
| Caltagirone | Horsey | Olaz | Taragatti |
| Cappabianca | Itkin | Oliver | Thomas |
| Carn | James | Pesi | Tigue |
| Carone | Jarolin | Petracca | Travaglio |
| Cawley | Josephs | Petrone | Trelle |
| Cohen, M. | Kaiser | Piattella | Trich |
| Colafella | Keller | Preston | Van Horne |
| Colaiizzo | Kirkland | Ramos | Veon |
| Corpora | Krebs | Readshaw | Viti |
| Corrigan | Kukovich | Richardson | Walko |
| Coy | LaGrutta | Rieger | Washington |
| Curry | Laughlin | Roberts | Williams |
| Daley | Lederer | Robinson | Wozniak |
| DeLuca | Lesco | Roesbeck | Wright, D. R. |
| Dermody | Ledvinsky | Rooney | Yewicz |
| DeWeese | Lucyk | Rudy | Youngblood |

NAYS—100

| Adolph | Fargo | Maitland | Schuler |
| Allen | Farmer | Major | Semmel |
| Argall | Fee | Marsico | Serafini |
| Armstrong | Fichter | Massland | Sheehan |
| Baker | Fleagle | McGill | Smith, B. |
| Bard | Flick | Merry | Smith, S. H. |
| Barley | Gannon | Micozzi | Snyder, D. W. |
| Bermelin | Geist | Miller | Stairs |
| Boyes | Gladeck | Nailor | Steel |
| Brown | Goodhall | Nickol | Stenslie |
| Browne | Gruppo | Nyce | Stith |
| Bunt | Habay | O'Brien | Strittmatter |
| Chadwick | Harhart | Perzel | Taylor, E. Z. |
| Civera | Hasay | Pettit | Taylor, J. |
| Clark | Hennessey | Phillips | True |
| Clymer | Herman | Piccola | Tulli |
| Cohen, L. I. | Hershey | Pitts | Vance |
| Conley | Hess | Platts | Waugh |
| Cornell | Hutchinson | Raymond | Wogan |
| Dempsey | Jadlowiec | Reber | Wright, M. N. |
| Dent | Kenney | Rohrer | Zimmerman |
| DiGirolasses | King | Rubley | Zug |
| Drucu | Lawless | Sather | Ryan, |
| Durham | Leh | Saylor | Speaker |

NOT VOTING—0

EXCUSED—3

Cowell | Evans | Reinard |

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

On the question recurring.
Will the House agree to the bill on third consideration as amended?
Mr. HORSEY offered the following amendment No. A1516:

Amend Sec. 1 (Sec. 9), page 2, line 14, by striking out the bracket before “MEMBER”
Amend Sec. 1 (Sec. 9), page 2, lines 14 and 15, by striking out “] CRIME VICTIM:”

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

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

Mr. HORSEY. Thank you, Madam Speaker.

It is absolutely important, Madam Speaker, that we have a member of the bar on the Pardons Board. It is important because we need an objective member who is not a consigned or commissioned person with a task. For example, we have the Attorney General, who might have an inference or input in this process, but he or she has a specific task to complete. We need an objective person who represents no special interest and will be fair and able to look at this process in a fair and objective manner.

I would urge you to support my amendment, please.

The SPEAKER pro tempore. Does the gentleman, Mr. Piccola, seek recognition? The gentleman may proceed.

Mr. PICCOLA. Thank you, Madam Speaker.

This amendment will change this bill in a very significant way. Presently the Constitution provides that one member of the Board of Pardons be a member of the bar, that is, a lawyer. There is already constitutionally one member of the bar on the Board of Pardons, that being the Attorney General, who must be a member of the bar. It was therefore thought by the sponsors of this bill and the Committee on Judiciary that reported it out that we could very well eliminate the one slot reserved for a member of the bar and substitute in his or her place a crime victim.

We recently enacted a statute providing for a victim advocate before the Parole Board, because the decisions that are made by the Parole Board oftentimes have great impact on victims, and we felt that there should be someone there advocating on behalf of the victim. Likewise, the Board of Pardons makes decisions and makes recommendations to the Governor that deal with the victims of crime because of the people that perpetrated those crimes upon that victim. It is therefore entirely appropriate, in fact it is very appropriate, that one of the members of the Board of Pardons be a crime victim so that the perspective of a crime victim be present on that board when the discussions and the recommendations regarding release and recommendations regarding pardons and commutations be made.

This is a very, very poorly thought out amendment because it eliminates the crime victim and reinstates the lawyer. I do not think it is necessary. In fact, I think it is counterproductive to the kind of reform we are trying to accomplish with this bill.

I urge the amendment’s defeat.

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Horsey, from Philadelphia for the second time.

Mr. HORSEY. Madam Speaker, what is poorly thought out is the idea of removing the member of the bar in place of the crime victim as opposed to adding an additional slot and that person being the crime victim. Why is it necessary to remove a member of the bar as opposed to extending the Pardons Board by just going ahead and adding the crime victim?
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EXCUSED—3

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

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

Ms. JOSEPHS offered the following amendment No. A1529:

Amend Sec. 1 (Sec. 9), page 2, line 15, by inserting after “VICTIM” or crime victim’s advocate

Amend Bill, page 2, by inserting after line 19

Section 2. (a) Upon the first passage by the General Assembly of this proposed constitutional amendment, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of this proposed constitutional amendment.

(b) Upon the second passage by the General Assembly of this proposed constitutional amendment, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of this proposed constitutional amendment. The Secretary of the Commonwealth shall submit this proposed constitutional amendment to the qualified electors of this Commonwealth at the first primary, general or municipal election occurring at least three months after the proposed constitutional amendment is passed by the General Assembly which meets the requirements of and is in conformance with section 1 of Article XI of the Constitution of Pennsylvania.

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

The SPEAKER pro tempore. The Chair recognizes the lady from Philadelphia, Ms. Josephs.

Ms. JOSEPHS. Thank you, Madam Speaker.

This is very simple. It allows the Governor to appoint, besides a victim as a member of the board, not besides, but in the alternative, he may appoint a crime victim’s advocate. I think that just gives the executive officer a little more flexibility.

I would appreciate a “yes” vote. Thank you, Madam Speaker.

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

Mr. PICCOLA. Thank you, Madam Speaker.

I would urge the defeat of the Josephs amendment.

I feel quite strongly that a crime victim should sit on the Board of Pardons.

I am not quite sure what a crime victim advocate is. In fact, I would make a strong argument that all of us are crime victim advocates because of what we do on behalf of the victims of crime.

I think it broadens it, as the lady indicates, but I think it broadens it to the extreme, and I believe quite strongly — and I hope the House agrees — that a crime victim should sit on the Board of Pardons. Only

the crime victim has that unique perspective to know what it is like to be truly the victim of crime. A crime victim advocate, whatever that term means, unless they have actually been the victim, certainly does not have that perspective.

I urge that the amendment be defeated.

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

The following roll call was recorded:

YEAS—51

Battisto  Donatucci  Mihalich  Steelman
Bebko-Jones  Horsey  Mundy  Stelter
Belbunt  Itkin  Oliver  Sturla
Bishop  James  Peci  Tangetti
Boscila  Jarolim  Pietella  Thomas
Butkovitz  Josephs  Preston  Tigue
Buxton  Keller  Ramos  Trish
Caltagrine  Kirkland  Richardson  Veon
Cappabianna  Kukovich  Rieger  Vitali
Carm  Lederer  Roberts  Washington
Cohen, M.  Lucyk  Robinson  Williams
Corpora  Manderino  Roebuck  Youngblood
Curry  McGeehan  Staback

NAYS—148

Adolph  Fiesta  Lynch  Saylor
Allen  Fargo  Maitland  Schroeder
Argall  Farmer  Major  Schuler
Armstrong  Feese  Markosek  Schrimmenti
Baker  Fichter  Marsico  Semmel
Bard  Flick  Masland  Serafini
Barely  Gamble  Mayernik  Shaver
Belardi  Geist  McColl  Sheehan
Birmelin  Blaum  McGill  Smith, B.
Boyen  Boyen  McElroy  Smith, S. H.
Brown  Brown  Merry  Snyder, D. W.
Browne  Gladeck  Migilovic  Stairs
Burt  Godshall  Micozzi  Steil
Carone  Gordon  Miller  Stern
Cawley  Grutzka  Mockler  Stiles
Chadwick  Habay  Naylor  Strittmatter
Civera  Haluska  Nickol  Surra
Clar  Hanna  Nyce  Taylor, E. Z.
Claymore  Harbart  O'Brien  Taylor, J.
Cohen, L.  Hassay  Olaz  Travaglio
Colafeil  Hennessey  Perzel  Trello
Coaltiz  Herman  Petron  True
Conti  Hershey  Phillips  Tulli
Cornell  Hess  Piccola  Vance
Corin  Jadinwicz  Platts  Van Horne
Coy  Kais  Raymond  Walko
Daley  Kenney  Redlesh  Waugh
Deluca  King  Reber  Wogan
Dempsey  Krebs  Rohrer  Wozniak
Dent  LaGreta  Rooney  Wright, D. R.
Dermody  Laughlin  Rudy  Wright, M. N.
DeWeese  Lawless  Santoni  Yewic
DiGirolamo  Leb  Safran  Zimmermann
Drue  Lesnevitz  Samato  Zug
Durham  Levandusky  Santoni  Ryan
Egolf  Lloyd  Sather  Speaker
Less than the majority having voted in the affirmative, the question was determined in the negative and the amendment was not agreed to.

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

Mr. COHEN offered the following amendment No. A1587.

Amend Sec. 1 (Sec. 9), page 2, lines 6 and 7, by inserting brackets before and after “the Lieutenant Governor” and inserting immediately thereafter: a retired justice or judge of an appellate court of Pennsylvania.

Amend Bill, page 2, by inserting after line 19:

Section 2. (a) Upon the first passage by the General Assembly of this proposed constitutional amendment, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of this proposed constitutional amendment.

(b) Upon the second passage by the General Assembly of this proposed constitutional amendment, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of this proposed constitutional amendment. The Secretary of the Commonwealth shall submit this proposed constitutional amendment to the qualified electors of this Commonwealth at the first primary, general or municipal election occurring at least three months after the proposed constitutional amendment is passed by the General Assembly which meets the requirements of and is in conformance with section 1 of Article XI of the Constitution of Pennsylvania.

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

The SPEAKER pro tempore The Chair recognizes the gentleman, Mr. Cohen, on the amendment.

Mr. COHEN. Thank you, Madam Speaker.

Madam Speaker, all of you should have received at your desks a copy of the survey the Democratic research staff did about who is on the Board of Pardons in the other States.

Now, 13 States do not have a Board of Pardons, leaving 37 States left. Of the 37 States with a Board of Pardons, only in Pennsylvania and Delaware is the Lieutenant Governor on the Board of Pardons. Now, why, aside from Pennsylvania, is Delaware the only State of 37 States with Pardons Boards to have a Lieutenant Governor on the Board of Pardons? I would assume that the answer is that the other States believe, as I do, that the Lieutenant Governor inherently has no expertise in these questions.

Let us look at the biography of Mark Schweiker. Does he have any background in the criminal justice system? No. Did Mark Singh have any background in the criminal justice system? No.

Bill Scranton have any background in the criminal justice system? No. Did Ernie Kline have any background in the criminal justice system? No. Did Mark Cohen? No.

But the question is, if we are trying to make people have relevant experience on the Pardons Board — and that is the thrust of what the bill is — there is no reason why the Lieutenant Governor, who has relevant experience, should be on the board. The Lieutenant Governor has a very, very small staff. He has no base of knowledge he has no base of staff expertise in this. He is totally at the mercy the Pension Board, unlike the Attorney General, in terms of making these decisions, and he really has other things to do.

Increasingly, the Lieutenant Governor of Pennsylvania is given broad assignments by the Governor. Each administration brings a news that the Lieutenant Governor is going to be a really full partner in government. The Lieutenant Governor has plenty of other things to do besides the Pardons Board, and the Lieutenant Governor has no expertise on the Pardons Board.

We saw in the last election how the Lieutenant Governor’s decision to recommend the pardoning of Reginald McFadden hit him. Mark Schweiker is going to be under the same kinds of constraints. Any future Lieutenant Governor is under the same kinds of constraints. There is no real purpose in giving a person a position he has no inherent ability to do just so he can be politically attacked in some future campaign for failure to do a job that he was unqualified to do.

I think the whole thrust of this bill is to put people who have some qualifications by experience in the decision-making process. The Lieutenant Governor has no expertise, has no inherent experience in this process. The Lieutenant Governor has plenty of other things to occupy his time and therefore cannot give this job the attention it deserves. I would recommend that he be taken off the board.

Now, I am recommending that there be a retired judge or justice of an appellate court appointed. It would be the Governor’s call as to who is appointed. The advantage of having a retired judge or justice make the decision is these people have very extensive paper trails. Anybody who has served on the courts has the opportunity to vote on numerous questions of criminal justice, and the Governor, with an extensive paper trail, can easily discern this person’s legal philosophy and make a decision as to who, of all the people who are qualified — at any given time there are easily 25 or more who are qualified — who best represents the Governor’s philosophy.

I think this is an amendment that goes in the direction of putting competent people in jobs they can do well and taking away from jobs people who have no particular expertise or competence in this area.

I therefore urge support of this amendment.

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

Mr. PICCOLA. Thank you, Madam Speaker.

The gentleman, Mr. Cohen, is suggesting that the Lieutenant Governor be removed from the Board of Pardons because he has no relevant experience in criminal justice. Well, I would submit, Madam Speaker, that I disagree with that assertion.

The Lieutenant Governor has the same relevant experience that Mr. Cohen has, that I have, that every one of you have. He was elected by the people of Pennsylvania. That is the relevant experience that the Lieutenant Governor brings to the Board of Pardons. He
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by virtue of the Constitution, chairman of the Board of Pardons. I submit he brings more relevant experience than some old retired
justices of our appellate courts. A retired judge or justice of our appellate courts is probably over the age of 70 because he hit the
mandatory retirement age. I do not know what relevant experience that is. Whatever his paper trail might be may or may not even be
relevant when the man or woman hits the age of 70 and serves on the
Board of Pardons for a period of 6 years.

This amendment is wrong. The Lieutenant Governor does have
relevant experience. He is accountable to the people of Pennsylvania.
A retired judge of the appellate courts of this State is accountable to
no one.

We should defeat this amendment resoundingly.
The SPEAKER pro tempore. The Chair recognizes the
gentleman, Mr. Cohen, for the second time.
Mr. COHEN. Thank you, Madam Speaker.

It has been pointed out to me that the front-runner for the
Republican nomination is 71, so people in their seventies have a
great advantage which is widely known by large numbers of people.

In addition, the most likely people to be victims of crime are
elderly people. So beyond the fact that the judge is likely to have an
extensive record of experience in the criminal justice system, he is
likely to be a member of the age group that is most likely to be
victimized by crime. The average Lieutenant Governor in recent
years has been in his forties or fifties. People in their forties and
fifties are much less likely to be victimized by crime. But the real
reason is, who has any competence, who has any experience in this
job? Lieutenant Governors, including Mark Schweiker, have no such
experience.

I would urge the support of this amendment.

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

The following roll call was recorded:

YEAS—75

Baldwin  Barkey  Birmelin  Blaum  Boyes  Browne
Burt  Buxton  Chadwick  Civera  Clark  Clymer
Cohen, L. I.  Conti  Cornell  Corrigan  Coy  Dempsey
Dent  DiGirolamo  Donatucci  Drucce  Durham
Egolf  Fairchild  Fajt

Battisto  Beckas  Belardi  Bellanti  Bishop  Boccola
Bokovitz  Calabro  Capobianco  Care  Carone  Cawley
Ceylan  Cohen, M.  Cella  Celozzo  Circorsa  Curry
Daley  Delaccio

Lescovitz  Levdansky  Lucyk  Marderino  Markoske  McCull
Olaz  Oliver  Pesci  Petraco  Pistera  Mckerson

Levittown  Levittown  Levittown  Levittown  Levittown  Levittown
Levittown  Levittown

Billerica  Billerica  Billerica  Billerica  Billerica  Billerica
Billerica  Billerica

Andover  Andover  Andover  Andover  Andover  Andover
Andover  Andover

NAYS—124

Barker  Barlow  Barlow  Barlow  Baker  Balthrop  Balthrop

Marlinton  Marlinton  Marlinton  Marlinton  Marlinton

Ashford  Ashford  Ashford  Ashford  Ashford

Schofield  Schofield  Schofield  Schofield  Schofield

Shaner  Stanback  Stetler  Sturla  Tanagro  Thomas

Santoro  Santoro  Santoro  Santoro  Santoro

Schrader  Schuler  Scrimine  Semmel  Serafini

Adolph  Allen  Angell  Armstrong  Baker

Fargo  Farmer  Feece  Fichter  Fleagle

Masland  Mayernik  McGehee  McGill  Melo

Nori 816

Moore  Moore  Moore  Moore  Moore

Schehan  Smith, B.  Smith, S. H.  Snyder, D. W.  Stairs

Taylor, E. Z.  Taylor, J.  Tigue  True  Tuill

Vance  Veon  Waugh  Wagen  Wozniak

Wright, M. N.  Yewko  Zimmermann  Zugs

Ryan, Speaker

NOT VOTING—1

Mihalich

EXCUSED—3

Cowell  Evans  Reinard

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

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

Mr. COHEN offered the following amendment No. A1589:

Amend Sec. 1 (Sec. 9), page 1, line 16, by striking out "unanimous"
Amend Sec. 1 (Sec. 9), page 1, line 16, by inserting after "of"
at least four-fifths of the members

Amend Bill, page 2, by inserting after line 19

Section 2. (a) Upon the first passage by the General Assembly of this
proposed constitutional amendment, the Secretary of the Commonwealth
shall proceed immediately to comply with the advertising requirements of
section 1 of Article XI of the Constitution of Pennsylvania and shall transmit
the required advertisements to two newspapers in every county in which
such newspapers are published in sufficient time after passage of this
proposed constitutional amendment.

(b) Upon the second passage by the General Assembly of this
proposed constitutional amendment, the Secretary of the Commonwealth
shall proceed immediately to comply with the advertising requirements of
section 1 of Article XI of the Constitution of Pennsylvania and shall transmit
the required advertisements to two newspapers in every county in which
such newspapers are published in sufficient time after passage of this
proposed constitutional amendment. The Secretary of the Commonwealth
shall submit this proposed constitutional amendment to the qualified electors
of this Commonwealth at the first primary, general or municipal election
occurring at least three months after the proposed constitutional amendment
is passed by the General Assembly which meets the requirements of and is
in conformance with section 1 of Article XI of the Constitution of Pennsylvania.

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

The SPEAKER pro tempore. On that question, the Chair recognizes Mr. Cohen from Philadelphia.

Mr. COHEN. Thank you.

Madam Speaker, this constitutional amendment, as it now stands, for the first time requires a unanimous vote of the Board of Pardons in order to pardon somebody who has been convicted of murder.

The problem with requiring a unanimous vote, which we have never required before, is that it sets up a right and does not provide any kind of meaningful remedy to achieve that right. Obviously, with two statewide officials on the board who are going to be very interested in the next election, it is highly unlikely that either the Lieutenant Governor or the Attorney General will at any time vote for any pardon for such a person, and therefore, no pardons will be granted.

Now, that may be a good thing, and if it was the desire of the gentleman, Mr. Piccola, to see that no pardon should be granted for somebody convicted of an especially heinous crime, there would be no legal problem with putting that into law and saying, if you are convicted of murder, there is absolutely no pardon, but Mr. Piccola and others have chosen not to do that. This law says that there shall be pardons. However, it sets up a bureaucratic process which, by the composition of the board, virtually guarantees that no such pardon could occur.

This is the kind of situation that the Federal courts have an awful lot of fun with at our expense, is they determine that there are really rights of people. Nobody is required, for instance, to get a patronage job; nobody has the right to a job that is not a civil service job, but once somebody has a job, the Federal courts have created a right not to be fired for good cause. Nobody has a right for PHEAA (Pennsylvania Higher Education Assistance Agency) grants, for instance, but once we in the State legislature create PHEAA grants, we cannot take them away without good cause, and there are numerous other programs that we are not required to provide benefits, we are not required to provide opportunities, but once we do provide those benefits, once we do provide those opportunities, we have to do them in a real way that actually works.

This amendment requiring unanimous consent will not actually work, and all this amendment is going to do is create huge amounts of litigation, and sooner or later some Federal court is likely to throw it out, and then it is not clear, and it will be up to them to decide what we have.

Throughout the vast majority of our history in Pennsylvania, there were four members on the Pardons Board, and it required a three-fourths vote. When a fifth member of the Pardons Board was created the last time the system was changed in the 1960's, the number of people to grant a pardon remained at three while the number of the board increased to five. So therefore, 30 years ago the percentage required went down from 75 percent to 60 percent. I would suggest that moving it to 80 percent would move us in line with the traditional figure that is needed, would guarantee that somebody could vote "no" and somebody else could still be pardoned.

The fact that unanimous consent is required and the fact that you have elected officials who are interested in running for statewide office and who fear attack ads means that we have basically set up right without any real remedy to the right. It is not in our interest engage in something that has no real meaning.

Therefore, I urge support of this amendment, which will raise the amount of votes needed on the Pardons Board from 60 percent to 80 percent. Thank you.

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

Mr. PICCOLA. Thank you, Madam Speaker.

First of all, the arguments advanced by the gentleman in support of his amendment are without foundation.

There is no right, constitutional or otherwise, Federal or State, a pardon, nor is there a right to a recommendation for a pardon, because that is all we are really talking about here.

The pardon power is strictly discretionary with the Governor and can be exercised only when a discretionary recommendation is made by the Board of Pardons. That is the only way it can happen. It does not have to happen, and there is no constitutional or other kind of right to obtain a pardon or a recommendation for a pardon. So for a gentleman to claim this is going to tie up cases in court is simply fallacious. There is no right upon which any litigation could be based.

Secondly, the gentleman indicates that we are precluding people who are simply convicted of murder from getting a pardon. This is about that, Madam Speaker. We are not talking about people who have been convicted of murder or a heinous crime. We are talking about people who, by a unanimous jury of 12 of their peers, have been convicted of some crime but have been sentenced either to death because of their acts or, by a unanimous verdict of their peers, have been sentenced to life in prison. It took a unanimous verdict by a jury to convict and to sentence, and therefore it seems entirely appropriate that in those cases where death or life in prison was the sentence, that a unanimous verdict of the Board of Pardons be required to make that recommendation for pardon to the Governor.

This amendment is contrary to the intent of this bill. It is contrary to what I believe are the good senses of the people of Pennsylvania and the amendment should be defeated.

The SPEAKER pro tempore. On the amendment, the Chair recognizes the gentleman from Philadelphia, Mr. Richardson.

Mr. RICHARDSON. Thank you very much, Madam Speaker. Madam Speaker, I rise to support the Cohen amendment.

It always amazes me to hear the gentleman on the other side of the aisle talk about what is constitutionally correct and what is constitutionally correct. Common sense prevails.

If you are talking about a unanimous vote of a board that is set for the purpose of being able to be discretionary and also allowed an opportunity to be able to make decisions intelligently, you would want to make sure that everybody is automatically locked into same thought. But as you would have it, it would be another way to take people's minds, turn them around, and try to convince everybody that for whatever reason, no matter whether or not they are mitigating circumstances or not, that we would in fact make sure that they would never get a pardon.

Well, there are mitigating circumstances in every situation. None. In fact, we have some situations in this Commonwealth where age prevailed and illness prevailed and pardons were given to the individuals for them to go home and die in peace. There were cases where other individuals, for example, because of the nature of the situation, that they found out later on that those individuals fact did not commit the crime and had to present a pardon for the
individuals so that they could be able to go home because there was a mistake made by that so-called unanimous jury that you just got finished talking about because they had erroneous information.

But what always amazes me is that there is never any room for doubt, there is never any room for maneuverability to allow a person an opportunity to be given that opportunity to be considered fairly. So what you have designed here is an opportunity to create a kangaroo pardon board that only does what you tell them to do, that is swayed and directed by those who would be the operatives to allow them to go on and do what they do. But Mr. Cohen, in his wisdom, came up with a suggestion that said, perhaps maybe four-fifths of the members as opposed to unanimous may be a way in which to go since you do not agree with three. Therefore, it would not allow the people who are presently sitting on the board to be allowed automatically to feel that every time there is a situation that comes up where there may be a shadow of a doubt, where there may be a question—Thirty or forty years inside an institution. We know; we have one of the toughest States in the United States, this Commonwealth, when it deals with the death penalty, and life means life in Pennsylvania. So it does not change. So every single time it amazes me to hear the gentleman raise the points that he does without any other consideration.

I just wanted to say that we do not condone murder, but we also know that there are situations that have existed in this Commonwealth that have resulted in individuals having a right to be pardoned, and certainly the way the Pardons Board is set up now, that will never ever happen, and I believe this will be challenged in court once this passes, and then you will agree later on that you all made a mistake again.

The SPEAKER pro tem. The Chair recognizes the gentleman from Philadelphia, Mr. Cohen, for the second time.

Mr. COHEN. Thank you, Madam Speaker.

Madam Speaker, Mr. Piccola and I have areas of agreement and areas of disagreement on the constitutionality of this law. We both agree that there is no inherent right to pardon, and the State legislature, if we wanted to, could totally abolish the right to pardon. Now, we could say nobody convicted of any crime or nobody convicted of any crime whatsoever has a right to be pardoned. We could do that; I do not challenge we could do that. If we did it, there would be no legal problem at either the State or the Federal levels.

The question is, can we set up the system like we are setting up in this bill, where we say there is a right to be considered for a pardon by setting up the structure in which people can be considered for a pardon, then we put elected officials on the board who are very likely to never vote for anybody to be pardoned. And so then, eventually, over time what will happen is, if Mr. Piccola’s goal works, will be that there will be a whole series of votes and 2, 3, 4, 5 years will go by and nobody at all will be pardoned, and then people will say, this system is rigged and this system violates due process of law, and if a Federal court determines that a system requiring a unanimous vote and having two elected officials on the board violates due process of law, then the whole thing will be thrown out and it will be up to the Federal court to provide a remedy.

I think this is a real problem. I think this amendment is a real solution. I urge your support.

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

The following roll call was recorded:
On the question recurring,
Will the House agree to the bill on third consideration as amended?
Bill as amended was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.
The question is, shall the bill pass finally?

The Chair recognizes the gentleman, Mr. Richardson.
Mr. RICHARDSON. I was not compelled earlier to speak on this until I heard the remarks made by the gentleman on the other side of the aisle, and I felt that it was important that at least for the record, since we will never win any of these votes, that it should be at least shared with the public in terms of how we can best describe some of these issues.

SB 4 changes the composition of the Board of Pardons and adds the requirement that in cases of life imprisonment or a death sentence, a pardon cannot be granted without the unanimous recommendation of the board. This bill can best be characterized as a reactionary and ineffective response to the McFadden case that caused Mark Singel to lose his lead in the Governor’s race here in Pennsylvania. Politically motivated by his own gubernatorial aspirations, Attorney General Ernie Preate, the only one of five board members to oppose the McFadden recommendation, led the call for a constitutional amendment requiring unanimous commutation decisions.

It is important to note out three things. The bill does nothing to address the problem illustrated by the McFadden case which arose after the board made its recommendation. Reginald McFadden left prison without going through a prerelease program and was unsupervised while on probation. The bill does not provide for additional resources for parole officers, nor does it provide for funding for expansion and upgrading of prerelease programs.

Number two, it is clear that Senator Fisher stated that the purpose of his bill is to “clarify that a life sentence in this state means life in prison....” That comment appeals to the public belief that convicted murderers are routinely set free after serving a short sentence, while in fact without this political grandstanding and the danger created by needlessly amending the State Constitution, Pennsylvania is one of the toughest States in the Nation, where life in prison means exactly that. Only 8 pardons out of the 2,614 lifers in prison last year were granted by the Governor during his last term in office. Those pardons were granted for good cause, such as advanced age, severe illness, or evidence indicating that the prisoner was wrongly convicted. I noticed without question that there was no mention of that after we made the comment. It never is when you tell the truth.

Number three is the actual effect of the SB 4 provision requiring a unanimous recommendation would be to eliminate the possibility of receiving a pardon. Two board members, the Attorney General and the Lieutenant Governor, are politicians who may not risk consequences faced by Lieutenant Governor Singel, at the time, during the last election. And considering political motivation, the prime sponsor’s stated purpose, and the actual effect of the bill, the bill analysis should simply state that SB 4 does away with the Board of Pardons, period, and should be termed as in fact a “kangaroo board” for all people in the Commonwealth of Pennsylvania to go before, because there never will be any justice.
The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

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

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The House proceeded to third consideration of **SB 12, PN 12**, entitled:

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

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

Mr. **VEON** offered the following amendment No. **A1515**:

Amend Sec. 1 (Sec. 14), page 1, line 11, by inserting after “unless” the prisoner is charged with an offense which is graded as a felony of the first degree and

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

**AMENDMENT WITHDRAWN**

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

Mr. VEON. Thank you, Madam Speaker.

I am withdrawing that amendment.

The SPEAKER pro tempore. Thank you very much.

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

Mr. **FEESE** offered the following amendment No. **A1576**:

Amend Sec. 1 (Sec. 14), page 1, lines 10 and 11, by striking out “for which the maximum sentence is death or life imprisonment” and inserting or for offenses for which the maximum sentence is life imprisonment

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

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

Mr. FESE. Thank you, Madam Speaker.

Madam Speaker, the intent of the Senate bill is to make certain offenses not bailable.

Under the Constitution as it exists now, capital offenses - that is, offenses for which the death penalty may be imposed - are not bailable. The intent of the Senate bill was to include within that category of offenses offenses for which life imprisonment could be imposed, that is, first-degree murder, when there are no aggravating circumstances, or second-degree murder, which we commonly refer to as “felony murder.”

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Bishop Horsey Oliver Richardson