

1993

BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 1, PN 2**, entitled:

A Joint Resolution proposing amendments to the Constitution of the Commonwealth of Pennsylvania, changing provisions relating to judicial discipline.

On the question,

Will the House agree to the bill on third consideration?

Mr. CALTAGIRONE offered the following amendment No. A0054:

Amend Sec. 2, page 15, lines 26 through 30; page 16, lines 1 through 17, by striking out all of said lines on said pages and inserting

Section 2. Upon the adoption by the General Assembly of this resolution, which constitutes the second passage by the General Assembly of these proposed constitutional amendments, 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 shall be published. The Secretary of the Commonwealth shall submit these proposed constitutional amendments as one question to the qualified electors of this Commonwealth at the municipal election held on the Tuesday next following the first Monday of November, 1993. The Secretary of the Commonwealth shall take all action necessary to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania such that all advertising requirements are fulfilled in sufficient time that these proposed constitutional amendments may be submitted to the qualified electors of this Commonwealth at the election as herein specified.

On the question,

Will the House agree to the amendment?

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

Mr. CALTAGIRONE. Thank you, Mr. Speaker.

The legislation contained in HB 1 is the culmination of a great deal of legislative effort. The Speaker, Mr. DeWeese, was involved in formulating reforms to the judicial discipline system 7 years ago when he was chairman of the House Judiciary Committee. When I succeeded him as chairman of the committee 4 years ago, one of the first pieces of legislation which I moved through the committee was Mr. DeWeese's judicial discipline reform legislation.

Judicial discipline reform legislation was passed by this legislature in both 1990 and 1991 and was scheduled to appear on the ballot for approval by the electorate in the 1991 primary. Unfortunately, because the advertising requirements for constitutional amendments contained in Article XI of the Constitution were not complied with, a court injunction prevented those discipline reform measures from ever appearing on the ballot.

After the failure of that effort to reform the judicial discipline system, a number of members of the legislature, including myself, introduced legislation to begin this process again during the last session. These efforts resulted in the

passage of both Houses of this legislature of SB 1000 in 1992. The constitutional amendments contained in HB 1 before you today are identical to those contained in the last session in SB 1000. These provisions were drafted in the House Judiciary Committee at my direction, after extensive negotiations with all parties interested in judicial discipline reform. They were endorsed by a broad spectrum of interested groups, including both the Pennsylvania Bar Association and the Pennsylvanians for Modern Courts, and passed both Houses of this legislature by overwhelming margins.

As we prepare to pass these amendments a second time and submit them to the voters for approval, my primary concern is that the advertising—and I want to reemphasize that—that the advertising and submission process does not fall victim to the same technical problems that scuttled the previous effort at judicial reform. Unfortunately, the language concerning advertising and submission presently contained in HB 1 raises the exact same problems that resulted in the last discipline reform measure being invalidated by the courts. Now, I believe that it is imperative that we provide for a sufficient lapse of time between the legislature's passage of these amendments and their submission to the electorate, such that we can be certain that every single advertising requirement can be met properly.

The proposal to place these amendments on the May 1993 primary for voter approval is virtually identical to the timeframe which resulted in chaos the last time that we passed the judicial discipline amendments. I have heard all of the assurances that the Department of State and approximately 134 newspapers will be able to meet their constitutionally mandated advertising requirements within a period of approximately 1 week after this measure is passed by both Houses. Despite those assurances, I have serious doubts that this will be accomplished.

The previous judicial discipline measure was passed by both Houses of the legislature for the second time on February 12 of 1991, and the Secretary of the Commonwealth distributed letters to newspapers with directions that the advertisement be published no later than February 21 of 1991. Despite this action, no February publication occurred in 4 counties, and an additional 14 publications occurred after the designated February 21 date. This is virtually identical to the timeframe being advocated by those who support placing this ballot issue in the May primary.

I can see no valid reason to jeopardize these amendments by repeating previous mistakes. I have distributed to all the members of the House a short memorandum outlining various legal issues which can be raised concerning the present advertising and submission language contained in HB 1. The amendment which I am offering addresses each and every one of those issues which I am offering today, so that no potential litigant will be able to raise these points in challenging these amendments.

I have no intention of unnecessarily delaying the adoption of these amendments and reform of our judicial discipline system. I simply want to make certain that this reform is

carried out in a proper manner, and I ask for your support of my amendment. Thank you, Mr. Speaker.

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

Mr. KUKOVICH. Thank you, Mr. Speaker.

Quickly, two responses. One, you will hear on each amendment—and it will be valid for each amendment—that time is of the essence, and any amendment will delay this process for a minimum of 2 years. There is an argument, because of the timeframe with Representative Caltagirone's amendment, there is an old 1924 case that says you may change language for the date. I do not think that is appropriate for this fact situation. The 1924 King case, on which I think Representative Caltagirone relies, was a lawsuit that took place after the fact of an actual vote by the public on the ballot. In that regard, I do not think that that case is precedent for this HB 1. In legal jargon, that would simply be dicta or subsidiary language, ancillary language, that was part of that decision.

Secondly, if we go ahead with any amendment, even this one, quite frankly it is the court that ultimately interprets whether this bill is different from the one that we passed last session, SB 1000. I would submit to you that the court would come down on the side that it is different, so there would be a 2-year delay, so we cannot have that risk.

My second response and why I am asking for a negative vote on the amendment is that even though Representative Caltagirone's intention is good, if you take a look at the last five or six lines of this bill on page 16, I think the language is such that we can move this bill into the November election if something would happen. But I am suggesting to the members here that that will not happen as significant differences occurred since the last problem that Representative Caltagirone mentioned.

According to information we recently received from the Commissioner of Elections, the process used for publication for notice of a ballot question has been changed. It has been expedited. The commission now contracts out. The process will be sped up. There will be a way to even reserve space with the necessary newspapers in each of the counties. And I think if we move this bill today and the Senate acts within 2 weeks, we will be able to have this question on the ballot in the May election.

I would also suggest that one of the reasons that timing is of the essence is because of what is going on in the Supreme Court currently today. The electorate wants us to act, they want us to act now, and that is why we need to vote against this amendment and all amendments and move ahead and pass this bill to the Senate as soon as we can today.

PARLIAMENTARY INQUIRY

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

Mr. PICCOLA. Thank you, Mr. Speaker.

Point of parliamentary inquiry.

The SPEAKER. The gentleman will state his point.

Mr. PICCOLA. Mr. Speaker, if the Caltagirone amendment is adopted, would my amendment A0065 be in order?

The SPEAKER. The Parliamentarian advises me that the answer to your question is yes.

Mr. PICCOLA. Mr. Speaker, the reason I raise the question is because—and perhaps the Parliamentarian did not see it—the Caltagirone amendment makes specific reference to two things: number one, a second passage by the General Assembly, which is not in the bill presently; and secondly, he makes reference to having the election on the first Monday of November 1993. If my amendment is adopted, neither one of those things would be appropriate because it would not be, number one, the second passage, and number two, it would not be appropriate for the voters to vote on it in November of 1993.

Now, given that information, I repose the question to the Chair.

The SPEAKER. The amendment is still in order, and if there are conflicting provisions, they will have to be attended to by the Reference Bureau.

Mr. PICCOLA. Thank you, Mr. Speaker.

May I speak on the amendment?

The SPEAKER. The gentleman is recognized.

Mr. PICCOLA. Thank you, Mr. Speaker.

I have had the opportunity to review the Caltagirone amendment and the legal analysis that he attached to his memorandum that he circulated on the floor today. I agree with the gentleman, Mr. Caltagirone. Although I do not agree that the body of the amendment should be adopted, I do agree that if we are going to have judicial reform in this State, it should be done very carefully to avoid what happened several years ago when technicalities dealing with advertisement, technicalities which in my opinion had no merit but which the court in its wisdom saw as having merit, were raised and it delayed the process that we are in now even more than 2 years.

I would suggest therefore, Mr. Speaker, that the Caltagirone amendment is appropriate if we want to not run the risk, as the gentleman stated, of having, one more time, an election canceled by the courts of this Commonwealth on an issue that is of paramount importance to us and apparently of major interest to them.

Therefore, I would urge that we adopt the Caltagirone amendment.

The SPEAKER. The gentleman, Mr. Caltagirone, is recognized for the second time.

Mr. CALTAGIRONE. Thank you, Mr. Speaker.

I want to, for the record, submit the rulings involved in this case from Commonwealth Court President Judge Craig and the Supreme Court dealing with this very specific issue, and I want it as a matter of record along with the memo that I submitted today as a matter for the record.

But I do want to read from Craig's decision about specifically allowing the legislature to set the date, and it is in the realm of the legislature, this body, to specifically set the date for such an election. If you think about it for a minute, after approving the first piece of legislation the first time in

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two sessions, it does not make sense that you would put an election date in that bill, because you have to come back in the second session and pass the identical bill.

We have not tampered with one iota of the material content or the substance of the bill itself. We are spelling out, similar to what Judge Craig had indicated in his ruling, and I read from page 20: "The conclusion must be that the absence, in the resolution, of either the express designation of the election choice by the legislature, or the use of a standard effectuating legislative purpose rather than allowing administrative discretion, makes the delegation unconstitutional and void." He is specifically referring to the lack of the date that this was supposed to have been held as far as the question being placed on the ballot.

I am just going to leave you with this thought: There are an awful lot of forces, both inside and outside this legislature, that are talking about reform. You have an opportunity today to start that process, to put it before the electorate of this Commonwealth.

Judge Craig also indicated in his ruling that in any given primary—and many of you in this House know it, if not all of you know it—that approximately—and these were his words—"25 percent of the electorate normally vote in a primary." He did not feel that enough people responded in a primary to allow the majority of the people in this Commonwealth that vote, participate in a general election, to vote on an issue as important as this.

I submit to you that I do not want to have to go over old ground again by allowing the court to intervene through any other groups or other forces that would like to see this issue defeated and not placed before the voters of this Commonwealth. This is a reform measure. It has been agreed to. It has already been approved. I do not see what the haste is to run headlong into the fire only to take a chance to have this ruled unconstitutional and have to go another 2 years or 2 sessions in order to reinvent what we have before us here today. I think you ought to think very, very carefully about the decision that you are about to make. Thank you, Mr. Speaker.

MEMO AND RULINGS SUBMITTED FOR THE RECORD

Mr. CALTAGIRONE submitted the following memo and rulings for the Legislative Journal:

House of Representatives
Commonwealth of Pennsylvania
Harrisburg

January 27, 1993

SUBJ: Proposed Amendment to House Bill 1
TO: All Members of the House of Representatives
FROM: Thomas R. Caltagirone

As you are aware, a proposed Constitutional amendment must be properly advertised and submitted to the voters in accordance with the requirements of the Constitution. Unfortunately, the Constitutional language specifying these requirements is subject to many different interpretations, and has given rise to a great deal of litigation over the years.

As a strong advocate of judicial reform, it is my intent that the provisions of HB 1 be passed by the Legislature, advertised by the Secretary of State, and submitted to the voters in total conformance with all Constitutional requirements. I have grave doubts that these requirements can be met if there is an attempt to submit these amendments to the voters at the primary election to be held in May, 1993. Therefore, I will be offering an amendment to HB 1 to provide that the amendment shall be submitted to the voters at the municipal election to be held in November, 1993.

Attached to this memo is a brief legal memorandum detailing the potential legal problems with an attempt to submit the provisions of HB 1 to the voters in the May primary. I do not mean to question the intent of any person advocating such a submission, or to argue that it is impossible that such a submission could meet the requirements of the Constitution; rather, I simply believe that it is preferable that my amendment be adopted, so that these Constitutional amendments can be submitted to the voters with a guarantee that every Constitutional requirement has been addressed in their advertising and adoption.

I have worked diligently on the issue of judicial discipline reform since becoming Chairman of the Judiciary Committee over four years ago. The language contained in HB 1 is language which was drafted at my direction, after four years of hard work on this issue. Successfully enacting these amendments is far too important to the people of Pennsylvania to permit even the possibility that they would be jeopardized by some legal technicality involving advertising or submission. I ask for your support for my amendment.

TRC/WHA/kemm

Enclosure

LEGAL ISSUES CONCERNING ADVERTISING AND SUBMISSION OF THE PROPOSED CONSTITUTIONAL AMENDMENTS CONTAINED IN HOUSE BILL 1

1. IS THE SUBMISSION OF A PROPOSED CONSTITUTIONAL AMENDMENT TO THE ELECTORS OF THE STATE IN A PRIMARY ELECTION CONSTITUTIONALLY VALID?

Article XI, §1 of the Constitution provides that, subsequent to adoption by the General Assembly in two successive sessions of the Legislature, a proposed Constitutional amendment shall be submitted to the qualified electors of the state in such manner, and at such time as the General Assembly shall prescribe. §605 of the Election Code, 25 P.S. §2755, provides that unless the General Assembly shall prescribe otherwise with respect to any particular proposed Constitutional amendment, a proposed Constitutional amendment shall be submitted to the qualified electors of the state at the first municipal or general election at which such amendment may be legally submitted to the electors. The language contained in §605 was upheld by the Supreme Court in Commonwealth vs. King, 278 Pa. 280 (1923), wherein it was held that the Constitution does not require that a proposed Constitutional amendment be submitted to the electorate in a general, as opposed to a municipal, election.

The issue of the constitutional validity of the submission of a proposed Constitutional amendment in a primary election was raised in the case of Kremer et al., v. Lewis, 72, 88 and 94 Misc. Docket 1991 (opinion not reported). In a decision filed April 1, 1991, Judge Craig of the Commonwealth Court ruled that submission of a proposed Constitutional amendment in a primary election satisfies the requirements of Art. XI, §1. In the appeal of this case to the Supreme Court, Kremer v. Grant, 529 Pa. 602 (1992), the Supreme Court upheld the lower court opinion without addressing the issue of whether a proposed Constitutional amendment may be submitted to the electorate in a primary election. No other cases in Pennsylvania have addressed the issue of whether a proposed Constitutional amendment may be submitted to the electorate in a primary election.

2. DO THE PROVISIONS CONTAINED IN HB 1 CONSTITUTE AN IMPROPER DELEGATION OF LEGISLATIVE AUTHORITY?

As referenced previously, Art. XI, §1 requires that the General Assembly prescribe the manner and time in which a proposed Constitutional amendment is to be submitted to the electorate. In *Kremer*, supra., the legislative enactment at issue provided that a proposed Constitutional amendment be submitted to the electors at the primary, general or municipal election next held after the advertising requirements of §1 of Art. XI of the Constitution of Pennsylvania had been satisfied. Judge Craig held that this language constituted an improper delegation of legislative authority to the Secretary of State. As stated by Judge Craig, "The conclusion must be that the absence, in the resolution, of either the express designation of the election choice by the legislature, or the use of a standard effectuating legislative purpose rather than allowing administrative discretion, makes the delegation unconstitutional and void."

HB 1 provides that the Secretary of the Commonwealth shall submit these proposed Constitutional amendments to the qualified electors "...at the first primary, general or municipal election occurring at least three months after the proposed Constitutional amendments are passed by the General Assembly which meets the requirements of and is in conformance with §1 of Art. XI of the Constitution of Pennsylvania." As Art. XI, §1 contains advertising requirements, the same constitutional infirmity addressed by Judge Craig in *Kremer*, supra., would appear to be present in HB 1.

In addition, the provisions of HB 1, as reported from Committee in 1992 (SB 1000), addressed solely the issue of judicial discipline. However, SB 1000 was amended on the House floor to include a provision relating to the pensions of judges. The language presently contained in HB 1 contains no direction as to the "manner" in which these amendments should be submitted to the voters, i.e., as one ballot question or two ballot questions. The rationale enunciated by Judge Craig would appear to require that the legislature specifically designate the "manner" in which these amendments should be advertised.

3. CAN THE MANDATED ADVERTISING REQUIREMENTS OF THE CONSTITUTION BE SATISFIED?

Art. XI, §1 requires that if the General Assembly in two separate sessions approves a proposed Constitutional amendment, the Secretary of the Commonwealth shall cause the same "...again to be published in the manner aforesaid." It further provides that the submission to the qualified electors shall occur at least three months after the action of the General Assembly.

The Constitutional provision calling on the Secretary of the Commonwealth to cause the second notice "to be published in the manner aforesaid" means that the required notice must appear "in at least two newspapers in every county" in which that course is possible, and not that it must be published prior to a general election; its appearance in the proper publications three months before the day set for the electorate to pass on the proposed amendment is sufficient. *Commonwealth vs. King*, 278 Pa. 280 (1923). However, it has also been held that a single publication occurring more than three months prior to a general election is not sufficient to meet the requirements of Art. XI, §1, with these requirements being met by publication once a month for the three months preceding the election. *Commonwealth vs. Beamish*, 309 Pa. 510 (1932). It has further been held that the provisions of Art. XI, §1 require the Secretary to transmit the required notices to two newspapers in each county of the state in ample time to permit their insertion at a date three months or more in advance of the election. *Tausig v. Warrens*, 328 Pa. 408 (1938); *Kremer v. Grant*, 529 Pa. 602 (1992).

In *Kremer*, upon the first passage of a proposed Constitutional amendment, the Secretary sent letters to the various newspapers on August 2, 1990, directing them to advertise no later than August 6, 1990. This action was held to be constitutionally invalid, and was the basis for the decision of the court. However, the court also noted that when these proposed Constitutional amendments had been passed a second time by the

legislature on February 12, 1991, the Secretary of the Commonwealth distributed letters to newspapers with that the advertisement be published no later than February 19, 1991. Despite this act, no February publication occurred in four counties. An additional 14 publications in February occurred on the designated date of February 21, 1991. The court specifically ruled on whether these actions constituted compliance with the advertising requirements of Art. XI, §1.

The legal office of the Election Bureau has indicated that subsequent to a passage of HB 1 by both the House and Senate, the Secretary must submit the language contained in HB 1 to the Attorney General for approval, and the Attorney General must also prepare a draft of a plain English statement. A copy would then be mailed by U.S. mail, overnight delivery, to approximately 134 newspapers necessary to carry the advertising, including some 50 weekly papers which are published on Fridays or Saturdays only. In addition, the proper ballot must be mailed to the county election boards. It is indicated that the Department of State is committed to doing things humanly possible to comply with all advertising requirements by February 18. However, the present time for the consideration of HB 1 creates the possibility that there will be oversight in the advertising process could result in advertising not appearing in some counties on time. In the current language in HB 1 raises the issue of whether the Secretary of State of advertising to the newspapers in a timely state, which is made approximately one week prior to the advertising deadline, meets the requirement for a timely advertisement by the Secretary of State.

(For rulings, see Appendix.)

The SPEAKER. The gentleman, Mr. Sturla, is recognized.
Mr. STURLA. Mr. Speaker, will the maker of the amendment rise for interrogation?

The SPEAKER. The gentleman from Berks County, Mr. Caltagirone, will stand for interrogation.

Mr. STURLA. Mr. Speaker, I have a question in terms of the timing of this. If in fact your amendment is adopted by the courts rule that that is a language change, then would we have set the process back 2 years. Is that correct?

Mr. CALTAGIRONE. No.

Mr. STURLA. Okay. So if they say it is a language change then we can come back in and pass language to have it passed in November?

Mr. CALTAGIRONE. It is not a language change. There is no material content in the body of the legislation itself that is being changed.

Mr. STURLA. Who makes that decision? Does the court make that decision?

Mr. CALTAGIRONE. The court in the ruling by Judge Craig, President Judge Craig, indicated that it vests with the legislature to set the date for the election to be held for constitutional amendments. We have that authority, and we should be about doing that in this piece of legislation that is before us today so that there are no questions as to what the date is specifically set for this bill to be placed before the voters.

Mr. STURLA. If we change the date, can the courts rule that it is unconstitutional because we have changed the language?

Mr. CALTAGIRONE. We are not changing the date. There is no date specified in this piece of legislation on which this bill is to be placed before the voters of the Commonwealth. It allows

the Secretary of State the timeframe to do the proper advertising, to do everything that is necessary.

That is exactly the reason why the court invalidated this piece of legislation the first time, 4 years ago, because there was not enough time. There are approximately 134 publications 90 days prior to the election. Now, think about the timeframe that we are talking about here - the May 18 primary, 90 days prior to.

Today is the 27th of January. It has to go over to the Senate on three readings, be approved there. It has to then go to the Attorney General for the plain language and his work that he has to do on it before it goes to the Secretary of the Commonwealth, who then has to submit it to 134 publications throughout this Commonwealth that have to advertise it twice. Can we meet that timeframe? I do not think so. This is the same problem we ran into the last time we tried to do judicial reform as a vote before the Commonwealth.

Mr. STURLA. Mr. Speaker, if we do not meet that timeframe without changing the language, if we do not meet that timeframe, can we come back—

The SPEAKER. The Chair interrupts the gentleman. Will the gentleman please speak into the microphone and with more volume?

Mr. STURLA. Mr. Speaker, if we do not change the language today—if we do not do anything; if we adopt no amendments—and there is not enough time to get it on the primary ballot, can we come back in after the primary and run the same bill and have it be on the November ballot?

Mr. CALTAGIRONE. Excuse me, Mr. Speaker. I am not completely following you. Are you saying if this bill is not run today or if it is run today—

Mr. STURLA. If this bill runs today without amendments.

Mr. CALTAGIRONE. And it is defeated in the primary or it does not meet the primary—

Mr. STURLA. And it does not make it onto the primary ballot, can we come back?

Mr. CALTAGIRONE. It is my understanding that people within this chamber have already talked to the people over at Secretary of State that have indicated that they are going to try their best to make sure that it meets those time requirements. They are going to try to get it onto the ballot for the May primary.

With that set in motion, there are forces outside this legislature that will certainly take us into court. Rest assured, no matter what we do, we will probably be taken into court on this very issue, and they are going to try to derail this effort irregardless of whether this amendment gets in there or it is not put in there. And I am suggesting today to this body that if this amendment is in fact not put in there, we open ourselves up again for the same route that we failed on this issue 4 years ago.

Mr. STURLA. My question, however, is, if in fact we fail to get it on the primary ballot, can we come back on May 19 and get it on the November ballot?

Mr. CALTAGIRONE. I think that is a question that has to be placed to the Parliamentarian, because it is my

understanding—and I am a neophyte in this area; I am not an attorney—I do not think that you can vote on this kind of a question for a third time. But I would like to raise that as a question to the Parliamentarian of the House.

PARLIAMENTARY INQUIRY

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. CALTAGIRONE. Would you care to express that concern that you raise about voting on a constitutional question three times to place it on the ballot?

Mr. STURLA. If in fact we pass this legislation out of here today and it does not make it onto the primary ballot, can we in fact come back and vote on it again to get it on the November ballot?

The SPEAKER. The Parliamentarian's response is that the issue is substantially arcane and he does not have an opinion at this moment. He will do some research and we will report to the gentleman at our earliest convenience. We do not know the answer.

Mr. STURLA. Okay.

If I could make a comment.

The SPEAKER. The gentleman is recognized.

Mr. STURLA. Mr. Speaker, if in fact that scenario could occur, then I think we should pass this legislation unamended today, knowing the option that we can come back at any point in time later if it does not work. If that is not the case, then we had better sit down and work this out. Thank you.

The SPEAKER. The Chair thanks the gentleman.

The gentleman from Montgomery County, Mr. Reber, is recognized.

Mr. REBER. Thank you, Mr. Speaker.

Mr. Speaker, to save some time, I would like to simply say that I concur in total with the remarks of the gentleman, Mr. Kukovich. I think it is imperative that we move forward, move forward with judicial reform. And it is very, very seldom that I disagree with the opinions of the chairman of the House Judiciary Committee, but today I must respectfully disagree with that opinion.

I would submit to the body that there are a number of checks and balances to cover the concerns raised by the majority chairman of the Judiciary Committee from last session, Representative Caltagirone, and I think that can certainly be accomplished vis-a-vis a request for a declaratory judgment by the Attorney General's Office relative to this particular issue before it would be certified for advertising and for ballot consideration in either a primary or a general election. I think also the question may very well be moot if the Senate does not act on this in time for it to even be considered for certification 3 months prior to the primary election.

I would certainly submit that Article X, section 1, of the Constitution does in essence take precedence over any and all other inconsistent portions of the legislation that may exist on its face, and thereby in and of itself, I think the Secretary of the Commonwealth certainly could take, shall I say a form of

judicial notice of the debate being had on this issue and certify the matter for the general election. All those procedural considerations certainly could be taken care of, and the issue and the concern of Representative Caltagirone therefore could be taken care of.

I think it is incumbent upon this body to recognize that we have been debating the fine-tuning aspects of this bill for years and years, and every material amendment now pushes off any form of judicial reform, which I think the public is crying for in the Commonwealth of Pennsylvania, for a period of at least 2 years and some odd months.

I think the day is now to move forward, and I think we must respectfully disagree with Representative Caltagirone, defeat all amendments today, and send this matter to the Senate for their similar concurrence. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

The gentleman from the 49th District, Mr. Daley, is recognized.

Mr. DALEY. Thank you, Mr. Speaker.

I also must echo the comments made by the gentleman, Mr. Reber, and the gentleman, Mr. Kukovich.

The chairman of the House Judiciary Committee is greatly concerned that this may set back the process 2 years or two sessions, and I think that is exactly what may happen if this amendment passes. Any minor tinkering, minor changes to this bill will give the courts a reason to postpone and delay the implementation of this legislation.

We do not want to open the door of opportunity to the courts, and I think that is exactly what we are doing. If we pass this amendment or any other amendments, we are going to crack the door and they are going to kick the door in.

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

The SPEAKER. The Chair thanks the gentleman.

The gentleman, Mr. Herman, is recognized.

Mr. HERMAN. Thank you, Mr. Speaker.

In the interrogation, Representative Sturla had answered many of the questions I had, and the conclusion that I have come to is that this amendment is not necessary. All that need happen, if your desire is to get it on the November ballot, is that the House and Senate not pass this measure in this session during that very short timeframe that is necessary to get it on the primary ballot. That is all that need happen.

This amendment is not necessary for that to happen. Therefore, I am going to support Representative Kukovich and others in voting against this amendment.

The SPEAKER. The Chair thanks the gentleman.

The gentleman from Allegheny County, Mr. McNally, is recognized.

Mr. McNALLY. Thank you, Mr. Speaker.

I was going to interrogate the gentleman, Mr. Caltagirone, along the same lines as Mr. Sturla. I think that the point that Mr. Sturla was trying to make is apt. I think that the argument has been made and I think it has merit that there are forces outside of this legislature who would try to derail such a constitutional amendment, but they will try to derail any kind of constitutional amendment to reform judicial discipline so

long as it is not their own. We cannot be dissuaded or deterred by forces outside this legislature in a cause for the reform of judicial discipline.

Secondly, the argument has been made that the Attorney General may not be able to do his job in a timely fashion. Well, I would point out to the members that in fact the plain-language work that the Attorney General must complete has already been done. The Attorney General's Office in fact had to write the referendum question in plain language last time. I would suggest to the members that if the Attorney General does not have people who are capable of copying down the same material and the same work that he had the last time in less than a day, a day's time, then I think there must be something wrong with the administration of the Attorney General's Office.

I think that this can be done in a timely fashion. I have heard no reasonable arguments why it cannot. We ought to move forward. We ought to give the people of Pennsylvania the opportunity to vote on this at the earliest possible moment.

Thank you very much. Vote "no."

The SPEAKER. The gentelady from Luzerne, Ms. Mundy, is recognized.

Ms. MUNDY. Thank you, Mr. Speaker.

Mr. Speaker, I am not an attorney, but I know as well as I believe most of my colleagues know that our courts would prefer no reform to this reform.

This bill needs to pass in two consecutive sessions with the same language. Any amendment to this bill, Mr. Caltagirone's amendment or Mr. Piccola's amendment, sends this into the next session. Any amendment to this bill will give our courts a perfect excuse to throw this off the ballot as they did once before.

Enough delay. We must act today to restore public confidence in our courts. I urge my colleagues to vote "no" on all amendments to this bill. Thank you.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

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Battisto	Fleagle	Leh	Rohrer
Birmelin	Gerlach	Lucyk	Smith, S. H.
Caltagirone	Hanna	Maitland	Snyder, D. W.
Chadwick	Harley	Marsico	Tulli
Cohen, L. I.	Heckler	Masland	Vance
Dent	Krebs	Piccola	

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Acosta	Fargo	McCall	Sather
Adolph	Farmer	McGeehan	Saurman
Allen	Fee	McNally	Saylor
Argall	Flick	Manderino	Scheetz
Armstrong	Freeman	Markosek	Schuler
Baker	Gamble	Mayernik	Scrimanti
Barley	Gannon	Melio	Semmel
Bebko-Jones	Geist	Merry	Serafini
Belardi	George	Michlovic	Smith, B.
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Butkovitz	Hasay	Nyce	Stish
Buxton	Hennessey	O'Brien	Strittmatter
Cappabianca	Herman	O'Donnell	Sturla
Carr	Hershey	Olasz	Surra
Carone	Hess	Oliver	Tangretti
Cawley	Hughes	Perzel	Taylor, E. Z.
Cassar	Hutchinson	Pesci	Taylor, J.
Civera	Itkin	Petrarca	Thomas
Clark	Jadlowiec	Petrone	Tigue
Clymer	James	Pettit	Tomlinson
Cohen, M.	Josephs	Phillips	Trello
Colafella	Kaiser	Pistella	Trich
Colaizzo	Kasunic	Pitts	True
Cornell	Keller	Platts	Uliana
Corrigan	Kenney	Preston	Van Horne
Cowell	King	Raymond	Veon
Coy	Kirkland	Reber	Vitali
Curry	Kukovich	Reinard	Waugh
DeLuca	LaGrotta	Richardson	Williams
Daley	Laub	Rieger	Wogan
Dempsey	Laughlin	Ritter	Wozniak
Dermody	Lawless	Roberts	Wright, D. R.
Donatucci	Lederer	Robinson	Wright, M. N.
Druce	Lee	Roebuck	Yandrisevits
Durham	Lescovitz	Rooney	Yewcic
Egolf	Levdansky	Rubley	Zug
Evans	Linton	Rudy	
Fairchild	Lloyd	Ryan	DeWeese,
Fajt	Lynch	Santoni	Speaker

NOT VOTING—2

Fichter Jarolin

EXCUSED—0

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

On the question recurring,

Will the House agree to the bill on third consideration?

Mr. PICCOLA offered the following amendments No. A0065:

Amend Sec. 1, page 2, lines 21 through 30; pages 3 through 14, lines 1 through 30; page 15, lines 1 through 25, by striking out all of said lines on said pages and inserting

§ 18. Suspension, removal, discipline and compulsory retirement.

(a) There shall be a Judicial Inquiry and Review Board having nine members as follows: three judges of the courts of common pleas from different judicial districts and two judges of the Superior Court, all of whom shall be selected by the Supreme Court; and two non-judge members of the bar of the Supreme Court and two non-lawyer electors, all of whom shall be selected by the Governor.]

§ 18. Judicial Conduct Board.

(a) There shall be a Judicial Conduct Board within the executive branch, which shall be composed of a total of 11 members as follows: two active judges of the court of common pleas appointed by the Supreme Court, one active judge of an appellate court appointed by the Supreme Court, one active justice of the peace appointed by the Supreme Court, two non-judge members of the bar of the Supreme Court appointed by the

Governor and five non-lawyer electors appointed by the Governor. All members of the Judicial Conduct Board shall be appointed by the respective appointing authority, with the advice and consent of a majority of the members elected to the Senate in conformance with the provisions of section 8 of Article IV of this Constitution.

(b) [The] Except for the initial appointees whose terms shall be provided by the schedule to this amendment, the members shall serve for terms of four years, provided that a member, rather than his or her successor, shall continue to participate in any hearing in progress at the end of [his term.] this term. All members shall be residents of this Commonwealth, and no more than six of the 11 members shall be registered in the same political party. Judicial Conduct Board membership by a judge shall terminate if the member ceases to hold the judicial position that qualified him or her for the appointment. Membership shall also terminate if a member attains a position that would have rendered him or her ineligible for appointment at the time of the appointment. A vacancy on the board shall be filled by the respective appointing authority for the balance of the term. The [respective appointing authority may remove a] Governor may remove any member only for cause. No member shall serve more than four consecutive years[; he] but may be reappointed after a lapse of one year. [Annually] The Governor shall convene the board for its first meeting, and, at that meeting and annually thereafter, the members of the board shall elect a chairman. The board shall act only with the concurrence of a majority of its members.

(c) [A member shall not] No member of the Judicial Conduct Board, during his or her term of service, shall hold office in a political party or political organization. [Members, other than judges, shall be compensated for their services as the Supreme Court shall prescribe.] Except for a judicial member, no member of the Judicial Conduct Board, during his or her term of service, shall hold a public office or public appointment, compensated or uncompensated. All members shall be reimbursed for expenses necessarily incurred in the discharge of their official duties.

[(d) Under the procedure prescribed herein, any justice or judge may be suspended, removed from office or otherwise disciplined for violation of section 17 of this article, misconduct in office, neglect of duty, failure to perform his duties, or conduct which prejudices the proper administration of justice or brings the judicial office into disrepute, and may be retired for disability seriously interfering with the performance of his duties.

(e) The board shall keep informed as to matters relating to grounds for suspension, removal, discipline, or compulsory retirement of justices or judges. It shall receive complaints or reports, formal or informal, from any source pertaining to such matters, and shall make such preliminary investigations as it deems necessary.

(f) The board, after such investigation, may order a hearing concerning the suspension, removal, discipline or compulsory retirement of a justice or judge. The board's orders for attendance of or testimony by witnesses or for the production of documents at any hearing or investigation shall be enforceable by contempt proceedings.

(g) If, after hearing, the board finds good cause therefor, it shall recommend to the Supreme Court the suspension, removal, discipline or compulsory retirement of the justice or judge.

(h) The Supreme Court shall review the record of the board's proceedings on the law and facts and may permit the introduction of additional evidence. It shall order suspension, removal, discipline or compulsory retirement, or wholly reject the recommendation, as it finds just and proper. Upon an order for compulsory retirement, the justice or judge shall be retired with the same rights and privileges were he retired under section 16 of this article. Upon an order for suspension or removal, the justice or judge shall be suspended or removed from office, and his salary shall cease from the date of such order. All papers filed with and proceedings before the board shall be confidential but upon being filed by the board in the Supreme Court, the record shall lose its confidential character. The filing of papers with and the giving of testimony before the board shall be privileged.

(i) No justice or judge shall participate as a member of the board or of the Supreme Court in any proceeding involving his suspension, removal, discipline or compulsory retirement.

(j) The Supreme Court shall prescribe rules of procedure under this section.

(k) The Supreme Court shall prescribe rules of procedure for the suspension, removal, discipline and compulsory retirement of justices of the peace.

(l) A justice, judge or justice of the peace convicted of misbehavior in office by a court, disbarred as a member of the bar of the Supreme Court or removed under this section 18 shall forfeit automatically his judicial office and thereafter be ineligible for judicial office.

(m) A justice or judge who shall file for nomination for or election to any public office other than a judicial office shall forfeit automatically his judicial office.

(n) This section is in addition to and not in substitution for the provisions for impeachment for misbehavior in office contained in Article VI. No justice, judge or justice of the peace against whom impeachment proceedings are pending in the Senate shall exercise any of the duties of his office until he has been acquitted.]

(d) The Judicial Conduct Board shall receive and investigate complaints regarding judicial conduct filed by individuals or initiated by the Judicial Conduct Board; promulgate rules for determining whether a complaint is reasonably based; issue subpoenas to compel testimony under oath of witnesses, including the subject of the investigation, and to compel the production of documents, books, accounts and other records relevant to the investigation; determine whether there is probable cause to file formal charges against a justice, judge or justice of the peace, for conduct proscribed in sections 17 and 20(a) of this article, a finding of which shall require approval by a majority vote of the Judicial Conduct Board; and present the case in support of the charges.

(e) The Judicial Conduct Board, by a majority vote, shall appoint a chief counsel and other staff, prepare and administer its own budget as provided by law, establish and promulgate its own rules of procedure; and do what is needed to ensure its efficient operation. The budget request of the Judicial Conduct Board shall be made as an item in the request of the Governor on behalf of the executive branch of government to the General Assembly. The Judicial Conduct Board shall promulgate rules for the provision of written advisory opinions to justices, judges or justices of the peace which shall not be binding on the Judicial Conduct Board, although the board may give weight as to whether the subject of an investigation acted in accordance with an advisory opinion.

(f) The justice, judge or justice of the peace whose conduct is the subject of an investigation by the Judicial Conduct Board shall be given an opportunity to fully respond to the complaint and shall be afforded full discovery.

(g) Until a determination of probable cause has been made and formal charges have been filed, all proceedings shall be confidential except when the justice, judge or justice of the peace under investigation waives confidentiality, or in any case in which, independent of any action by the Judicial Conduct Board, the fact that an investigation is in process becomes public, in which case the Judicial Conduct Board may, at the direction of the justice, judge or justice of the peace under investigation, issue a statement to confirm the pendency of the investigation, to clarify the procedural aspects of the proceedings, to explain the right of the justice, judge or justice of the peace to a fair hearing without prejudgment or to state that the justice, judge or justice of the peace denies the allegations.

(h) If on a complaint of mental or physical disability the Judicial Conduct Board finds probable cause to file formal charges against a justice, judge or justice of the peace, the board shall present its findings to the justice, judge or justice of the peace and provide him with the opportunity to resign or, when appropriate, to enter a rehabilitation program before the filing of formal charges.

(i) Members of the Judicial Conduct Board and its chief counsel and staff shall be absolutely immune from suit for all

conduct in the course of their official duties. A complaint submitted to the Judicial Conduct Board or testimony related to the complaint shall be privileged, and no civil action or disciplinary complaint predicated on the complaint or testimony shall be maintained against any complainant or witness or his or her counsel.

(2) That Article V be amended by adding sections to read:
§ 19. Court of Judicial Discipline.

(a) There shall be a Court of Judicial Discipline, which shall be composed of a total of seven members as follows: two active judges of the court of common pleas, one active judge of an appellate court, one active justice of the peace, one non-judge member of the bar of the Supreme Court and two non-lawyer electors. One judge of the court of common pleas and the district justice member shall be appointed by the Supreme Court. The remaining members of the Court of Judicial Discipline shall be appointed by the Governor. All members of the court of Judicial Discipline shall be appointed with the advice and consent of a majority of the members elected to the Senate in conformance with the provisions of section 8 of Article IV of this Constitution.

(b) Except for the initial appointees whose terms shall be provided by the schedule to this amendment, the members shall serve for terms of four years, provided that a member, rather than his or her successor, shall continue to participate in any hearing in progress at the end of this term. All members shall be residents of this Commonwealth, and no more than four of the seven members shall be registered in the same political party. Court of Judicial Discipline membership by a judge shall terminate if the judge ceases to hold the judicial position that qualified that judge for Court of Judicial Discipline appointment. Court of Judicial Discipline membership shall also terminate if a member attains a position that would have rendered him or her ineligible for appointment at the time of the appointment. A vacancy on the Court of Judicial Discipline shall be filled by the Governor for the balance of the term. The Governor may remove any member only for cause. No member of the Court of Judicial Discipline shall serve more than four consecutive years but may be reappointed after a lapse of one year.

(c) No member of the Court of Judicial Discipline, during his or her term of service, shall hold office in any political party or political organization. Except for a judicial member, no member of the Court of Judicial Discipline, during his or her term of service, shall hold a public office or public appointment, compensated or uncompensated. All members shall be reimbursed for expenses necessarily incurred in the discharge of their official duties.

(d) The Court of Judicial Discipline shall be a court of record with all the attendant duties and powers appropriate to its function, and shall hold public proceedings, conducted pursuant to rules adopted by the Court of Judicial Discipline consistent with the principles of due process and the law of evidence; enable parties appearing before it to subpoena witnesses and to compel the production of documents, books, accounts and other records as relevant; render its decision in writing, each decision to include its findings of fact, conclusions of law and discussion of reasons; have its proceedings transcribed; order removal from office, suspension, censure or other discipline as authorized by section 20 of this article and as warranted by the record; appoint staff and prepare and administer its own budget as provided by law. All actions of the Court of Judicial Discipline, including disciplinary action, shall require approval by a majority vote of the Court. The budget request of the Court of Judicial Discipline shall be made as a separate item in the request by the Supreme Court on behalf of the judicial system to the General Assembly.

(e) Upon the filing of formal charges by the Judicial Conduct Board, the Court of Judicial Discipline shall schedule a prompt hearing to determine whether a sanction pursuant to the provisions of section 20 of this article should be imposed. The Court of Judicial Discipline shall afford the justice, judge or justice of the peace full discovery and a fair opportunity to prepare for the hearing. The Judicial Conduct Board shall have the

burden of proving the conduct complained of by clear and convincing evidence.

(f) Members of the Court of Judicial Discipline and the Court's staff shall be absolutely immune from suit for all conduct in the course of their official duties, and no civil action or disciplinary complaint predicated on testimony before the Court of Judicial Discipline shall be maintained against any witness or his or her counsel.

§ 20. Proscribed conduct and sanctions.

(a) Under the procedures prescribed in this section, any justice, judge or justice of the peace may be suspended, removed from office or otherwise disciplined for violation of section 17 of this article, misconduct in office, neglect or failure to perform the duties of office, or conduct which prejudices the proper administration of justice or brings the judicial office into disrepute, whether or not such conduct occurred while acting in a judicial capacity or is prohibited by law, and for conduct in violation of a canon or rule prescribed by the Supreme Court.

(b) The Court of Judicial Discipline may, until there is an acquittal or conviction for the felony offense, order suspended with or without pay any justice, judge or justice of the peace against whom there has been filed an indictment or information charging a felony. An interim order of suspension, with or without pay, may be entered against a justice, judge or justice of the peace against whom formal charges have been filed with the Court of Judicial Discipline by the Judicial Conduct Board. Such order shall not be immediately appealable.

(c) In the case of a mentally or physically disabled justice, judge or justice of the peace, the Court of Judicial Discipline may enter an order of removal from office, retirement, suspension or other limitations on the activities of the justice, judge or justice of the peace as warranted by the record.

(d) The Court of Judicial Discipline may order suspended, with or without pay, any justice, judge or justice of the peace after a determination that the continued service of the justice, judge or justice of the peace poses a substantial or imminent threat to the fair and impartial administration of justice.

(e) Upon an order of the Court of Judicial Discipline for suspension without pay or removal, the justice, judge or justice of the peace shall be suspended or removed from office, and his or her salary shall cease from the date of such order.

(f) A justice, judge or justice of the peace convicted of misbehavior in office by a court, disbarred as a member of the bar of the Supreme Court or removed under this section shall forfeit automatically his or her judicial office and thereafter be ineligible for judicial office.

(g) A justice, judge or justice of the peace who files for nomination for or election to any public office other than a judicial office shall forfeit automatically his or her judicial office.

(h) This section is in addition to and not in substitution for the provisions for impeachment for misbehavior in office contained in Article VI. No justice, judge or justice of the peace against whom impeachment proceedings are pending in the Senate shall exercise any of the duties of the office until he or she has been acquitted.

§ 21. Review of Court of Judicial Discipline.

(a) A justice, judge or justice of the peace, other than a justice of the Supreme Court, in a manner consistent with the rules of the Supreme Court, may appeal to the Supreme Court a final adverse order of the Court of Judicial Discipline.

(b) A justice of the Supreme Court, in a manner consistent with the rules of the Supreme Court, may appeal a final adverse order of the Court of Judicial Discipline to a special review panel consisting of seven judges to be chosen by lot from the judges of the Superior Court and the Commonwealth Court, other than senior judges, and who do not themselves sit on the Court of Judicial Discipline. The appeal shall in all other respects conform with the requirements of this section.

(c) No justice, judge or justice of the peace shall participate as a member of the Judicial Conduct Board, the Court of Judicial Discipline, a special review panel or the Supreme Court in any proceeding involving his or her suspension, removal, discipline or compulsory retirement.

(d) On appeal, the reviewing court or special tribunal shall review the record of the Court of Judicial Discipline proceedings as follows: As to matters of law, the scope of review shall be plenary. As to matters of fact, the scope of review shall be whether the findings below were clearly erroneous. As to the propriety of the sanctions imposed, the scope of review shall be whether the sanctions imposed were lawful. The Supreme Court or special tribunal may revise or reject the order of the Court of Judicial Discipline upon a determination the order did not sustain this standard of review; otherwise the Supreme Court shall affirm the order of the Court of Judicial Discipline.

(e) An order of the Court of Judicial Discipline dismissing a complaint against a judge or justice of the peace may be appealed by the Judicial Conduct Board to the Supreme Court but the appeal shall be limited to questions of law. An order of the Court of Judicial Discipline dismissing a complaint against a justice of the Supreme Court may be appealed by the Judicial Conduct Board to a special tribunal composed of seven judges, not senior judges, chosen by lot from the judges of the Superior Court and Commonwealth Court, but the appeal shall be limited to questions of law.

Section 2. (a) The members of the Judicial Inquiry and Review Board appointed heretofore shall vacate their office 90 days after the issuance of the proclamation certifying voter approval of the amendments to section 18 of Article V contained herein and all proceedings pending before the board and all records shall be transferred to the Judicial Conduct Board.

(b) Of the members initially appointed to the Judicial Conduct Board, the appellate court judge and the common pleas court judge first appointed shall serve four-year terms. The second common pleas court judge and the justice of the peace first appointed shall serve three-year terms. The non-judge member of the bar of the Supreme Court first appointed by the Governor shall serve a four-year term, and the second non-judge member shall serve a two-year term. Of the non-lawyer electors appointed by the Governor, the first two appointed shall serve four-year terms; the next one appointed shall serve a three-year term; and the final two appointed shall serve two-year terms.

(c) Of the members initially appointed to the Court of Judicial Discipline, the common pleas court judges and the appellate court judge shall serve four-year terms. The non-lawyer elector first appointed and the district justice member shall serve three-year terms. The non-judge member of the bar of the Supreme Court and the second non-lawyer elector shall serve two-year terms.

Amend Sec. 2, page 15, line 26, by striking out "2" and inserting

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On the question,

Will the House agree to the amendments?

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

Mr. PICCOLA. Thank you, Mr. Speaker.

In order to explain this amendment and what we are about here today with HB 1, I think a little history is probably in order, particularly since we have so many new members here on the floor of the House and it is so early in the session.

In addition, ordinarily my first motion on this would have been to refer the bill to the House Judiciary Committee since the bill has not been considered by the House Judiciary Committee, but since we do not have a Judiciary Committee, I guess I cannot do that.

Judicial discipline has been an issue in the House of Representatives and in the Senate of Pennsylvania since the early 1980's, and this House has voted repeatedly since that time to change the way in which we discipline judges in this

State. It is universally agreed that the current system is simply not right and it does not work.

It was the early eighties where we had the Larsen affair, the first Larsen affair I guess I should say, brought to our attention, the roofers' cases out of Philadelphia, the O'Kicki case, in which the impetus for judicial discipline changes first came about, and we have repeatedly voted in this chamber for judicial discipline changes that have embodied three very consistent and very firm propositions: Number one, the boards that are going to be created to investigate and discipline judges in this State are to be independent of the judicial branch of government; number two, that the majority of the appointments to those boards were not going to be made by the Supreme Court and the judiciary but were going to be made by the executive branch; and number three, that the current system of secrecy was going to be eliminated.

Every time this House voted since 1983 on judicial discipline, and voted overwhelmingly—and I have the record here; I am not going to recite the record, but there were votes in the 1983-84 session, 197 to 2; 1985-86 session, 200 to nothing; 1989-90 session, 192 to nothing—we voted for reform measures, discipline measures, that embodied the three components that I just outlined.

Up until, up until last spring in the last session, and in fact the Senate in SB 1000 last year sent to us a bill which did encompass those three components of judicial discipline, and then that bill came to the House Judiciary Committee last session, in the spring, and something happened. Something very dramatic happened. Two of the three components that I referred to were eliminated in a series of amendments that were passed in the committee and on the floor of the House of Representatives, and we ended up passing out of this House by a fairly narrow margin what is embodied now in HB 1. The bill went back to the Senate and it was passed, and it became the first passage for an amendment to the Constitution.

Now, what occurred last session I am trying to correct with my amendment, and I will outline that and then tell you why I think we should change our minds from last session.

First of all, on the issue of control of the appointment process to the board, both the bill, HB 1, and my amendment contain a two-tiered method of disciplining judges: a Judicial Conduct Board, which would be the investigative body, and a Court of Judicial Discipline, which would hear the allegations against the sitting judge and make a decision.

Under the bill, HB 1, 12 members are on the first board and 8 members on the second, an obvious defect, because it creates the potential for a 50-50 tie, a split vote, where nothing can get done. My amendment eliminates that possibility by having 11 members on the Judicial Conduct Board and 7 members on the Court of Judicial Discipline.

Secondly, if you look at the bill as it is presently written, half of the members on the Judicial Conduct Board are appointed by the Supreme Court, six, and six are appointed by the Governor, the potential for a tie, and there is no Senate confirmation of any of these individuals.

My bill would provide for seven to be appointed by the Governor and four by the Supreme Court, all of which would be subject to the independent confirmation of the State Senate. Likewise, on the Court of Judicial Discipline, seven members: two appointed by the Supreme Court, five appointed by the Governor; again, all subject to confirmation by the Senate.

On the issue of independence, the bill as it is presently written places the board and the court under the judicial branch of government. My amendment and all of the bills that we have enacted prior to last spring place the board and the Court of Judicial Conduct in the executive branch under the authority of an entity separate from the judiciary.

The Supreme Court, under the bill, is given control of the budget in both of the entities, and therefore, the ability to control—and we all know how budgets can control results. My bill will make the budget process independent of the court by giving the Governor the control over the budget but the Supreme Court the permission to submit the budget request.

Hiring of staff, a very critical issue on this subject because staff will do the investigating initially of every complaint lodged with both of these bodies. In the bill, the majority of the board and the Supreme Court would be needed to hire and fire the staff. The Supreme Court would have total control over the hiring of staff. In my bill, the board itself would hire the staff, and they, of course, are independent of the court, and so there would be no court control of the staffing of both of these discipline bodies.

On that issue, Mr. Speaker, and I do not like to throw the Speaker's words back at him, but in support of an independent budgetary mechanism, Representative DeWeese in 1991 in an op-ed page that he wrote for publication said, and I quote, "The independence and integrity of both bodies"—and he is referring to the two-tiered discipline scheme—"are protected by a provision that requires their budgets to be submitted to the General Assembly separately from the budgets of the rest of the judicial system," end quote.

Now, obviously last session the General Assembly in its wisdom abandoned the three-pronged concept and three-pronged components of judicial discipline. However, I think there is good cause and good reason to rethink our position on this subject and to adopt strong judicial discipline.

We have all seen what has happened in our Supreme Court, and if this bill, whether it is on a fast track for May or whether it is on a slow track for November, if it gets to the point that it is voted upon and is adopted by the people of Pennsylvania, the fact of the matter will be that the present Supreme Court will have to make the appointments of half of both of these bodies, and the question then becomes, do you want the present Supreme Court to make the appointments to the bodies that are going to investigate and impose judicial discipline in this State? After what I have been reading in the papers the last several months, I do not.

Now, I recognize, Mr. Speaker, that the adoption of this amendment will delay the enactment of judicial discipline. I recognize that and I admit it. The question has to be, is that delay, which will be for approximately 2 years, is that a small

enough price to pay to get real judicial discipline in this State? I suggest that it is, Mr. Speaker. We have delayed and delayed and delayed this issue for a decade, and when we finally get about the time to do it right, we see vividly and the people of Pennsylvania see graphically why it should have been done a long time ago.

Now, I do not want the present court to be the ones to set in motion this new scheme of discipline, which, in my opinion, is fraught with danger and with ineffectiveness. I think we should delay. It is a very small price to pay for doing it right.

Mr. Speaker, I urge that we adopt this amendment and then do it again in the next session and do judicial discipline the way we had decided long ago that it was to be done, on the three components that I indicated that we should have done a long time ago.

Thank you, Mr. Speaker. I urge adoption of the amendment.

The SPEAKER. The Chair thanks the gentleman.

The gentleman, Mr. Kukovich, is recognized.

Mr. KUKOVICH. Thank you, Mr. Speaker.

I want us, when we consider this amendment, to be realistic. I would like to remind the members that just last session we debated some of these very issues. Quite frankly, some of the substantive language that is in this amendment, some of it I tend to agree with. Frankly, there is some stronger language I would like to see in this bill, but we cannot afford to miss the boat.

It is clear—it was not quite as clear with the Caltagirone amendment; it is extremely clear with this amendment—that this is a substantive change. If it goes in, we cannot get this done for at least 2 years, and I am suggesting— And Representative Piccola has been interested in this issue for a long time. He knows as well as anybody in this chamber how difficult it has been simply to get to this point. We cannot miss the boat now. We cannot—it is going to be Super Bowl Sunday—we cannot fumble the ball when we are on the 1 yard line after all this time, and that is what would be happening. And it could be worse than a 2-year delay. That is the best-case scenario.

The timing is right now. We can do judicial reform now. All this amendment really is is a more sophisticated way to delay the process and maybe jeopardize the process.

I think Representative Piccola's intentions are good. He wants reform. I want reform. I think most of this chamber wants reform. The issue is, are we going to do it now or not? Those of you who were not here last session did not recognize the debate we went through. We can debate endlessly on the composition of the board and who appoints, who confirms, how it is done. What we accomplished at the end of last session was SB 1000. It might not have been what Representative Piccola or I wanted. What I do know is that this is the strongest thing that we could do under the circumstances. We either do it now or we lose it for maybe a long time.

I suggest to you we vote "no" on this amendment and move ahead with the bill.

The SPEAKER. The Chair thanks the gentleman.

The gentleman, Mr. Yandrisevits, is recognized.

Mr. YANDRISEVITS. Thank you, Mr. Speaker.

Mr. Speaker, I rise to urge the defeat of the Piccola amendment. The thing for the members to keep in mind is that the public needs to vote on whatever passes this chamber before the constitutional amendment can take effect. If the Piccola amendment is adopted, the public will not have the opportunity to cast that vote for over 2 years. I think it is clear from what we are seeing in the media at the present time that the mood of the public for judicial reform is to have it immediate. Two years from now when the activities of the current Supreme Court may have faded, the issue may not be as pressing to the public.

I think we need to pass this bill today. I think we need to give the public the opportunity to vote on this bill as soon as possible. Thank you, Mr. Speaker.

The SPEAKER. The gentleman from Allegheny, Mr. Fajt, is recognized.

Mr. FAJT. Thank you, Mr. Speaker.

I would like to stand and reiterate the comments of the previous two speakers, Representative Kukovich and Representative Yandrisevits. I have consistently voted with my colleague on the Judiciary Committee, Representative Piccola, in the past for judicial reform. I am a strong believer that the current composition in the bill that we are going to vote on does not go far enough. However, I am also a realist to believe that politics is the art of compromise, and the bill that we have in front of us now is a bill that must pass and it must pass today without amendment.

Nobody in this chamber knows what is going to happen 2 years from now. If we do not vote on this bill today unamended, we are not going to see it again for 2 years. A lot is going to come down the pike between now and then, and judicial reform, the window of opportunity may pass.

I know that this bill, again, in my heart, is not everything that I want, but I am also a realist enough to know that we have to take care of this today. And my sentiments are with Representative Piccola because I know what he is trying to do is the right thing, but we have a window of opportunity that is going to pass and it is going to pass today.

Let us vote this. Let us vote it unamended and get on with business. Thank you, Mr. Speaker.

The SPEAKER. The gentleman, Mr. Piccola, is recognized for the second time.

Mr. PICCOLA. Thank you, Mr. Speaker.

I am not going to respond to the comments of the opposition because I think I probably agree with them, except I do not come to the same conclusion that they come to. I think that passing HB 1 in its present form will obviously bring the question to the people a lot quicker, and there is some merit in doing that. However, I think a job of this magnitude, if it is worth doing, is worth doing right. I think the window of opportunity is longer than simply from now until May or from now until November. I think this issue will be and has been around for many, many years, and I think a delay is not out of order, if you want to do it right.

I would suggest again that if we do put it on the fast track for May or even for November, that the present court—and this is something that was not abundantly clear last year, but it is abundantly clear today—the present court will have to struggle mightily, and I do not know how they are going to agree on anything, let alone appointing members to these various bodies. They are going to have to appoint the people that are going to man these two boards of discipline, and I think that in and of itself is a major reason why this House should step back and take another look at this very, very important issue.

Again I urge the adoption of the amendment.

The SPEAKER. The gentleman from Bucks, Mr. Heckler, is recognized.

Mr. HECKLER. Thank you, Mr. Speaker.

I, too, rise in support of the Piccola amendment.

The present problems of the present members of our court will not be resolved by the system which we are considering today. Justice Larsen's issues regarding discipline are done. Allegations by Justice Larsen about the various other Justices are essentially criminal in nature and are being subject to investigation at this time. So while the issue of the Supreme Court in general is before the public and demands urgent attention, we will not impede the ability of those investigations to go forward by adopting the Piccola amendment.

I would suggest to you that the compromise which was struck last year is not any kind of judicial reform. Power to ultimately stymie an investigation or an adjudication is left in the hands of the Supreme Court and its appointees.

Our elected, highly political Supreme Court has built a fiefdom of influence, inappropriate interaction with our branch of government and with special interests outside of government, which has brought shame to this Commonwealth and to that institution. I hope that this session we will see reform of judicial selection and we will see prompt replacement of the present court in its entirety with a body of jurists in whom our constituents can have confidence.

All of those matters will be decided on another day. Today we are deciding what kind of a system of judicial discipline should be embodied in our Constitution for the future. For the future we should adopt meaningful, independent discipline which is contained in the Piccola amendment, not rush to judgment to adopt the best political deal that could be hammered out last year.

If we defeat the Piccola amendment now, we and those who come after us will regret it later. I urge its adoption.

The SPEAKER. Representative Ritter is recognized.

Ms. RITTER. Thank you, Mr. Speaker.

Very quickly, just to reiterate, this is not about whether or not the Piccola amendment is good or whether or not these changes are good. We had this discussion in the last session, and these changes were rejected by this House.

The point we need to make today is that we need to pass for the second time the language that was accepted by this House in the previous session. We need to get this job done, and we need to do it today.

So I would also urge my colleagues to vote against this amendment and any subsequent amendments that are offered to this bill. Thank you.

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

The following roll call was recorded:

YEAS—63

Argall	Flick	Lynch	Saylor
Armstrong	Geist	Maitland	Scheetz
Birmelin	Gerlach	Marsico	Schuler
Carone	Hanna	Masland	Semmel
Cessar	Harley	Miller	Serafini
Chadwick	Hasay	Nailor	Smith, S. H.
Clark	Heckler	Nickol	Steil
Clymer	Hennessey	Pettit	Stern
Cohen, L. I.	Hershey	Piccola	Strittmatter
Cornell	Hess	Pitts	Taylor, E. Z.
Dent	Hutchinson	Platts	Tomlinson
Druce	Jadlowiec	Reinard	True
Egolf	Krebs	Rohrer	Tulli
Fairchild	Lee	Rubley	Vance
Farmer	Leh	Sather	Zug
Fleagle	Levdansky	Saurman	

NAYS—140

Acosta	Fajt	Lucyk	Rudy
Adolph	Fargo	McCall	Ryan
Allen	Fee	McGeehan	Santoni
Baker	Fichter	McNally	Scrimenti
Barley	Freeman	Manderino	Smith, B.
Battisto	Gamble	Markosek	Snyder, D. W.
Bebko-Jones	Gannon	Mayernik	Staback
Belardi	George	Melio	Stairs
Belfanti	Gigliotti	Merry	Steelman
Bishop	Gladeck	Michlovic	Steighner
Blaum	Godshall	Micozzie	Stetler
Boyes	Gordner	Mihalich	Stish
Brown	Gruitza	Mundy	Sturla
Bunt	Gruppo	Murphy	Surra
Bush	Haluska	Nyce	Tangretti
Butkovitz	Herman	O'Brien	Taylor, J.
Buxton	Hughes	O'Donnell	Thomas
Caltagirone	Itkin	Olasz	Tigue
Cappabianca	James	Oliver	Trello
Carn	Jarolin	Perzel	Trich
Cawley	Josephs	Pesci	Uliana
Civera	Kaiser	Petrarca	Van Horne
Cohen, M.	Kasunic	Petrone	Veon
Colaella	Keller	Phillips	Vitali
Colaizzo	Kenney	Pistella	Waugh
Corrigan	King	Preston	Williams
Cowell	Kirkland	Raymond	Wogan
Coy	Kukovich	Reber	Wozniak
Curry	LaGrotta	Richardson	Wright, D. R.
DeLuca	Laub	Rieger	Wright, M. N.
Daley	Laughlin	Ritter	Yandrisevits
Dempsey	Lawless	Roberts	Yewcic
Dermody	Lederer	Robinson	
Donatucci	Lescovitz	Roebuck	DeWeese,
Durham	Linton	Rooney	Speaker
Evans	Lloyd		

NOT VOTING—0

EXCUSED—0

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?

Mr. ZUG offered the following amendments No. A0056:

Amend Title, page 1, line 2, by inserting after "Pennsylvania,"

further providing for pension or retirement systems; and

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

Section 1. The following amendment to the Constitution of Pennsylvania is proposed in accordance with Article XI:

That section 26 of Article III be amended to read:

§ 26. Extra compensation prohibited; claims against the Commonwealth; pensions.

(a) No bill shall be passed giving any extra compensation to any public officer, servant, employee, agent or contractor, after services shall have been rendered or contract made, nor providing for the payment of any claim against the Commonwealth without previous authority of law: Provided, however, That nothing in this Constitution shall be construed to prohibit the General Assembly from authorizing the increase of retirement allowances or pensions of members of a retirement or pension system now in effect or hereafter legally constituted by the Commonwealth, its political subdivisions, agencies or instrumentalities, after the termination of the services of said member.

(b) Notwithstanding the provisions of section 8 of Article II and section 16 of Article V, nothing in this Constitution shall be construed to prohibit the General Assembly from by law creating classes of membership for a retirement or pension system now in effect or hereafter constituted by the Commonwealth for officers and employees of the Legislative Department, Executive Department or Judicial Department and political subdivisions, agencies or instrumentalities or, from time to time, specifying appropriate contribution rates, retirement allowances or pension benefits applicable to each class so created; nor is the General Assembly prohibited from prospectively altering or qualifying contribution rates or other factors, retirement allowances or pension benefits for existing officers or employees prior to the termination of service of such officers or employees, or from altering or qualifying contribution rates or other factors, retirement allowances or pension benefits for officers or employees who become eligible for membership in the retirement or pension system following the effective date of such alteration or qualification.

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

2

Amend Sec. 2, page 15, line 26, by striking out "2" and inserting

3

On the question,

Will the House agree to the amendments?

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

Mr. ZUG. Thank you, Mr. Speaker.

Today I would like to propose a constitutional amendment to create a two-tier pension system. This would bring judicial and political pensions in compliance with the intent of the 1974 pension reform law. In 1974 the legislators, some of which are still here, knew that the current system would be a financial burden on our citizens. Not implementing this amendment already cost the Commonwealth millions of

dollars. Further delaying action can only add additional and unnecessary costs to the budget.

I think there are two important additional comments.

I do not believe, it is not my understanding that this amendment would delay or have any inverse impact on the bill. When you put a referendum on the ballot, you do not put them on together; you separate them, and I think that is very important.

Secondly, we have to be proactive. This amendment, because of the Constitution and taking away existing benefits, only affects people who are members of the judiciary or the legislature after the bill is passed on referendum by the people of the Commonwealth, so unfortunately, it does not affect the current legislature or the current judiciary.

So therefore, I ask my colleagues to join me in supporting this amendment.

GERMANENESS QUESTIONED

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

Mr. DALEY. Mr. Speaker, I move the germaneness of this amendment.

The SPEAKER. The gentleman has asked the House to vote on germaneness, under rule 27. The House will vote as to whether this measure is germane or not.

Those who believe that this amendment is germane will vote in the affirmative; those who believe that it is nongermane will vote in the negative.

On the question,

Will the House sustain the germaneness of the amendments?

(Members proceeded to vote.)

VOTE STRICKEN

Mr. ZUG. Mr. Speaker, may we debate on the germaneness of the amendment?

The SPEAKER. The clerk will strike the vote.

The gentleman, Mr. Zug, is recognized.

Mr. ZUG. Thank you, Mr. Speaker, and I apologize. I am new at this.

But we are talking about amending the Constitution. That is the initial bill. We are also dealing with the judiciary. It is in with the original bill. It is very germane to the bill. It is important for the legislature to take action.

The SPEAKER. The Chair thanks the gentleman.

The gentleman, Mr. Lee, is recognized.

Mr. LEE. Thank you, Mr. Speaker.

I would just reiterate the comments of Representative Zug. The bill before us deals with the judiciary. This amendment deals with the judicial pension system as well as our own, and I think it is entirely germane. Thank you.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. Ryan.

Mr. RYAN. Mr. Speaker, I am against this amendment for other reasons; really, for the same reason that I voted against

the gentleman, Mr. Piccola's amendment - that is, the underlying bill, HB 1, I think is too important to throw or cast a shadow of doubt on at any time. The court, as I remember its treatment of HB 1 or the contents of it on an earlier occasion, struck down as unconstitutional legislation along these lines, dealing with their own reform and with judicial discipline.

Whether or not you knock down the Zug amendment on the question of germane or you knock the amendment down on the basis of it being the wrong time and the wrong place, considering the fact that we are dealing with judicial discipline and we should not jeopardize the judicial discipline issue, I guess, is a matter of choice. I myself would prefer to vote against the Zug amendment because it may jeopardize the judicial discipline bill, not because of germaneness because I honestly have a problem with the area of germaneness. I think it is germane.

I would appreciate it at this time if— Well, I guess I cannot ask the gentleman, Mr. Daley, to withdraw. But I do not know what I am going to do, but this is the wrong time and the wrong place for this particular amendment.

The SPEAKER. The Chair thanks the gentleman.

The members who believe that this measure is germane will vote in the affirmative; those who believe it is nongermane will vote in the negative.

On the question recurring,

Will the House sustain the germaneness of the amendments?

The following roll call was recorded:

YEAS—90

Argall	Freeman	Masland	Saylor
Armstrong	Gerlach	Mayernik	Scheetz
Baker	Gordner	Merry	Schuler
Barley	Hanna	Michlovic	Scrimenti
Bebko-Jones	Harley	Mihalich	Smith, B.
Boyes	Heckler	Murphy	Steil
Brown	Hutchinson	Nailor	Stetler
Cappabianca	Jadlowiec	Nickol	Strittmatter
Carone	Kaiser	Nyce	Sturla
Cawley	Kasunic	O'Donnell	Surra
Cessar	King	Pesci	Tigue
Chadwick	Kirkland	Pettit	Tomlinson
Clark	Krebs	Phillips	True
DeLuca	Lawless	Piccola	Tulli
Dempsey	Lee	Pistella	Uliana
Dent	Leh	Platts	Vance
Druce	Levdansky	Preston	Waugh
Egolf	Lloyd	Reinard	Wogan
Fairchild	Lynch	Rohrer	Wozniak
Fargo	McNally	Rudy	Yandrisevits
Farmer	Maitland	Ryan	Yewcic
Fichter	Manderino	Saurman	Zug
Feagle	Marsico		

NAYS—113

Acosta	Durham	Laub	Rubley
Adolph	Evans	Laughlin	Santoni
Allen	Fajt	Lederer	Sather
Battisto	Fee	Lescovitz	Semmel
Belardi	Flick	Linton	Serafini
Belfanti	Gamble	Lucyk	Smith, S. H.

Birmelin	Gannon	McCall	Snyder, D. W.
Bishop	Geist	McGeehan	Staback
Blaum	George	Markosek	Stairs
Bunt	Gigliotti	Melio	Steelman
Bush	Gladeck	Micozzie	Steighner
Butkovitz	Godshall	Miller	Stern
Buxton	Gruitza	Mundy	Stish
Caltagirone	Gruppo	O'Brien	Tangretti
Carn	Haluska	Olasz	Taylor, E. Z.
Civera	Hasay	Oliver	Taylor, J.
Clymer	Hennessey	Perzel	Thomas
Cohen, L. I.	Herman	Petrarca	Trello
Cohen, M.	Hershey	Petrone	Trich
Colafella	Hess	Pitts	Van Horne
Colaizzo	Hughes	Raymond	Veon
Cornell	Itkin	Reber	Vitali
Corrigan	James	Richardson	Williams
Cowell	Jarolin	Rieger	Wright, D. R.
Coy	Josephs	Ritter	Wright, M. N.
Curry	Keller	Roberts	
Daley	Kenney	Robinson	DeWeese,
Dermody	Kukovich	Roebuck	Speaker
Donatucci	LaGrotta	Rooney	

NOT VOTING—0

EXCUSED—0

Less than the majority having voted in the affirmative, question was determined in the negative and the amendments were declared not germane.

On the question recurring,

Will the House agree to the bill on third consideration? Bill was agreed to.

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

The question is, shall the bill pass finally?

The gentleman, Mr. Piccola, is recognized on final passage. Mr. PICCOLA. Thank you, Mr. Speaker.

I would like to thank the 63 stalwarts who continue stand strong for what I consider to be real judicial discipline in this State, but I would like to suggest to them that reluctantly support this bill.

The arguments of Mr. Kukovich and Mr. Fajt are without merit, and also Mr. Ryan. I do not particularly think this is a good or workable system, but it is the only game in town today.

I would suggest, Mr. Speaker, that if this bill is enacted by the General Assembly and adopted as a part of the Constitution, that I for one, as a member of the General Assembly, am going to be watching these boards very carefully to see that they administer judicial discipline fairly, equitably and in the best interest of the people of Pennsylvania. I call upon the news media, the other members of this General Assembly, those folks in the private sector - such as the Pennsylvania Bar Association, who used to stand for real judicial reform; the Pennsylvanians for Modern Courts, who likewise used to stand for real judicial reform - I call upon them, the Pennsylvania Trial Lawyers, and all Pennsylvanians interested in a true judicial discipline system in this State, to

they join me in watching these boards very carefully to see to it that they administer judicial discipline in the way in which I think this General Assembly and the people of Pennsylvania had intended it to be administered.

Therefore, Mr. Speaker, very reluctantly, I will be voting in favor of HB 1, and I would urge my colleagues to do the same. Thank you.

The SPEAKER. The Chair thanks the gentleman.

The gentleman from Franklin County, Mr. Coy, is recognized.

Mr. COY. Thank you, Mr. Speaker.

In deference to the gentleman's remarks considering stalwarts and who was and was not stalwart, I believe a vote against previous amendments to move this matter forward was the stalwart vote.

The need for judicial reform in this Commonwealth is immediate. The need for it is obviously immediate, and it does not take a judicial expert or a legal expert to recognize it. All one has to do is read newspapers, all one has to do is observe behavior on courts to realize that the need for reform is immediate, and any votes for amendments to the bill, as was alluded to even by the minority leader, would have delayed and procrastinated a process which was already in effect going down on this next ballot on the primary.

The need to pass this reform is the most immediate need. Therefore, I believe the most immediate thing this General Assembly can do to advance the process is to pass the bill as it has passed in the previous session.

Therefore, votes against the amendments were votes for judicial discipline. Votes against the amendments were votes to move the process, not to delay it. Votes against amendments were votes for immediate judicial discipline and not for another series of delays which would have been caused by amendatory language.

The stalwarts in this process, Mr. Speaker, were those who resisted amendments and who voted to move the process along and who will vote for the bill on final passage now. Thank you, Mr. Speaker.

The SPEAKER. The gentleman from Montgomery County, Mr. Saurman, is recognized.

Mr. SAURMAN. Thank you, Mr. Speaker.

Mr. Speaker, I recognize and I can read the board, but I still stand to make some statements with regard to the action that we are about to take.

On Monday of this week, Representative McNally introduced and presented to you as Speaker a document calling for the impeachment of Justice Rolf Larsen. I sincerely hope that the House of Representatives will act expeditiously to carry out that task.

The cloud of misbehavior, actual or supposed, must be addressed. Mistrust and decaying confidence in our courts must be reversed. In this great land of ours, our forefathers peacefully surrendered themselves to a government secured by a Constitution and a Bill of Rights.

History is replete with incidents of violence and bloodshed where people have been subjected to tyranny and an abuse of

power. We are a government of people. The power given to judges, to our Governor, to our General Assembly is what the people permit it to be. It comes from no other source than those that are governed. We must therefore act at all times to keep our oath to obey, protect, and defend the Constitution of the United States and the Constitution of the Commonwealth of Pennsylvania.

The process by which the latter document can be altered is intentionally a complex one. Unlike the Pennsylvania House of Representatives, we cannot simply vote to suspend the rules when they get in our way.

There are certain elements of protection guaranteed to our people in our Constitution. Without reference to specific articles, they include the right to know what is going on, the right to a trial by their peers, the right to redress abuse in various forms, the right to expect that those in high places will be treated in the same manner in which they will be treated.

Therefore, since they do not enjoy immunity, as would be granted in HB 1, from their abuse of these actions, neither should they that abuse responsibility be granted any kind of immunity.

If any one of my constituents, unless they are in the legal profession, violates the law, the press can get all the information of the alleged violations, but in HB 1 that information will not be available.

We have all been bombarded by representatives of a group calling themselves VOCALS (Victims of a Corrupt American Legal System). Many have dismissed their claims out of hand. How many in fact nonattorneys have looked carefully at their specific concerns? How many have carefully examined the language of HB 1 in light of the charges that have been made?

How many have looked critically at the carefully crafted language designed to establish a special way to deal with those in the judicial branch of government as compared to how you or I would be treated under the same circumstances? What is it about a judge that places him or her above any other citizen in this great land?

Is it not possible that we can find people who understand the English language sufficiently to read the Constitution and understand what it says? If you or I are subject to a trial by a jury of 12 members who will determine our guilt or innocence, why then should not members of the legal profession be granted that same opportunity?

The public is crying out for meaningful reform, and that we know. HB 1 is in fact a complex document which in reality retains control of the process in the hands of the courts. It is in reality a cruel hoax to those who look for reform.

When our judges disobey our laws, who should judge them? Should they judge themselves? Who in fact is watching the henhouse? The question today is that one, simply: Who should judge our judges? I think that when we vote for HB 1, we say they judge themselves, and I ask for a "no" vote. Thank you.

The SPEAKER. The gentleman from Westmoreland County, Mr. Kukovich, is recognized.

Mr. KUKOVICH. Thank you, Mr. Speaker.

The bottom line today on this issue is going to be, did the House fail in judicial reform or did it come through? The reality is, all we want, all the people want on this issue is results. By voting for this bill, we will give them the results, we will move this issue on, and the rare chances that we get to actually do what the people want up here come few and far between. This is a chance to do it. Let us do it, vote "yes," and then assume that the Senate will move it on.

I ask for a "yes" vote.

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—201

Acosta	Fargo	Lloyd	Ryan
Adolph	Farmer	Lucyk	Santoni
Allen	Fee	Lynch	Sather
Argall	Fichter	McCall	Saylor
Armstrong	Fleagle	McGeehan	Scheetz
Baker	Flick	McNally	Schuler
Barley	Freeman	Maitland	Scrimenti
Battisto	Gamble	Manderino	Semmel
Bebko-Jones	Gannon	Markosek	Serafini
Belardi	Geist	Marsico	Smith, B.
Belfanti	George	Masland	Smith, S. H.
Birmelin	Gerlach	Mayernik	Snyder, D. W.
Bishop	Gigliotti	Melio	Staback
Blaum	Gladeck	Merry	Stairs
Boyes	Godshall	Michlovic	Steelman
Brown	Gordner	Micozzie	Steighner
Bunt	Gruitza	Mihalich	Steil
Bush	Gruppo	Miller	Stern
Butkovitz	Haluska	Mundy	Stetler
Buxton	Hanna	Murphy	Stish
Caltagirone	Harley	Nailor	Strittmatter
Cappabianca	Hasay	Nickol	Sturla
Carn	Heckler	Nyce	Surra
Carone	Hennessey	O'Brien	Tangretti
Cawley	Herman	O'Donnell	Taylor, E. Z.
Cessar	Hershey	Olasz	Taylor, J.
Chadwick	Hess	Oliver	Thomas
Civera	Hughes	Perzel	Tigue
Clark	Hutchinson	Pesci	Tomlinson
Clymer	Itkin	Petrarca	Trello
Cohen, L. I.	Jadlowiec	Petrone	Trich
Cohen, M.	James	Pettit	True
Colaella	Jarolin	Phillips	Tulli
Colaizzo	Josephs	Piccola	Uliana
Cornell	Kaiser	Pistella	Van Horne
Corrigan	Kasunic	Pitts	Vance
Cowell	Keller	Platts	Veon
Coy	Kenney	Preston	Vitali
Curry	King	Raymond	Waugh
DeLuca	Kirkland	Reber	Williams
Daley	Krebs	Reinard	Wogan
Dempsey	Kukovich	Richardson	Wozniak
Dent	LaGrotta	Rieger	Wright, D. R.
Dermody	Laub	Ritter	Wright, M. N.
Donatucci	Laughlin	Roberts	Yandrisevits
Druce	Lawless	Robinson	Yewcic
Durham	Lederer	Roebuck	Zug
Egolf	Lee	Rohrer	
Evans	Lescovitz	Rooney	DeWeese,
Fairchild	Levdansky	Rubley	Speaker
Fajt	Linton	Rudy	

NAYS—2

Leh

Saurman

NOT VOTING—0

EXCUSED—0

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.

HOUSE BILLS INTRODUCED AND REFERRED

No. 2 By Representatives EVANS, PICCOLA, DeWEESE, ITKIN, MIHALICH, RIEGER, HASAY, STEELMAN, DRUCE, FARGO, GORDNER, RITTER, FAJT, FLICK, CAPPABIANCA, MELIO, ZUG, KIRKLAND, BUXTON, MUNDY, LINTON, COWELL, CESSAR, CARONE, LEVDANSKY, BAKER, REINARD, KREBS, PLATTS, BATTISTO, SCHEETZ, ARMSTRONG, MASLAND, BUSH, GLADECK, HECKLER, LYNCH, FARMER, CLYMER, FICHTER and STEIL

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

Referred to Committee on RULES, January 27, 1993.

No. 3 By Representatives McGEEHAN, SCHULER, MAYERNIK, RITTER, DERMODY, GEIST, TRELLO, VEON, FLICK, KASUNIC, KENNEY, HANNA, PISTELLA, GAMBLE, TIGUE, STABACK, ARGALL, KAISER, ADOLPH, BELARDI, BAKER, L. I. COHEN, HERMAN, GORDNER, SAYLOR, TANGRETTI, HARLEY, CORRIGAN, LAUGHLIN, BUTKOVITZ, OLASZ, SCRIMENTI, ROONEY, BLAUM, STURLA, FAJT, BATTISTO, SATHER, LEDERER, DONATUCCI, MASLAND, HUGHES, ULIANA, KUKOVICH, ACOSTA, KELLER, O'BRIEN, STEELMAN and DeWEESE

An Act amending Titles 18 (Crimes and Offenses) and 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, providing for the crime of stalking and for penalties; further providing for protective orders and warrantless arrests relative to victim and witness intimidation and for relief relative to protection from abuse.

Referred to Committee on RULES, January 27, 1993.

No. 4 By Representatives D. R. WRIGHT, VEON, ITKIN, M. COHEN, DeWEESE, BELARDI, STEIGHNER, COY and DURHAM