

Legislative Journal

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Session of 1979

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HOUSE OF REPRESENTATIVES

ANNOUNCEMENT

At 11:30 a.m., the HONORABLE JOSEPH G. WARGO, a member from Lackawanna County, accompanied by the gentleman from York, the HONORABLE JOHN HOPE ANDERSON, made the following announcement in the hall of the House:

In accordance with the provisions of Article II, Section 4, of the Constitution of Pennsylvania, the members-elect of the House of Representatives will meet this day at 12 o'clock noon in the hall of the House of Representatives for the purpose of organization.

CALL TO ORDER

The hour of 12 o'clock having arrived, the Honorable Vincent F. Scarcelli, Chief Clerk of the House of Representatives, called the members-elect to order and announced:

This being the day and the hour fixed by Article II, section 4, of the Constitution of Pennsylvania for the meeting of the General Assembly, the members-elect of the House of Representatives will now come to order.

Prayer will be offered by Reverend David R. Hoover, chaplain of the House of Representatives.

At the conclusion of the prayer, you will remain standing in silence until the sound of the gavel as a mark of respect to the memory of Representative Frank J. Meluskey, who passed away on November 22, 1978.

PRAYER

REV. DR. DAVID R. HOOVER, chaplain of the House of Representatives and pastor of St. Paul's Lutheran Church, McConnellsburg, Pennsylvania, offered the following prayer:

The eyes of all look to Thee, O God, and Thou dost provide for all their needs. We call upon Thee at the beginning of this session with the prayer that Thou wilt share Thy providential care with the members of this House of Representatives. Heavenly

Father, bestow upon them the abundance of Thy loving care and the fullest measure of Thy tender mercy; fill them with the power of Thy presence and the consciousness of Thy strengthening and sustaining guidance; enable them to produce legislation which will improve the social climate as well as benefit the constituency of this great state; and may their every achievement and successful venture be acceptable to Thee and redound to the honor of Thy blest name. Amen.

(Members stood in silence.)

PRESENTATION OF ELECTION RETURNS

The CHIEF CLERK. The Chair recognizes the Sergeant at Arms of the House to introduce the Honorable Barton A. Fields, Secretary of the Commonwealth.

The SERGEANT AT ARMS. Mr. Chief Clerk, I wish to announce the presence of the Secretary of the Commonwealth, the Honorable Barton A. Fields.

The CHIEF CLERK. The Chair recognizes the Honorable Barton A. Fields, Secretary of the Commonwealth, who presents the election returns of the members of the House.

HONORABLE BARTON A. FIELDS. Mr. Chief Clerk, I have the honor of presenting the official returns of the general election held throughout the Commonwealth on November 7, 1978, at which members of this honorable body were elected.

The CHIEF CLERK. The Chair extends the thanks of the House to the Honorable Barton A. Fields, Secretary of the Commonwealth.

ELECTION RETURNS OPENED

Mr. Barber, a member-elect, offered the following resolution, which was read, considered and adopted:

In the House of Representatives, January 2, 1979

RESOLVED, That the returns for the election of members of the House of Representatives, held Tuesday, November 7, 1978, be now opened and read.

The following election returns were read:

In the Name and by Authority of the
Commonwealth of Pennsylvania

TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE MEMBERS OF THE HOUSE OF REPRESENTATIVES OF THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA,

GREETINGS:

I have the honor to present the returns of the General Election held November 7, 1978. The following, having received the highest number of votes in their respective districts, were duly elected Members of the House of Representatives in the General Assembly.

<u>NAME</u>	<u>DISTRICT</u>	<u>VOTES</u>
Bernard J. Dombrowski	First	10,494
Italo S. Cappabianca	Second	6,869
David DiCarlo	Third	13,168
Harry E. Bowser	Fourth	8,539
David S. Hayes	Fifth	10,765
Tom Swift	Sixth	8,416
Reid L. Bennett	Seventh	9,567
Roy W. Wilt	Eighth	12,266
Thomas J. Fee	Ninth	13,093
Ralph D. Pratt	Tenth	10,825
Joseph A. Steighner	Eleventh	9,136
James M. Burd	Twelfth	11,501
Earl H. Smith	Thirteenth	8,559
Joseph P. Kolter	Fourteenth	11,848
Fred R. Milanovich	Fifteenth	11,702
Charles Laughlin	Sixteenth	13,500
Thomas J. Murphy	Seventeenth	9,093
Edward F. Burns	Eighteenth	12,982
K. Leroy Irvis	Nineteenth	8,344
Stephen S. Grabowski	Twentieth	10,870
Frank J. Pistella	Twenty-first	8,605
Steve Seventy	Twenty-second	9,679
Ivan Itkin	Twenty-third	12,975
Joseph Rhodes, Jr.	Twenty-fourth	8,970
Lee C. Taddonio	Twenty-fifth	13,491
Michael Dawida	Twenty-sixth	11,427
Rick Chess	Twenty-seventh	9,197
George F. Pott, Jr.	Twenty-eighth	15,344
Ronald P. Goebel	Twenty-ninth	12,914
Richard J. Cessar	Thirtieth	14,798
Brian D. Clark	Thirty-first	8,978
Phyllis T. Kernick	Thirty-second	12,064
Roger F. Duffy	Thirty-third	9,143
Ronald R. Cowell	Thirty-fourth	10,825
Tom Michlovic	Thirty-fifth	9,974
William W. Knight	Thirty-sixth	11,483
Emil Mrkonic	Thirty-seventh	11,199
Bernard R. Novak	Thirty-eighth	11,441
Robb Austin	Thirty-ninth	12,055
D. Michael Fisher	Fortieth	17,108
Joseph V. Zord, Jr.	Forty-first	12,144
Terry McVerry	Forty-second	12,566
James W. Knepper, Jr.	Forty-third	11,387
Ron Gamble	Forty-fourth	9,072
Fred A. Trello	Forty-fifth	10,364
John L. Brunner	Forty-sixth	9,701
Roger Raymond Fischer	Forty-seventh	11,626
David Sweet	Forty-eighth	13,037
A. J. Demedio	Forty-ninth	13,427
H. William DeWeese	Fiftieth	14,038
Fred Taylor	Fifty-first	11,694
Harry Young Cochran	Fifty-second	8,883
Roosevelt I. Polite	Fifty-third	13,292
C. L. Schmitt	Fifty-fourth	9,866
Joseph A. Petrarca	Fifty-fifth	10,232
Allen G. Kukovich	Fifty-sixth	16,460

Amos K. Hutchinson	Fifty-seventh	9,681
James J. Manderino	Fifty-eighth	8,633
Jess Stairs	Fifty-ninth	12,333
Henry Livengood	Sixtieth	12,587
Joseph M. Gladeck, Jr.	Sixty-first	10,090
Paul Wass	Sixty-second	11,122
David R. Wright	Sixty-third	9,492
Joseph Levi II	Sixty-fourth	11,234
John E. Peterson	Sixty-fifth	11,673
L. Eugene Smith	Sixty-sixth	11,621
William D. Mackowski	Sixty-seventh	9,046
Warren H. Spencer	Sixty-eighth	10,727
<u>Litigation Pending</u>	Sixty-ninth	
William Telek	Seventieth	9,882
Rita Clark	Seventy-first	9,256
William J. Stewart	Seventy-second	10,260
Paul J. Yahner	Seventy-third	9,840
Camille George	Seventy-fourth	11,990
Bill Wachob	Seventy-fifth	10,353
Russell P. Letterman	Seventy-sixth	9,510
Gregg L. Cunningham	Seventy-seventh	8,719
Clarence E. Dietz	Seventy-eighth	11,808
Richard A. Geist	Seventy-ninth	8,545
Edwin G. Johnson	Eightieth	10,512
Samuel E. Hayes, Jr.	Eighty-first	13,011
Walter F. Deverter	Eighty-second	10,641
Anthony J. Cimini	Eighty-third	9,542
Joseph V. Grieco	Eighty-fourth	12,188
Reno H. Thomas	Eighty-fifth	9,631
Fred C. Noye	Eighty-sixth	14,827
Hal Mowery	Eighty-seventh	14,363
John E. Scheaffer	Eighty-eighth	10,467
R. Harry Bittle	Eighty-ninth	9,143
Terry L. Punt	Ninetieth	6,450
Kenneth J. Cole	Ninety-first	8,579
Eugene R. Geesey	Ninety-second	12,506
C. Carville Foster, Jr.	Ninety-third	11,559
John Hope Anderson	Ninety-fourth	12,527
Stanford I. Lehr	Ninety-fifth	10,216
Marvin E. Miller, Jr.	Ninety-sixth	7,450
June N. Honaman	Ninety-seventh	14,909
Kenneth E. Brandt	Ninety-eighth	10,460
Noah W. Wenger	Ninety-ninth	9,752
Gibson E. Armstrong	One hundredth	12,266
H. Jack Seltzer	One hundred first	10,272
Nicholas B. Moehlmann	One hundred second	10,993
Stephen R. Reed	One hundred third	5,521
Jeffrey E. Piccola	One hundred fourth	11,673
Joseph C. Manmiller	One hundred fifth	13,528
Rudy Dininni	One hundred sixth	12,013
Edward Helfrick	One hundred seventh	11,236
George O. Wagner	One hundred eighth	10,441
Ted Stuban	One hundred ninth	12,531
Roger A. Madigan	One hundred tenth	12,343
Carmel Sirianni	One hundred eleventh	16,201
Fred Belardi	One hundred twelfth	9,036
Frank J. Zitterman	One hundred thirteenth	9,192

Frank A. Serafini	One hundred fourteenth	12,055
Joseph G. Wargo	One hundred fifteenth	11,845
Ronald Gatski	One hundred sixteenth	8,749
George Hasay	One hundred seventeenth	12,524
Raphael Musto	One hundred eighteenth	14,086
Fred J. Shupnik	One hundred nineteenth	11,635
Franklin Coslett	One hundred twentieth	10,716
Bernard F. O'Brien	One hundred twenty-first	8,142
Thomas J. McCall	One hundred twenty-second	10,918
James A. Goodman	One hundred twenty-third	12,351
William K. Klingaman, Sr.	One hundred twenty-fourth	12,837
William D. Hutchinson	One hundred twenty-fifth	10,834
Harold L. Brown	One hundred twenty-sixth	9,764
Thomas Caltagirone	One hundred twenty-seventh	8,858
James J. Gallen	One hundred twenty-eighth	11,834
John S. Davies	One hundred twenty-ninth	11,055
Lester K. Fryer	One hundred thirtieth	7,942
James P. Ritter	One hundred thirty-first	8,679
Kurt D. Zwikl	One hundred thirty-second	8,564
<u>VACANCY DECLARED</u>	One hundred thirty-third	
Joseph R. Zeller	One hundred thirty-fourth	10,035
J. Michael Schweder	One hundred thirty-fifth	9,123
Edmund J. Sieminski	One hundred thirty-sixth	7,504
Leonard Q. Grupp	One hundred thirty-seventh	9,053
Russell Kowalyshyn	One hundred thirty-eighth	10,465
William W. Foster	One hundred thirty-ninth	12,992
John M. Rodgers	One hundred fortieth	7,825
James J. A. Gallagher	One hundred forty-first	7,327
James L. Wright, Jr.	One hundred forty-second	10,946
Margaret H. George	One hundred forty-third	12,555
Benjamin H. Wilson	One hundred forty-fourth	10,975
Marvin D. Weidner	One hundred forty-fifth	10,843
William H. Yohn, Jr.	One hundred forty-sixth	8,795
Marilyn S. Lewis	One hundred forty-seventh	10,517
Anthony J. Scirica	One hundred forty-eighth	13,337
Richard A. McClatchy, Jr.	One hundred forty-ninth	13,578
Joseph A. Lashinger	One hundred fiftieth	10,701
Vern Pyles	One hundred fifty-first	12,603
Roy W. Cornell	One hundred fifty-second	13,003
Joseph M. Hoeffel	One hundred fifty-third	11,515
Charles F. Nahill, Jr.	One hundred fifty-fourth	13,793
E. Raymond Lynch	One hundred fifty-fifth	8,531
Elinor Zimmerman Taylor	One hundred fifty-sixth	13,644
Peter R. Vroon	One hundred fifty-seventh	12,489
Joseph R. Pitts	One hundred fifty-eighth	14,369
Arthur F. Earley	One hundred fifty-ninth	6,918
Kathrynann Durham	One hundred sixtieth	9,499
Thomas P. Gannon	One hundred sixty-first	10,301
Gerald J. Spitz	One hundred sixty-second	10,222
Nicholas A. Micozzie	One hundred sixty-third	11,105
Francis J. Lynch	One hundred sixty-fourth	13,013
Mary Ann Arty	One hundred sixty-fifth	13,582
Stephen Freind	One hundred sixty-sixth	15,809
John Alden	One hundred sixty-seventh	11,992
Matthew J. Ryan	One hundred sixty-eighth	15,633
Dennis M. O'Brien	One hundred sixty-ninth	15,033
Frank A. Salvatore	One hundred seventieth	16,331

Roland Greenfield	One hundred seventy-first	14,262
John M. Perzel	One hundred seventy-second	14,573
Henry J. Giammarco	One hundred seventy-third	16,639
Max Pievsky	One hundred seventy-fourth	17,189
Robert A. Borski, Jr.	One hundred seventy-fifth	11,366
Gerald J. McKelvey	One hundredth seventy-sixth	12,437
Gerald F. McMonagle	One hundred seventy-seventh	14,123
James M. McIntyre	One hundred seventy-eighth	10,999
William W. Rieger	One hundred seventy-ninth	8,913
Clifford Gray, Jr.	One hundred eightieth	8,981
T. Milton Street	One hundred eighty-first	10,761
Samuel Rappaport	One hundred eighty-second	11,244
Matthew J. Cianciulli, Jr.	One hundred eighty-third	13,679
Leland M. Beloff	One hundred eighty-fourth	15,059
Ronald R. Donatucci	One hundred eighty-fifth	12,190
David Shadding	One hundred eighty-sixth	12,417
Norman S. Berson	One hundred eighty-seventh	12,008
Aljia Dumas	One hundred eighty-eighth	10,541
Martin P. Mullen	One hundred eighty-ninth	12,385
James D. Barber	One hundred ninetieth	10,370
Hardy Williams	One hundred ninety-first	16,312
Nicholas A. Pucciarelli	One hundred ninety-second	11,987
Donald W. Dorr	One hundred ninety-third	10,145
Stephen E. Levin	One hundred ninety-fourth	12,468
Frank L. Oliver	One hundred ninety-fifth	9,072
Ruth B. Harper	One hundred ninety-sixth	11,339
Joel J. Johnson	One hundred ninety-seventh	10,691
Robert W. O'Donnell	One hundred ninety-eighth	10,040
M. Joseph Rocks	One hundred ninety-ninth	14,480
John F. White, Jr.	Two hundredth	19,175
David P. Richardson, Jr.	Two hundred first	16,057
Mark B. Cohen	Two hundred second	13,991
James F. Jones, Jr.	Two hundred third	11,790

(SEAL)

The CHIEF CLERK. The election returns for all candidates for membership in the House of Representatives will be printed in the Journal of the House.

The Chair recognizes the gentleman from Delaware, Mr. Ryan.

Mr. RYAN. Mr. Chief Clerk, is it your intention to have Mr. Fields read the returns?

The CHIEF CLERK. The results of all the returns?

Mr. RYAN. Yes.

The CHIEF CLERK. No; just the new members.

Mr. RYAN. I would ask, Mr. Chief Clerk, after the Secretary has read the returns, that I be recognized. I wish to make a motion in connection with the gentleman from Luzerne, Mr. Gatski, and the gentleman from Somerset, Mr. Halverson.

The CHIEF CLERK. You will be recognized.

Mr. RYAN. Mr. Chief Clerk, I apologize to the House. I was in conference at the time and did not understand that the returns had been read.

BARTON A. FIELDS
Secretary of the Commonwealth

MOTION

Mr. RYAN. At this time I would make the following motion: Whereas an appeal is presently pending in the Pennsylvania Supreme Court challenging the decision of the Court of Common Pleas of Luzerne County directing that the board of elections of said county certify Ron Gatski as the duly elected Representative from the 116th legislative district; whereas an appeal is presently pending in the Pennsylvania Supreme Court challenging the decision of the Court of Common Pleas of Somerset County directing that the board of elections of said county certify Kenneth S. Halverson as the duly elected Representative from the 69th legislative district; whereas, pursuant to Article II, section 9, of the Pennsylvania Constitution, the House of Representatives is the final judge of the election of its members; and whereas it is anticipated that election contest petitions will be filed with the House of Representatives in both instances; be it resolved that the oath of office not be administered to Ron Gatski and Kenneth S. Halverson today.

I make that in the form of a motion, Mr. Chief Clerk.

The CHIEF CLERK. The Chair recognizes the gentleman from Allegheny, Mr. Irvis.

Mr. IRVIS. Mr. Chief Clerk, I must object to the consideration of the motion offered by the gentleman, Mr. Ryan. The question before the House in the 116th legislative district differs in kind from the question before the House in the 69th legislative district.

In the 116th legislative district Mr. Gatski has been certified as having won the election, and there is no stay order filed by the Supreme Court in that particular legislative district. That is not, however, true in the 69th legislative district, where Mr. Halverson is in court and where there is a stay order on the certification of anyone from that particular district. So to link both the 116th and the 69th districts together and argue that both cases are on all squares each with the other is not in fact so. Consequently, I would be in the negative on this resolution and would ask that the members of the House vote in the negative. These issues should be decided one on one. The Gatski issue is a separate issue from the Halverson issue and should be so considered.

The CHIEF CLERK. The Chair recognizes the gentleman from Delaware, Mr. Ryan.

Mr. RYAN. Mr. Chief Clerk, what Mr. Irvis says is basically true; that is, that a stay order has been signed by Justice Larsen in the case of Halverson and no stay order has been executed or signed in the case of Mr. Gatski. However, the fact remains that both of these matters are presently pending before the Supreme Court. The fact that a stay has or has not been signed I do not think is necessarily controlling as to this House of Representatives.

Each of us as members knows that the matter is before the Supreme Court. We find no substantial difference in the fact that one has a stay executed against him whereas the other does not. That was not a determination on the merits. Justice Larsen did not look into the merits of the Halverson case; he simply took the papers and signed a stay order. At no time did he review the merits of the lower court. The same thing is true in the case of Mr. Gatski. The appellate court did not look at the merits; it simply did not sign the stay.

We have reason to believe—and we would urge the court to take a closer look at its own actions—Mr. Chief Clerk, that Justice Larsen erred in signing the stay in the first instance. There is ample parliamentary and court authority, and constitutional authority, if you please, to the effect that the House is the final judge of the qualification of its members and as to whether or not any of them have been elected, if it is brought in issue. And it is in the interest, I believe, of the House at this time that these two gentlemen not be sworn; that in accordance with prior procedure and prior rulings of the Supreme Court, this House give thought to having an election committee, a standing committee of this House, review the two situations and make a recommendation. The highest court in this state has said on at least one occasion that we are the final judge of our members and go so far as to say that the Supreme Court really is nothing but an advisory court; that whatever it does is only advice to

the House, and that its opinion has no more effect on the outcome of an election than would the opinion of a standing committee of this House; that it is something to be determined by the members of this House as an entirety. And to suggest to the members of this body that we should treat the Halverson case differently from the Gatski case, I think, is wrong, and I would urge that the motion presented be adopted.

The CHIEF CLERK. The Chair recognizes the gentleman from Allegheny, Mr. Irvis.

Mr. IRVIS. Mr. Chief Clerk, I renew my objection to the motion on the basis of the argument which I presented this prior occasion at this microphone. The two cases are different. The Halverson case has vacillated from having one person declared winner to having another one declared winner. That is not so in the Gatski case. The Gatski case has not changed from election night until this very noontime. I would urge the members of this House, Mr. Chief Clerk, to consider the two cases separately, each on its own merits. We would agree that because of the stay order, the Halverson case ought not to be settled here today. There is no prohibition against the swearing in of Mr. Gatski. Mr. Gatski has been certified. Mr. Gatski has been certified as having won the election. There is, therefore, no reason why Mr. Gatski should not be sworn in, unless some reason can be raised on this floor as to his qualifications or his competence to serve, and we have heard no such reasons raised on this floor. Consequently, we must insist that the motion be defeated and that the Gatski case and the Halverson case be argued separately.

PARLIAMENTARY INQUIRY

The CHIEF CLERK. The Chair recognizes the gentleman from Mercer, Mr. Bennett. For what purpose does the gentleman rise?

Mr. BENNETT. I rise to a parliamentary inquiry.

The CHIEF CLERK. The gentleman will state it.

Mr. BENNETT. Mr. Chief Clerk, if I vote in opposition to the motion made by Mr. Ryan, am I in effect voting to seat my good friend, Mr. Halverson?

The CHIEF CLERK. No.

Mr. BENNETT. Mr. Chief Clerk, I suggest that I might be doing that. The motion, as I understand it, is not to seat either gentleman. If I vote in opposition to that, am I in effect voting to seat both gentlemen?

The CHIEF CLERK. No.

Mr. BENNETT. Is that the ruling of the Chair?

The CHIEF CLERK. When you are voting "no," you are not voting to seat—

Mr. BENNETT. Excuse me, Mr. Chief Clerk. I cannot hear you.

The CHIEF CLERK. If you are voting "no," you are voting on the motion not to seat either of the two members, Gatski or Halverson.

Mr. BENNETT. So that I understand it and there is no question, if I vote in opposition to the motion, I am not voting to seat both gentlemen; I am voting against the seating of either one of them.

The CHIEF CLERK. The Chair recognizes the gentleman from Delaware, Mr. Ryan.

Mr. RYAN. Mr. Chief Clerk, if I may, to satisfy Mr. Bennett, the motion is simply that the oath of office not be administered to Mr. Gatski and Mr. Halverson today.

Mr. BENNETT. Thank you, Mr. Chief Clerk.

INTERROGATION

Mr. WILLIAMS, under unanimous consent, interrogated Mr. RYAN.

Mr. WILLIAMS. Mr. Chief Clerk, I am concerned about the question raised by Mr. Irvis also. As to the one Representative, Gatski, as I see it, he is in no different situation from you or me who have been certified as elected. Let me finish. I am not dealing with the Halverson situation but just that one part of it. I know of no reason at all that Mr. Gatski is not in an equal position as every other elected Representative certified here. Now, can you tell me wherein that is not true?

Mr. RYAN. Mr. Chief Clerk, the Gatski situation differs from that of the gentleman from Philadelphia, Mr. Williams, and myself in that our election is not before the Supreme Court today.

Mr. WILLIAMS. As I understand it, Mr. Gatski has in fact been certified as you and I have been. Now, you say he is before the Supreme Court today. Is that on a motion filed by somebody to reopen the case? Is it a matter to reopen his situation? Is it an action of that nature?

Mr. RYAN. I am sorry, I do not know that I understood the gentleman's question.

Mr. WILLIAMS. My question was, you said that he differs from you and from me—the preposition “from”—in that his case is before the Supreme Court today. Is that what you said?

Mr. RYAN. That is correct.

Mr. WILLIAMS. Maybe I am unclear on that, and my question is, is that action before the Supreme Court brought to reopen his case in some way?

Mr. RYAN. As I understand it, Mr. Chief Clerk, in the case of Mr. Gatski there is a question as to whether or not a new election should be held, based on allegations of fraud or an improper election. In the case of Mr. Halverson—

Mr. WILLIAMS. I do not want to discuss Mr. Halverson.

Mr. RYAN. I am sorry.

Mr. WILLIAMS. If someone were in court today, right this minute, on Ryan and Williams, alleging fraud—let us say that happened, and we do not know because we have not received any papers—then Mr. Gatski is in no different situation, again, from you and me, certified as duly elected Representatives of this House. Is that not true?

Mr. RYAN. Mr. Chief Clerk, there is a difference. The difference is he is in court. Incidentally, Mr. Halverson's election was certified by the Common Pleas Court of Somerset County, and if I am not mistaken, that certification is before this House, together with a stay order which, if we choose, we can ignore.

Mr. WILLIAMS. Mr. Chief Clerk, as to certification, it seems to me that Mr. Gatski has a higher certification than you and I, because he got it by a court. We did not get that.

Number two, could someone over there, a lawyer or somebody, specify to this House and to this Commonwealth what the action you are talking about is, who filed it, what is its nature? It seems to me that if we are going to assault a Representative who has been certified, we cannot do that on any vague, theoretical speculation of someone who wants to allege something. That could happen to each and every one of the other House members, frivolously or politically. My point is, if you allege something as a solid reason to hold up on that, let it be specific; let it be clear; let it be coherent; let it make sense. Could you specify what that action is, who put it, and what it says, so we can determine whether or not it is an extra kind of legal action that would in fact dislodge a certification?

Mr. RYAN. Mr. Speaker, I am not going to be completely responsive to the gentleman's inquiry. I am going to rather make a broad statement of principle, and that is that in both the Halverson and Gatski elections, this House is unable at this time to look into every aspect of either of those cases. We do know, however, that both cases are before the Supreme Court. We do know, by virtue of research, both parliamentary research and legal research, that the Supreme Court is not, according to the law as we understand it today, the final tribunal, but rather we are that final tribunal.

The suggestion that the gentleman, Mr. Williams, makes with regards to the Gatski case are equally relevant points that could be applied to the Halverson case. The Halverson case is before the Supreme Court and he is the apparent winner with something better than you and I have, that is, a box-by-box count by the court and by an election board showing that he won finally by 21 votes. That is more than we have. We have the count that has not been looked at on a box-by-box basis. Our position is that they should both be treated equally the same.

Judge Larsen did not do anything when he signed that stay other than sign it. He did not look into the merits of the case. Justice Eagen, when he refused to sign a stay in the Gatski case, did not do anything about it other than refuse to sign the stay. So both of them for all practical purposes are exactly the same.

You and I do not have entire knowledge of what went on. We do not have any knowledge as members of this House at this time as to what the areas of controversy are, and it is for that reason that the two of them should either be sworn in today or step aside until there has been a determination at least by this House. We can wait for the advisory opinion of the Supreme Court or our committee can look into the election of the two of them and make a recommendation to the entire House. The entire House can consider the election of the two of them and decide to seat them or not seat them after we have reviewed the case.

Mr. WILLIAMS. Mr. Speaker, your broad statement of principle—I did direct an inquiry to you, but your broad statement of principle—would cause me to respond in two ways. As a matter of principle, if this House would ever, for any political or other-side reason, reject the seating of a member who has been certified, I think we have violated our oath of office as officers of this Commonwealth.

In the case of Gatski, it is my understanding that he has been

clearly certified. It is also very clear that during the last 5 minutes of dialogue between you and me, there is no clear, cogent reason to reject that. Now we can speculate and talk about broad principles and generalities but that kind of response is a rejection of the integrity of the members of this House as a matter of principle, as far as I see it.

Number two, I do not see the Halverson and the Gatski cases take a one-by-one position. We have another principle called one person, one vote. And each of those gentlemen are entitled to receive the full considerations, and with the integrity of this House and the court. If somebody wants to try to hook them up for whatever reason, I just say that politically it is going a bit far because the integrity of this House should be maintained.

I do not see, based on the reason Mr. Irvis raised, that in the Gatski case there is absolutely any principle or reason that has been offered to that. I would hope that all of us on every side as a matter of principle would on January 2 say, how we are going to run our House when it comes to matters of principle?, and reject that part of the resolution. Thank you.

The CHIEF CLERK. The Chair recognizes the gentleman from Delaware, Mr. Ryan.

Mr. RYAN. Mr. Speaker, in conclusion and just to sum up the two cases and what amounts to the statement of principle, both cases, Gatski and Halverson, were declared the victors by their county board of elections. Both were declared the winners by the county courts. Both have cases on appeal before the Supreme Court. Both of them today have evidence of having been duly returned in the forms of certificates of elections. The only difference is that in one case Judge Larsen decided that, with no apparent good reason, he would sign a stay; whereas Justice Eagen decided—and I am guessing at this point—that it was not within the purview of that court to sign such a stay, and I am guessing on that. There was no explanation given for Justice Eagen's lack of signing so that there is nothing that distinguishes these two cases other than what might be construed as the whim of one of the members of the Supreme Court, and you take your choice as to which one.

The CHIEF CLERK. The Chair recognizes the gentleman from Luzerne, Mr. Shupnik.

Mr. SHUPNIK. Mr. Speaker, after 11 terms, certainly I feel very badly and certainly I regret that I have to appear here today on the floor of this House in regards to the seating of a member of the General Assembly, and especially since he is in my county.

I thought our convening here today would be a day of conciliation, a day of cooperation and certainly of bipartisanship. I thought, actually, Mr. Speaker—and let me say this and the other side had better listen—you can look up there and you can see five names up there that were here; and add one, and that six members who stood here 2 years ago who are not here today by reason of death. Now give it serious thought, Mr. Speaker.

I feel, as I said, very badly about this thing. I know the situation. I cannot argue the Halverson case, but I can tell you just what happened in regards to Ron Gatski. And one other thing I may bring out, Mr. Speaker, if this is going to be the tone for the whole year—I do think that the majority leader could have

at least notified Mr. Gatski and said, we are going to bring this up. We are going to bring up your seating; not let the man come down here with his family and now be told that he cannot be seated. Is that the way we are going to do business around here? If you knew that, and in this case is this going to be a trade-off — you seat our man if we will seat yours? The only difference is that the Supreme Court said you cannot.

Let me tell you what the Supreme Court told your attorney, the Republican attorney, when he asked for a stay. He told them on Thursday, when he appeared before the Supreme Court, to go home and do his homework; to come back with more evidence if you want a stay. That is what I was told.

I am just a layman, but I was told the next day that they did not grant them that stay. What happened in the Halverson case, I cannot go on, but let me tell you just what happened with Mr. Gatski. On the night of election, on the open returns, Mr. Gatski was ahead by several hundred votes. As they started going through them, they found out that they included—because part of Luzerne County is in Mr. McCall's district—the boroughs of Freeland and White Haven. And, as a result, instead of winning by several hundred, he won by 97. As a result they went into the official counts and they went over them side by side, each paper. And remember, an official count, when you have machines, is on a big tablet or on a big cardboard which is signed by the Republican inspectors and the Democrats; the whole election board signs it. It is not just Democrats or not just Republicans; they all sign it. They sign those returns, and when they took the official returns, Mr. Gatski won by 97 votes.

Immediately the Republican Party—and we hear this comes right from Harrisburg—notified him to take a recanvass, to recanvass each machine, and they only took 37, the 37 that Mr. Gatski won. They recanvassed those machines and they were the very same as they were on the official returns. There was no discrepancy whatsoever, no discrepancy. The night of the open elections, the night of the official returns, the night that they opened the machines and recanvassed them, at no time were there any discrepancies. So they took it to Common Pleas Court, and, before two judges, they decided that there was no basis for it and they notified the Bureau of Elections to certify Mr. Gatski.

Now, Mr. Speaker, they then took it to the Supreme Court. It went before the Supreme Court and they denied that stay.

What gets me, Mr. Speaker, sure, you have the votes on that side. You have 101 or whatever it may be. Now if you are going to start acting like Hitler, there is going to come a time—oh, you can respond. We have been here long enough, Mr. Ryan and myself, we can talk to one another. But let me say this—

Mr. RYAN. Not like that, though.

Mr. SHUPNIK. You know, you are going to need 102 votes on many, many issues, come the budget, come the taxes, and you are going to have to start coming over here. I regret that you today are putting on the spot some of your new members, members from my own county. You are asking them to follow your leadership and you know definitely that you do not have a case against Mr. Gatski. I think you are making a terrible mistake. I think you are getting off on the wrong foot. I think that you

just sat here and said, let us settle this thing. You could have got in here together, and, sure, in a week or two if Mr. Halverson wins, fine; and if he does not win, then we have a new ball game. But do not bring in a man and let his family come down here and tell him he cannot be seated. Twenty-one years I have been down here and I have never seen anything like this. I am going to tell you right now that you are making a serious mistake. Thank you.

The CHIEF CLERK. The Chair recognizes the gentleman from Delaware, Mr. Ryan.

Mr. RYAN. Mr. Speaker, I wonder what the gentleman's remarks would have been had we been urging that both Mr. Halverson and Mr. Gatski, both apparent winners, be seated here today.

If the gentleman wants to refer to a Hitler-like approach to the problem, I suggest to you that a strong dictator with the majority votes behind him might say: Halverson gets seated today, too. But take into consideration that we are treating both of them the same. We have not said, because we happen to have the votes—and I hope we have them. We have not said—we are going to seat Halverson and not Gatski. We are saying we will treat them both the same because both of them are presently before the Supreme Court and awaiting the advice of the Supreme Court as to the outcome of their elections.

There is nothing in the law, and, in fact, my caucus, my caucus, has urged us to seat Halverson. I am having more trouble justifying our actions in not seating Ken Halverson than I am in opposing the seating of the two of them.

They want both of these men seated. And they have a good argument that both be seated. Our problem is, do we pay any—

The CHIEF CLERK. The Chair recognizes the gentleman from Luzerne, Mr. Shupnik.

Mr. SHUPNIK. All I can say to Mr. Ryan, Mr. Chief Clerk, is, if he wants to go against the Supreme Court, then you go against the Supreme Court. Now that is simple. You go against them. And I want you to go to the press and go to the people and say, we defy the Supreme Court, that is all.

Now the Supreme Court, if they in their wisdom saw that he should have gotten a stay, I am sure they would have given him a stay. Now it is as simple as that. Before Mr. Hutchinson goes into it, I can remember him as he stood up here and said, we will take it to the courts. Remember that, Mr. Hutchinson, about how we will take it to the courts? And I am still waiting for him to take it to the courts.

The CHIEF CLERK. The Chair recognizes the gentleman from Luzerne, Mr. Gatski.

Mr. GATSKI. Thank you, Mr. Chief Clerk.

I think it is just fitting that if I am the one here whom everyone is talking about, maybe I should get up and tell you my side.

For 2 months I have been harassed, pestered, whatever word you want to call it, by lawyers, courts, and now I come down here today with my family only to be harassed by my own members. I think it is a disgrace.

I am tired of hearing "the same. It is the same as the Halverson case." I know nothing about the Halverson case, except I

went to bed election night with 97 votes. And after they went through every appeal, opened machines — machines, Mr. Ryan, not ballots — I am still 97 votes ahead.

The people of Luzerne County in the 116th district said, Ron, you are the winner. Boy, I will tell you, I cannot see how anybody here is going to tell the people who put me in that I am not.

POINT OF ORDER

The CHIEF CLERK. The Chair recognizes the gentleman from Philadelphia, Mr. Richardson. For what purpose does the gentleman rise?

Mr. RICHARDSON. I rise to a point of order.

The CHIEF CLERK. The gentleman will state it.

Mr. RICHARDSON. Mr. Speaker, I have two points of order: Number one, I would like to know whether or not the question before us is a divisible question?

The CHIEF CLERK. Yes, it is, Mr. Richardson.

MOTION TO DIVIDE

Mr. RICHARDSON. Mr. Speaker, I would move then that the question be divided. That is the first thing.

My second question, Mr. Chief Clerk, is, I would like to know who is eligible to vote since we are not sworn in?

The CHIEF CLERK. Mr. Richardson, I would like to know how you can divide the motion. How do you want to divide the motion?

Mr. RICHARDSON. Well, certainly, we are not privy to having a copy of it before us. That is the first thing. I would think the rules would indicate that any motion that is before this House would indicate that we should have a copy of it.

It would seem to me that wherever the question lies in relationship to the Halverson case versus the Gatski case that that should be divided, and that we should vote on one and then vote on the other one separately. But my second point of order probably would supersede the first point of order, and that is, who is eligible to vote on a division of a question and who is eligible to vote on any motion that is before this House at this present time without members being sworn in?

The CHIEF CLERK. There is only one answer that you can answer that with. Every member who has a certificate of election can vote.

The Chair recognizes the gentleman from Delaware, Mr. Ryan.

Mr. RYAN. Would the Chair advise the body whether or not Mr. Halverson's certificate is before the Speaker?

The CHIEF CLERK. No.

Mr. RYAN. Would the Parliamentarian check to determine whether or not the Secretary of the Commonwealth brought over the certification from the Somerset Courts in the Halverson matter?

The CHIEF CLERK. The Secretary of the Commonwealth did not have that certificate of election.

Mr. RYAN. Could we have a 5-minute recess, please, for the purpose of my examining the returns of the Secretary of the Commonwealth?

RECESS

The CHIEF CLERK. The House will be in recess for 5 minutes.

AFTER RECESS

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

The CHIEF CLERK. The Chair recognizes the gentleman from Allegheny, Mr. Irvis.

Mr. IRVIS. Mr. Chief Clerk, has the gentleman, Mr. Ryan, now satisfied himself to the fact that the certificate of election is not present for the gentleman, Mr. Halverson?

Mr. RYAN. Mr. Speaker, yes, I am satisfied there is no certificate of election, and I am advised that there is no way there should be one there because once the matter has gone into a contest posture in the lower courts, no certificate of election should issue, but rather the opinion of the lower court should be transmitted to the House by the Secretary of the Commonwealth, which, in fact, was done in this case.

My next query, Mr. Speaker, is: In the case of Mr. Gatski, again, no certificate of election should have issued because of the contest in the lower courts. I now inquire of the Chair as to whether or not the certified opinion of the lower court has been filed instead with this House?

The CHIEF CLERK. We have a certificate of election for Gatski.

Mr. RYAN. A certificate of election from whom?

The CHIEF CLERK. From the Secretary of the Commonwealth, Barton Fields.

Mr. RYAN. Would the Chair advise me as to whether or not there is a certified copy of the lower court opinion in the Gatski case, which I think we are all of the knowledge that it was contested?

The CHIEF CLERK. There is a stay here from the Supreme Court.

Mr. RYAN. Of the Gatski case, Mr. Chief Clerk?

The CHIEF CLERK. No, the Halverson case.

Mr. IRVIS. No, just on the Gatski case now, Mr. Chief Clerk. There is a certificate of election for Gatski. There is no certificate of election for Halverson. Is that correct?

The CHIEF CLERK. We have a memo here: (Reading:)

I, Barton A. Fields, Secretary of the Commonwealth of Pennsylvania, having the custody of the Great Seal of Pennsylvania

DO HEREBY CERTIFY, That the attached is a true and correct copy of the Decision of the Court of Common Pleas of Luzerne County in the case of *Edwin Boran et. al. v. Ronald Gatski* (C. A. #11456 (December 14, 1978) received and filed in the Department of State, December 20, 1978.

Mr. RYAN. Mr. Chief Clerk, are you reading from the Secretary of the Commonwealth the fact—you read quietly and quickly—that the Luzerne County Court did decide in favor of Gatski and that that is what the Secretary of the Commonwealth is certifying to? I really did not hear you.

The CHIEF CLERK. I read here. We also have a certificate from the Secretary of the Commonwealth.

Mr. RYAN. You do not, I understand then, have a certified copy of the order of the Luzerne County Court? Is that accurate?

The CHIEF CLERK. We do, yes.

Mr. RYAN. You do have such a certified copy of the court order?

The CHIEF CLERK. The court order, yes. We have it here, the decision of the court.

Mr. RYAN. Then, Mr. Chief Clerk, what you are saying is—and I am not trying to mislead you—that you have a certified copy of the court order of Luzerne County certifying that Mr. Gatski was the apparent winner or, in that court's opinion, the winner of that seat?

The CHIEF CLERK. Yes.

Mr. RYAN. That is not a certificate of election. Agree?

The CHIEF CLERK. Not here.

Mr. RYAN. All right. Then I think—I am just trying to get to the bottom line as quickly as possible—in both the Gatski and Halverson cases, the Chief Clerk is advising this House that he has in his possession certified copies of the opinions of the lower courts in both Halverson and Gatski and not certificates of elections in those two cases, which would be proper under the law as I understand it. Is that correct, Mr. Chief Clerk?

The CHIEF CLERK. Mr. Ryan, we have a certificate of election here for Ronald Gatski.

Mr. RYAN. And you also have a certified opinion of the Luzerne County Court? Is that correct?

The CHIEF CLERK. Yes.

Mr. RYAN. Mr. Chief Clerk, I am suggesting to you that, under the law of the Commonwealth, no certificate of election should have issued in the matter of Gatski because of the fact that it was taken into the court on a contest, but rather that just the opinion of the Luzerne County court should have been transmitted to the Secretary of the Commonwealth and, in turn, transmitted to this body, the same way that it was done in the Halverson case.

The CHIEF CLERK. Mr. Ryan, attention members. This is the court order for the decision of the court of Luzerne County: (Reading:)

AND NOW this 14th day of December, 1978, at 2:00 o'clock P.M., after hearing, IT IS ORDERED, ADJUDGED AND DECREED that the prayers in the petition to contest election filed in the above matter are hereby denied.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that respondent, Ronald Gatski, received the greatest number of legal votes and is entitled to election.

The Luzerne County Board of Election is hereby ordered and directed to certify the election of Ronald Gatski as the legally elected Representative to the General Assembly of the Commonwealth of Pennsylvania for the 116th Legislative District, in accordance with the law.

The Chair recognizes the gentleman from Allegheny, Mr. Irvis.

Mr. IRVIS. Mr. Chief Clerk, I have been standing here patiently listening to the arguments and parliamentary inquiries, and it occurs to me that we are right back exactly where we were when I made my first statement. Mr. Halverson has not

been certified and there has been a stay order. Mr. Gatski has been certified, and not only has he been certified but the certification was ordered by the court. Both the order and the certification are present.

It seems to me inconceivable that any man could argue that the two cases are similar or identical. They are, obviously, dissimilar and obviously not on all fours.

I question also whether or not Mr. Ryan's motion is in order. It occurs to me that probably the only business before this House would be the swearing in of its members. As we stand here debating, we do not even know who is present and who has the right to vote. No roll call has been taken. There are so many new people here that we could not recognize whether or not members are here or their brothers or their sisters or their aunts or their cousins or their relatives or their neighbors, and I would suggest, Mr. Chief Clerk, that before we go any further we at least ascertain who is present, and I would suggest that the only way that we are going to do that is to have the clerk call an official roll call of those people who are elected and have those people respond, so at least we will know which members are present and which members are absent. After that we can decide whether or not two of those members have a right to vote, and after that perhaps we can decide whether or not we will swear them in.

The CHIEF CLERK. The Chair recognizes the gentleman from Delaware, Mr. Ryan.

Mr. RYAN. Mr. Chief Clerk, I agree with Mr. Irvis that we should run a roll call. I would just add, though, Mr. Chief Clerk, for the benefit of Mr. Irvis—and I would be happy to provide him with a copy of this—that in addition to the court order declaring Mr. Gatski a winner, the same type order is before the Chief Clerk—and I am reading from it now—dated December 11th, 1978: "the petition contesting the election of November 7, 1978, of Representative in the General Assembly from the 69th Legislative District of Pennsylvania, is dismissed. In compliance with § 1745 of the Election Code, 25 P. S. 3405, we certify and declare that Hon. Kenneth S. Halverson received the greatest number of legal votes and is entitled to election to said office . . ." et cetera, et cetera. Signed "BY THE COURT" in Somerset County.

So that we do have that same certification here on behalf of Mr. Halverson, who is seated on the floor of the House as is Mr. Gatski.

The CHIEF CLERK. The Chair recognizes the gentleman, Mr. Irvis.

Mr. IRVIS. I again repeat that that order has been stayed by an appellate court and I am certain that the common pleas court is not going to be in the same position as Mr. Ryan argued, that it will ignore the stay order of the appellate court. I certainly do not intend, as a lawyer, to ignore that order and I would suggest that this House think very carefully before it decides to ignore its stay order of the Supreme Court.

I reiterate, however, that we are going about this thing in a relatively stupid manner. This is more stupid than we normally appear, and that is saying something. We are talking about the seating of members and we do not know who is present and we

do not know who has a right to be recorded as being present. At least most of us have a right to be recorded as being present, and it seems to me advisable that we get on with the mechanics of this business so at least we know who is voting for whom, and I suggest that we do that immediately.

MOTIONS WITHDRAWN

The CHIEF CLERK. The Chair recognizes the gentleman, Mr. Ryan.

Mr. RYAN. Mr. Chief Clerk, just to be, I believe, parliamentarily correct, I would withdraw my motion at this time.

Mr. Richardson, would you withdraw your motion for this time?

The CHIEF CLERK. The Chair thanks the gentleman. The Chair recognizes the gentleman from Philadelphia, Mr. Richardson.

Mr. RICHARDSON. Mr. Chief Clerk, I think my motion was for a point of order, but I will withdraw the motion now so we can move on for a roll call.

The CHIEF CLERK. The Chair recognizes the gentleman from Philadelphia, Mr. Greenfield.

Mr. GREENFIELD. Mr. Chief Clerk, I request a standing roll call for the purpose of identification. Thank you, Mr. Speaker.

The CHIEF CLERK. The clerk will proceed with the roll call.

ROLL CALL

The CHIEF CLERK. The roll will now be called.

The roll was called and the following members-elect were present:

Alden	Foster, W. W.	Livengood	Rodgers
Anderson	Freind	Lynch, E. R.	Ryan
Armstrong	Fryer	Lynch, F. J.	Salvatore
Arty	Gallagher	Mackowski	Scheaffer
Austin	Gallen	Madigan	Schmitt
Barber	Gamble	Manmiller	Schweder
Belardi	Gannon	Manderino	Scirica
Beloff	Gatski	McCall	Seltzer
Bennett	Geesey	McClatchy	Serafini
Berson	Geist	McIntyre	Seventy
Bittle	George, C.	McKelvey	Shadding
Borski	George, M. H.	McMonagle	Shupnik
Bowser	Giammarco	McVerry	Sieminski
Brandt	Gladeck	Michlovic	Sirianni
Brown	Goebel	Micozzie	Smith, E. H.
Burd	Goodman	Milanovich	Smith, L. E.
Burns	Grabowski	Miller	Spencer
Caltagirone	Gray	Moehlmann	Spitz
Cappabianca	Greenfield	Mowery	Stairs
Cessar	Grieco	Mrkonic	Steighner
Chess	Gruppo	Mullen	Stewart
Cianciulli	Halverson	Murphy	Street
Cimini	Harper	Musto	Stuban
Clerk, B. D.	Hasay	Nahill	Sweet
Clark, R.	Hayes, D. S.	Novak	Swift
Cochran	Hayes, S. E.	Noye	Taddonio
Cohen	Helfrick	O'Brien, B. F.	Taylor, E. Z.
Code	Hoeffel	O'Brien, D. M.	Taylor, F.
Cornell	Honaman	O'Donnell	Telek
Coslett	Hutchinson, A. K.	Oliver	Thomas
Cowell	Hutchinson, W. D.	Perzel	Trello
Cunningham	Irvis	Peterson	Vroon
Davies	Itkin	Petrarca	Wachob
Dawida	Johnson, E. G.	Piccola	Wagner
DeMedio	Johnson, J. J.	Pievsky	Wargo

DeVerter	Jones	Pistella	Wass
DeWeese	Kernick	Pitts	Weidner
DiCarlo	Klingaman	Polite	Wenger
Dietz	Knepper	Pott	White
Dininni	Knight	Pratt	Williams
Dombrowski	Kolter	Pucciarelli	Wilson
Donatucci	Kowalyszyn	Punt	Wilt
Dorr	Kukovich	Pyles	Wright, D. R.
Duffy	Lashinger	Rappaport	Wright, J. L.
Dumas	Laughlin	Reed	Yahner
Durham	Lehr	Rhodes	Yohn
Earley	Letterman	Richardson	Zeller
Fee	Levi	Rieger	Zitterman
Fischer, R. R.	Levin	Ritter	Zord
Fisher, D. M.	Lewis	Rocks	Zwinkl
Foster, A. C.			

The CHIEF CLERK. Two hundred and one members-elect having indicated their presence, a quorum is present.

The Chair recognizes the gentleman from Allegheny, Mr. Irvis.

Mr. IRVIS. Now, Mr. Chief Clerk, I suggest that an orderly way to process this is for us to get the committee appointed, get the resolution on the floor naming the two judges who will be doing the swearing in, if in fact we ever get that far today, and let us get to our presentation of our certificates to those judges and see which ones they will swear in. I will assume that all of us will be sworn in with the exception of two members. I then suggest that those two members each present his own certificate, if indeed he has one, before this House and let the House decide whether or not it will seat either one of those two members. And then if the House is decided it will seat either or both, that the judges decide which one of the two or both of them the judges will swear. That way perhaps we can get along with the business of this day and get this day concluded.

The CHIEF CLERK. The Chair recognizes the gentleman from Delaware, Mr. Ryan.

Mr. RYAN. Mr. Chief Clerk, do I understand Mr. Irvis to suggest that we go ahead with what apparently will be the swearing in of all the members other than Gatski and Halverson at this time and then treat them separately? Is that kind of the bottom line of it, Mr. Chief Clerk?

Mr. IRVIS. That is correct.

Mr. RYAN. I would like the record to reflect that Mr. Halverson is present in the hall of the House, although his name was not read by the Chief Clerk.

I would also ask the Chief Clerk to advise the members of this House who failed to respond to the reading of the roll, who is absent.

The CHIEF CLERK. John Brunner.

Mr. RYAN. I have no objection to the procedure outlined by Mr. Irvis.

My understanding, Mr. Chief Clerk, is that as to Mr. Gatski and as to Mr. Halverson, nothing will take place at this time. There is no admission on our part that the credentials presented by the Secretary of the Commonwealth with respect to Mr. Gatski are valid or accepted by this House, nor the credentials presented at this time on behalf of Mr. Halverson are valid as of this time?

Mr. IRVIS. That is correct. There will be no admission on either side. We will simply swear in those members about

whom there is no contest. Then those of us once sworn will then argue as long as necessary as to whether or not the other two elected members or not elected members shall be seated.

Mr. RYAN. We are agreeable to that, Mr. Chief Clerk.

The CHIEF CLERK. The Chair recognizes the gentleman from Beaver, Mr. Laughlin.

Mr. LAUGHLIN. Mr. Chief Clerk. I certainly do not want to hold up the proceedings. My good friend, Mr. Gatski, certainly deserves to be sworn in. And if Mr. Halverson is fortunate enough before the Supreme Court to sustain his position, I will be happy to work with him in the upcoming years. He is a very close friend of mine.

But one thing has upset me today besides these proceedings. I would like to know who is responsible for having purchased this stainless steel in the House of Representatives to be presented to every member that they received in a packet? Unfortunately I do not happen to have good eyes and I had to put my glasses on. My good friend, Mr. Stewart, pointed it out to me. Here we have a letter opener with "Made in Japan," after last year this House passed a resolution to buy American steel and in particular to deal with Pennsylvania products.

Mr. Chief Clerk, let me tell you this: If you are responsible for the purchase of these, I assure you when that vote comes up in our caucus, I am going to have something to say about it. If the Republicans, in fact, have taken over this House and are responsible for this purchase, then I seriously question that. I do not believe that any of us have the right to do anything like this and embarrass every member of this House of Representatives.

I represent 30,000 steelworkers in my district and there are 60,000 in Beaver County and there are more than hundreds of thousands in this state and you do something like this. I hope you got the message.

The CHIEF CLERK. The Chair thanks the gentleman very much.

RESOLUTION OATH OF OFFICE

Mr. SCIRICA offered the following resolution, which was read, considered and adopted:

In the House of Representatives, January 2, 1979.

RESOLVED, That the Honorable James S. Bowman, President Judge, Commonwealth Court of Pennsylvania, be requested to administer the oath of office required by Article VI, Section 3, of the Constitution, to be taken by the members of the House of Representatives and the Speaker-elect, and the Honorable Lee F. Swope, President Judge, Court of Common Pleas of Dauphin County, be requested to administer the oath of office to the Chief Clerk-elect and the Secretary-elect.

COMMITTEE APPOINTED TO ESCORT HONORABLE JAMES S. BOWMAN AND HONORABLE LEE F. SWOPE

The CHIEF CLERK. The Chair appoints the gentleman from Erie, Mr. DiCarlo, and the gentleman from Lancaster, Mr. Miller, to escort His Honor, Judge Bowman, and His Honor, Judge Swope, to the rostrum.

The CHIEF CLERK. The Chair recognizes the chairman of the committee, Mr. DiCarlo.

Mr. DiCARLO. Mr. Chief Clerk, I have the honor of presenting Judge Bowman and Judge Swope for the purposes of continuing the swearing in of the new members of the House of Representatives.

The CHIEF CLERK. The committee is discharged with the thanks of the House.

A Bible has been placed in the desk of each member for those who swear by the Bible.

Members-elect will rise.

(Members-elect stood.)

OATH OF OFFICE ADMINISTERED TO MEMBERS-ELECT

HONORABLE JAMES S. BOWMAN. All members of the House who are about to be sworn in, if you are to affirm, that is, if you are to swear to your oath, place your left hand upon the Bible in front of you. If you are to affirm, and also those who are to swear, if you swear, please raise your right hands.

Do you, members-elect of the House of Representatives, solemnly swear, or affirm, that you will support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth, and that you will discharge the duties of your office with fidelity? If so, answer "I do."

(Members asserted oaths.)

HONORABLE JAMES S. BOWMAN. I now declare you sworn into office.

The CHIEF CLERK. The Chair recognizes the gentleman from Allegheny, Mr. Irvis.

Mr. IRVIS. Mr. Chief Clerk, I make this inquiry of the presiding officer. Is the certificate of election of the gentleman, Mr. Gatski, in order?

The CHIEF CLERK. The certificate of election for Mr. Gatski is in order.

MOTION TO SEAT MR. GATSKI

Mr. IRVIS. I move, Mr. Chief Clerk, that the gentleman, Mr. Gatski, be seated as a member of the floor of this House and be sworn in thereto.

The CHIEF CLERK. The motion has been made to seat Mr. Gatski as a member of this House of Representatives.

The Chair recognizes the gentleman from Delaware, Mr. Ryan.

MOTION TO TABLE

Mr. RYAN. Mr. Chief Clerk, at this time, I would ask the gentleman, Mr. Irvis, to recall my earlier motion, which motion was that the gentleman, Mr. Halverson, and the gentleman, Mr. Gatski, not be administered the oath of office, and I would ask that my earlier motion be the one that is brought before this House.

The CHIEF CLERK. Mr. Ryan, the motion before us right now is the motion that was made by Mr. Irvis.

Mr. RYAN. I move to table it.

The CHIEF CLERK. A motion has been made to table Mr. Irvis' motion. It is not debatable.

PARLIAMENTARY INQUIRY

The CHIEF CLERK. The Chair recognizes the gentleman from Philadelphia, Mr. Williams. For what purpose does the gentleman rise?

Mr. WILLIAMS. I rise to a parliamentary inquiry, two parliamentary inquiries.

The CHIEF CLERK. The gentleman will state it.

Mr. WILLIAMS. Mr. Chief Clerk, is it procedurally proper to have a motion to table the consideration of the seating of a member of this House on the day when we are supposed to be seated? Is that motion or is it proper to disallow any member from coming forth to be a member when he has been elected and certified?

It seems to me that there is no way any member of this House can move not to entertain a seating of any one of us. My question is, whether indeed a motion to table or any motion could be proper unless there is some reason advanced for not seating a member. I will restate it: Can, without any reason whatsoever, anybody not consider and can this Chair not consider my or anybody else's status to be seated by a motion of any sort?

The CHIEF CLERK. The ruling the Chair has made is in order, and the motion made by Mr. Ryan is in order.

Mr. WILLIAMS. Mr. Chief Clerk, could you tell me, in the rules, regulations or what have you, where it does say that any motion, a motion to table, is a proper thing to do to prevent any member from being offered for consideration to be a member of this House? Where in your rules in this constitution or anywhere can you point to a procedure that would not allow a certified member from becoming that, other than some kind of a contest? Would you point that out for me and the members of this House?

The CHIEF CLERK. There is no such rule.

Mr. WILLIAMS. Mr. Chief Clerk, I suggest to you that no such motion is proper, otherwise any one of us, for any personal reason, who has been elected by our constituents could come here and because someone can disagree with your views, you will not even entertain that. I suggest it is proper to say that an apparent member might have some reason not to be seated and should have, in due process under all constitutions, a fair procedure to assert his reasons against a reason that would not seat him. I say to you that due process in this country would not allow anybody to say he cannot be offered for something he has been constitutionally and legally elected for, and I ask your lawyers, Mr. Speaker, if in fact there is anything there that could or does say otherwise?

MOTION TO TABLE NOT IN ORDER

The CHIEF CLERK. In answer to that question—I am so happy that I am bound with all of these attorneys here—after consulting with the Parliamentarian, the motion to table is not in order, and we will proceed with the motion that was made by Mr. Irvis.

Mr. WILLIAMS. Thank you, Mr. Chief Clerk.

The CHIEF CLERK. The Chair recognizes the gentleman from Delaware, Mr. Ryan.

RULING OF CHAIR APPEALED

Mr. RYAN. Mr. Chief Clerk, would you mind telling me why a motion to table is not in order?

The CHIEF CLERK. Mason's Manual, section 331, paragraph 3: (Reading:) "The motion to lay on the table may not be applied to privileged, incidental, or subsidiary motions relating to procedure, or the disposal of business."

We consider this to be the disposal of business.

Mr. RYAN. Mr. Chief Clerk, I appeal the ruling of the Chair.

The CHIEF CLERK. The ruling has been appealed.

All those in favor of holding my decision will vote "aye"; those voting against will vote "nay."

PARLIAMENTARY INQUIRY

The CHIEF CLERK. The Chair recognizes the gentleman from Schuylkill, Mr. Hutchinson. For what purpose does the gentleman rise?

Mr. W. D. HUTCHINSON. I rise to a parliamentary inquiry.

The CHIEF CLERK. The gentleman will state it.

Mr. W. D. HUTCHINSON. There is, of course, an undertone and a rumble that make it difficult to hear.

This is a point of parliamentary inquiry. As I understand it, we are on an appeal from the ruling of the Chair. Those voting "aye" on this motion would be voting to sustain the ruling of the Chair? Is that correct?

The CHIEF CLERK. That is correct.

Mr. W. D. HUTCHINSON. And those voting "nay" would be voting to overrule the ruling of the Chair?

The CHIEF CLERK. That is correct.

Mr. W. D. HUTCHINSON. Thank you.

The CHIEF CLERK. The Chair recognizes the gentleman from Westmoreland, Mr. Manderino.

Mr. MANDERINO. Mr. Chief Clerk, is the matter before the House at the present time the appeal of the decision of the Chair?

The CHIEF CLERK. Yes.

Mr. MANDERINO. Mr. Chief Clerk, I rise to speak on the motion to lay on the table and the appeal from the decision made by the Chair.

This House is governed by its own rules and also by the rules of parliamentary procedure as set out in Mason's Manual and Jefferson's Manual.

Mr. Chief Clerk, the ruling made by the Chair is entirely correct. I read from Mason's Manual, section 331:

The motion to lay on the table may be applied to any main motion, to any question of privilege, to any order of the day after it is before the house for consideration, to any appeal, or to any motion to reconsider, when immediately pending. Procedural motions may not be laid on the table.

Mr. Chief Clerk, I submit to you that we have a procedural motion before the House at the present time, a motion to seat a member, a motion to swear in a member, and it is not subject to the motion to lay on the table.

Not only is it not subject to the tabling motion, to me, I think, Mr. Gatski who came here today to be sworn in, who has every credential to be sworn in, whose credentials have not been disputed before this House of Representatives—and there is a procedure by which Mr. Gatski's opponent could have made an appeal to this House. He failed to do that. Not only did he fail to do that, he chose not to ask this House not to seat Mr. Gatski, and I think that we ought to air before this House the reasons, substantive reasons, why Mr. Gatski should or should not be seated and not to postpone that to another day.

His credentials are in order; no contest has been made to this House of Representatives. I think we ought to proceed to seat Mr. Gatski and, at least, if we do not get to seating him, we ought to fully air the issue before this House and not by a motion to lay on the table cut off all debate on the matter.

I ask every member of the House to sustain the decision made by the Chair that the motion to lay Mr. Irvis' motion on the table is improper.

Thank you, Mr. Chief Clerk.

The CHIEF CLERK. The Chair recognizes the gentleman from Delaware, Mr. Ryan.

Mr. RYAN. Mr. Chief Clerk, we have spent an awful lot of time worrying about the Gatski and Halverson elections. And that is as it should be because it is tremendously important, not only to the two individuals who are involved, but it is also tremendously important to this House.

It is so important, in fact, that I am a little amazed that Mr. Manderino would suggest that a motion to lay on the table the question of seating Mr. Gatski, which in effect is what we are talking about here, is procedural. I think it is probably the most substantive issue that has come before this House today. The motion to lay that substantive issue on the table is a proper motion, and I would ask that the ruling of the Chair, which I have appealed from, be carried in my favor, which, as I understand the question put, would require a negative vote from those who would agree with me. Is that correct?

The CHIEF CLERK. The Chair recognizes the gentleman from Westmoreland, Mr. Manderino.

Mr. MANDERINO. In addition to the argument that I made that we are in a procedural matter that should not be subject to a motion to lay on the table, I would like to read further from Mason's Manual in the section preceding the one that I quoted, in section 330:

The purpose of this motion—
that is the motion to lay on the table—

is to enable the body to lay aside the pending question in order to attend to more urgent business, in such a way that its consideration may be resumed at the will of the body . . . , et cetera.

Mr. Chief Clerk, I submit to you that there is no more urgent, pressing matter before this Assembly today than the seating of Mr. Gatski and any other member of the House who is qualified to be seated. We have no other business. The committees have not been appointed. We are not functioning as a legislative body. We are trying to put ourselves in order to function as

such legislative body. There is no more pressing business than the seating of our members.

I submit this to further reinforce that all members of this House who have just been sworn to uphold the constitution and the rules of the House do that by voting to sustain the decision the Chair made, that the motion to lay on the table is not in order. That will allow us to get to a full debate of the matter of seating of members.

The CHIEF CLERK. The Chair recognizes the gentleman from Mercer, Mr. Bennett.

Mr. BENNETT. Mr. Chief Clerk, would you tell me as a member of this House what would be a constitutional majority for this vote?

The CHIEF CLERK. We need a constitutional majority on this vote.

Mr. BENNETT. Excuse me?

The CHIEF CLERK. We need a majority vote on this vote, not a constitutional—

Mr. BENNETT. My question was: What is a constitutional majority for this vote? What number?

The CHIEF CLERK. Of the members who were sworn in today, we need the majority of that vote to sustain the decision of the Chief Clerk.

Mr. BENNETT. Thank you, Mr. Chief Clerk.

The CHIEF CLERK. The Chair recognizes the gentleman from Dauphin, Mr. Piccola.

Mr. PICCOLA. Thank you, Mr. Chief Clerk.

I would like to remind the majority leader that we do have additional pressing business as important as new members, and that business is electing a speaker of this House, a chief clerk and a secretary. I would just like to have that placed upon the record, because I believe we do have other important business.

The CHIEF CLERK. The Chair recognizes the gentleman from Philadelphia, Mr. Street.

Mr. STREET. Mr. Chief Clerk, is the oath that Mr. Gatski took with the rest of us legal?

He was in here. It seems like to me I saw Mr. Gatski take the oath with the rest of us. Was that oath legal? Do we have to undo that somehow?

The CHIEF CLERK. His name was not called. The oath was not taken.

Mr. STREET. His name was called.

The CHIEF CLERK. Not to the oath.

Mr. STREET. No one's name was called to the oath?

The CHIEF CLERK. His name was called for his presence in the House, but he was not called to take the oath of office.

Mr. STREET. Well, whose name was called to take the oath?

The CHIEF CLERK. Everybody here who was present, outside of the two names which were deleted from the roll call.

Mr. STREET. Mr. Gatski's name was not deleted. I sat here and I heard it called.

The CHIEF CLERK. It was called—

Mr. STREET. Yes, it was called.

The CHIEF CLERK. —when he was recognized on the floor.

Mr. STREET. Mr. Gatski's name was called with the roll call with the rest of us.

Mr. Halverson's was not. No one told Mr. Gatski not to take the oath of office. I saw him taking the oath with the rest of us.

What I want to know is: Is it legal or illegal and how do we undo that if it is illegal?

The CHIEF CLERK. He was not called to take the oath of office.

Mr. STREET. Well, who was called, Mr. Chief Clerk, to take the oath of office?

The only roll call that I remember hearing was the roll call that dealt with the members who were present in the chambers or on the floor and Mr. Gatski's name was, in fact, called. And when we stood up to take the oath, I heard nobody tell Mr. Gatski not to take the oath. And it seems like to me I saw him take the oath with the rest of us. What position does that put Mr. Gatski in?

POINT OF ORDER

The CHIEF CLERK. The Chair recognizes the gentleman from Philadelphia, Mr. Richardson. For what purpose does the gentleman rise?

Mr. RICHARDSON. I rise to a point of order.

The CHIEF CLERK. The gentleman will state it.

Mr. RICHARDSON. Mr. Speaker, it is my understanding—I follow the lines of Mr. Street—that at the time the motion was made concerning the Halverson and Gatski case we had not been sworn in. Therefore, there was no rule to guide us with no members to vote, which means that I think the motion that was made concerning Mr. Halverson and Mr. Gatski at the time is out of order as there were no members to vote.

I raise that question, Mr. Chief Clerk, as a point of order, and the Chair never stated it that way either.

The CHIEF CLERK. In answer to your question, Mr. Chief Clerk, the motion is made that Halverson and Gatski be taken up at a later time.

Mr. RICHARDSON. Who voted on it?

The CHIEF CLERK. By the House, the majority of the House here.

Mr. RICHARDSON. I never voted, Mr. Chief Clerk.

The CHIEF CLERK. Every one of the members was sitting here when that discussion came on the floor that the two members were not going to be seated at that time before they were sworn in. They were deleted from that swearing in. Every one of you was here sitting. So that was the ruling that we had made. Mr. Irvis got up there, and Mr. Ryan got up there.

Mr. RICHARDSON. Are they the only two who voted?

The CHIEF CLERK. And there was a voice vote.

Mr. RICHARDSON. There was a voice vote taken?

The CHIEF CLERK. It was a voice vote.

Mr. RICHARDSON. Well, who was entitled to vote at that time then, Mr. Chief Clerk? Everybody here in this House? I think you have a real serious problem, Mr. Chief Clerk.

The CHIEF CLERK. The House has made its determination, and there is no other business to be taken up at this time on that issue.

Mr. RICHARDSON. I have a point of order, Mr. Chief Clerk, and I can be recognized at any time.

COMMITTEE ON THE PART OF THE SENATE RECOGNIZED

The CHIEF CLERK. The Chair recognizes the Sergeant at Arms.

The SERGEANT AT ARMS. Mr. Chief Clerk, I wish to announce the presence of a committee on the part of the Senate.

The CHIEF CLERK. The Chair recognizes the chairman of the Committee, Senator J. William Lincoln.

SENATOR LINCOLN. Mr. Chief Clerk, I am here to advise the House of Representatives that the Senate has been organized and duly constituted to conduct the business of the Commonwealth.

It is a pleasure to be back and it is going to be a big pleasure to leave, believe me.

The CHIEF CLERK. The Chair recognizes the gentleman from Allegheny, Mr. IRVIS.

Mr. IRVIS. Would the Chief Clerk advise the Senate before it leaves that we believe that the House will be organized and ready to do business by the mid-part of February.

SENATOR LINCOLN. You are sure of that?

The CHIEF CLERK. The Chair recognizes the gentleman from Philadelphia, Mr. Street.

Mr. STREET. Mr. Chief Clerk, I would like to know how a man can go out, work hard, spend his money, win an election, go through the courts, come out on top in that election, then those of us who also won our elections come up here and sit and agree that he not be sworn in? I do not understand that. How can we agree that this man who did the same thing that we did, without a vote or without some type of parliamentary proceeding, deny this man his right to take an oath of office which he took by agreement? I do not know how we can do that. I need clarification on that point.

The CHIEF CLERK. Mr. Street, this is the issue we are confronted with. This is what we are trying to establish. This is what we are trying to do in this House of Representatives, to give the member his right. The decision was made on the floor between the two leaders and this is what we are all abiding by. We are not denying anybody any rights. We are not denying anybody anything that is just due them, but we are going by the House rules that we decide the fate here on that issue, and the question is on the appeal.

POINT OF ORDER

The CHIEF CLERK. The Chair recognizes the gentleman from Philadelphia, Mr. Williams. For what purpose does the gentleman rise?

Mr. WILLIAMS. I rise to a point of order.

The CHIEF CLERK. The gentleman will state it.

Mr. WILLIAMS. Mr. Chief Clerk, the point of order is that the question we are deciding or attempting to decide may, in fact, be moot. The question that the Chair is proceeding on has been raised by these gentlemen because it might, in fact, be moot. In other words, if, in fact, a gentleman's agreement among these gentlemen, who do not want to be gentlemen, was a private agreement and not voted on by a House that was en-

titled to vote, and if, in fact, Mr. Gatski took the oath when the Judge said that everyone entitled to take the oath, take the oath, then he is already sworn in, and what you are talking about now might be moot.

I say that because it is therefore important to determine whether or not Mr. Gatski did swear himself in and in fact whether or not a private gentleman's agreement would bind him not to do that. And if he took the oath and he was not legally entitled to do so, then what we are talking about now is moot and Mr. Gatski is now a member of this House. That is why these gentlemen raise this point.

I suggest that the Chair cannot go further until it determines whether or not we are discussing a question that is moot. I would urge the Chair to determine, number one, whether in fact Mr. Gatski did take the oath, and, number two, whether or not what we did privately prevented him from doing that, and I suggest that it does not.

The CHIEF CLERK. The Chair recognizes the gentleman from Allegheny, Mr. Irvis.

Mr. IRVIS. Mr. Chief Clerk, the gentleman, Mr. Gatski, did not take the oath of office. Mr. Gatski did not take the oath of office, so that question is not before us.

On the question, Will the House sustain the ruling of the Chair? (Members proceeded to vote)

The CHIEF CLERK. The Chair recognizes the gentleman from Delaware, Mr. Ryan.

Mr. RYAN. Mr. Chief Clerk, if Mr. Gatski is going to vote, Mr. Halverson should vote. This vote is restricted to the members who have been sworn in.

The CHIEF CLERK. Just the members who have taken their oath of office.

On the question recurring, Will the House sustain the ruling of the Chair?

The following roll call was recorded:

YEAS—98

Table with 4 columns of names: Austin, Barber, Beloff, Bennett, Berson, Borski, Brown, Caltagirone, Cappabianca, Chess, Cianciulli, Clark, B., Cochran, Cohen, Cole, Cowell, Dawida, DeMedio, DeWeese, DiCarlo, Dombrowski, Donatucci, Duffy, Fryer, Gallagher, Gamble, George, C., George, M., Giammarco, Goodman, Grabowski, Gray, Greenfield, Harper, Hoeffel, Hutchinson, A., Irvis, Itkin, Johnson, J., Jones, Kernick, Knight, Kolter, Kowalyshyn, Kukovich, Laughlin, Livengood, Manderino, McCall, McIntyre, McMonagle, Michlovic, Milanovich, Mrkonic, Mullen, M. P., Murphy, Musto, Novak, O'Brien, B., O'Donnell, Oliver, Petrarca, Pievsky, Pistella, Pratt, Pucciarelli, Rappaport, Reed, Rhodes, Rieger, Ritter, Rodgers, Schmitt, Schweder, Seventy, Shadding, Shupnik, Steighner, Stewart, Street, Stuban, Sweet, Taylor, F., Trello, Wachob, Wargo, White, Williams, Wright, D., Yahner, Zeller, Zitterman

Dumas Fee	Letterman Levin	Richardson	Zwikel
NAYS—101			
Alden	Foster, W.	Mackowski	Scirica
Anderson	Freind	Madigan	Seltzer
Armstrong	Gallen	Manmiller	Serafini
Arty	Gannon	McClatchy	Sieminski
Belardi	Geesey	McKelvey	Sirianni
Bittle	Geist	McVerry	Smith, E.
Bowser	Gladeck	Micozzie	Smith, L.
Brandt	Goebel	Miller	Spencer
Burd	Grieco	Moehmann	Spitz
Burns	Gruppo	Mowery	Stairs
Cessar	Hasay	Nahill	Swift
Cimini	Hayes, D. S.	Noye	Taddonio
Clark, R.	Hayes, S. E.	O'Brien, D.	Taylor, E.
Cornell	Helfrick	Perzel	Telek
Coslett	Honaman	Peterson	Thomas
Cunningham	Hutchinson, W.	Piccola	Vroon
Davies	Johnson, E.	Pitts	Wagner
DeVerter	Klingaman	Polite	Wass
Dietz	Knepper	Pott	Weidner
Dininni	Lashinger	Punt	Wenger
Dorr	Lehr	Pyles	Wilson
Durham	Levi	Rocks	Wilt
Earley	Lewis	Ryan	Wright, J. L.
Fischer, R. R.	Lynch, E. R.	Salvatore	Yohn
Fisher, D. M.	Lynch, F.	Scheaffer	Zord
Foster, A.			

NOT VOTING—2

Brunner Gatski

Less than a majority having voted in the affirmative, the question was determined in the negative, and the ruling of the Chair was not sustained.

The CHIEF CLERK. The Chair recognizes the gentleman from Delaware, Mr. Ryan.

Mr. RYAN. Mr. Chief Clerk, I would, at this time, urge the Chair, and if the Chair deems it appropriate, make a suitable motion that we continue on with the business of the House as set forth in the script prepared by the respective Parliamentarians and go ahead and organize the House. At the conclusion of the organization of the House, return to the question of seating Mr. Gatski and Mr. Halverson, with a member seated as Speaker of this House.

I think you have done a very fine job, Mr. Scarcelli, in your rulings.

I understand that I jumped the gun a little bit and that there is a motion still before us to table. But what I just said would be my intention at the appropriate time.

The CHIEF CLERK. Mr. Ryan, do you withdraw your motion?

Mr. RYAN. Before the House right now, as I understand it, then would be the motion to prevent or set aside the swearing in of Mr. Gatski and Mr. Halverson. Prior to that, however, my motion to table, the motion of Mr. Irvis, and that is where I jumped the gun. I apologize for that.

We go on now, as I understand it, to the motion of Mr. Irvis. I am asking that that be tabled, which motion is presently before the House.

The motion to table is before the House now for a vote.
The CHIEF CLERK. The motion to table is before the House.
Mr. RYAN. And I am asking for an affirmative vote on that motion to table Mr. Irvis' motion to move to the election of Mr. Gatski.

The CHIEF CLERK. The Chair recognizes the gentleman from Allegheny, Mr. Irvis.

Mr. IRVIS. Mr. Chief Clerk, on the motion to table, I ask that the vote be in the negative.

On the question,
Will the House agree to the motion?
(Members proceeded to vote)

The CHIEF CLERK. The Chair recognizes the gentleman from Philadelphia, Mr. Williams.

Mr. WILLIAMS. Mr. Chief Clerk, I am asking to strike the roll. I had risen to speak on—

The CHIEF CLERK. The only thing before the House right now is the roll call.

Mr. WILLIAMS. I rose before the roll call to speak on the motion.

The CHIEF CLERK. It is not debatable.

The Chair recognizes the gentleman from Delaware, Mr. Ryan.

Mr. RYAN. Mr. Chief Clerk, Mr. Gatski again has inadvertently voted on this motion.

The CHIEF CLERK. Mr. Gatski's vote will be stricken from the roll call.

Mr. RYAN. Would you strike Mr. Gatski's vote? He has not been sworn in.

VOTE STRICKEN

The CHIEF CLERK. The Chair recognizes the gentleman from Philadelphia, Mr. Williams.

Mr. WILLIAMS. Mr. Chief Clerk, I rose to strike the whole vote because I wanted to ask a parliamentary inquiry on the motion.

The CHIEF CLERK. There is nothing before the House outside of the roll call.

Mr. WILLIAMS. Mr. Chief Clerk, it was before the House before you took the roll call.

As a gentleman, would you strike the vote from the board?

The CHIEF CLERK. Will the clerk strike the roll call from the board?

What is the parliamentary inquiry?

Mr. WILLIAMS. I yield to Mr. Gatski.

The CHIEF CLERK. The Chair recognizes the gentleman from Luzerne, Mr. Gatski.

Mr. GATSKI. I have been sent here by the 116th district to vote. I am representing the people from my area and until somebody shows me that I have not been legally elected, I am voting, unless someone wants to carry me out of here.

POINT OF ORDER

The CHIEF CLERK. The Chair recognizes the gentleman

from Philadelphia, Mr. Williams. For what purpose does the gentleman rise?

Mr. WILLIAMS. I rise to a point of order.

The CHIEF CLERK. The gentleman will state it.

Mr. WILLIAMS. Mr. Speaker, on the motion to table that was just taken before and the appeal from your ruling was made, the discussions were about this procedural point and that was decided upon. I renew my constitutional and parliamentary question as to whether or not at any time the Constitution of the United States of America and the constitution of this state, this House can, in fact, refuse to entertain a member's request to be seated by any motion as a constitutional matter of due process, not as a matter of procedure, not as a matter of politics, and this House and this Speaker and all of us ought to say "yes" or "no" on that question. Anybody here, for any reason, who was duly elected has a right to at least be considered. This motion to table says he will not consider it.

I say to you, Mr. Speaker, as a matter of constitutional due process, I renew my request that the motion to table is also out of order on that question alone.

The CHIEF CLERK. As you know and I know, we have been sitting here and the House has already decided on that, and you members here can do whatever you people please. You are the members. We already decided that question.

The Chair recognizes the gentleman from Delaware, Mr. Ryan.

Mr. RYAN. Mr. Chief Clerk, I would request that Mr. Gatski's key be locked. You so ruled that he has not been sworn in. Now, we are going to get to the question of Gatski and Halverson—we are not ignoring it—the same way Mr. Irvis suggested earlier that we delay the question as to these two members-elect. I ask the same thing, and that is what this motion is all about, so that we can go ahead and proceed with the organization of this House. I would ask you to instruct your associates here to lock Mr. Gatski's key or, in the alternative, that since both of them were on the floor of the House when the oath was administered, put Mr. Halverson on the board. But I think, Mr. Chief Clerk, rather than to continue this fracas, we should go ahead and proceed with organizing the House. We are not ignoring the problem of Mr. Gatski nor are we ignoring the problem of Mr. Halverson. We are setting it aside at this time the same way we set it aside at Mr. Irvis' suggestion earlier in these proceedings. I am asking you to instruct Mr. McShane or whoever runs the board to lock the Gatski key until he has been sworn in, if in fact he is sworn in today.

POINT OF ORDER

The CHIEF CLERK. The Chair recognizes the gentleman from Lehigh, Mr. Zeller. For what purpose does the gentleman rise?

Mr. ZELLER. I rise to a point of order.

The CHIEF CLERK. The gentleman will state it.

Mr. ZELLER. Mr. Chief Clerk, as a point of order, Mr. Irvis' motion was to take care of those members outside of Mr. Gatski and Mr. Halverson. I, as a member of this House, was under the assumption that we were going to immediately take care of

these people, not go through the process of reorganization because Mr. Gatski and Mr. Halverson, whatever the question is, have a right as the public has elected them, to have a word here in the organization of this House. What we are telling them now is, this House will organize and these members will not have a chance.

So Mr. Williams is correct, and Mr. Ryan is completely out of order by denying these people the chance to have part of the action. So as far as I am concerned, we have to act on the Gatski and Halverson situation right now.

The CHIEF CLERK. The Chair recognizes the gentleman from Luzerne, Mr. Gatski.

Mr. GATSKI. Mr. Chief Clerk, again the voters of the 116th district elected me. I went through every legal process there is. I have my Bible here. I demand to be sworn in right now.

The CHIEF CLERK. On the question of tabling Mr. Irvis' motion, the vote will be taken. Those in favor, who say "aye," will vote "aye"; those opposed will vote "nay."

Mr. GATSKI. Can I ask what this is? I would like my request granted. I would like to be sworn in in the State House of Representatives where I have been duly elected. I demand that now.

The CHIEF CLERK. The Chair recognizes the gentleman from Westmoreland, Mr. Manderino.

Mr. MANDERINO. Mr. Chief Clerk, when the gentleman, Mr. Irvis, made his motion, if you will recall, he made the motion that we deal with those members whose credentials are not being questioned and then we deal with the members whose credentials have been questioned. That motion passed this House and we ought to abide by it. We ought to now deal with the members whose credentials are being presented. Mr. Gatski is presenting his credentials, and I think we ought to seat him.

The CHIEF CLERK. The Chair recognizes the gentleman from Delaware, Mr. Ryan.

Mr. RYAN. Mr. Speaker, I have a motion before the floor that is not debatable. I would like it voted upon.

PARLIAMENTARY INQUIRY

The CHIEF CLERK. The Chair recognizes the gentleman from Allegheny, Mr. Trello. For what purpose does the gentleman rise?

Mr. TRELLO. I rise to a parliamentary inquiry.

The CHIEF CLERK. The gentleman will state it.

Mr. TRELLO. Mr. Speaker, would it be in order to ask one of the honorable judges who are sitting up there to rule on why Mr. Gatski cannot be sworn in? Would you ask the judge if Mr. Gatski's papers are in order to be sworn in?

The CHIEF CLERK. We are members of the House of Representatives, and the judiciary just swears us in. Our decisions will be made here on the floor.

Mr. TRELLO. Is it wrong to ask a judge if there is a reason why Mr. Gatski cannot be sworn in?

The CHIEF CLERK. I would say that the answer would be "yes."

Mr. TRELLO. May I put the question to the judge?

The CHIEF CLERK. You seem to forget that the judiciary and the legislature are two different branches of government. It is your decision here on the floor, as elected officials, selected members, to make that decision to seat Mr. Gatski.

Mr. TRELLO. Mr. Speaker, may I interrogate Mr. Ryan?

Mr. Speaker, is Mr. Gatski certified to be sworn in?

Mr. RYAN. Mr. Speaker, is the motion on the floor to table the motion of Mr. Irvis to call to the floor for the purpose of swearing in Mr. Gatski?

Mr. Speaker, we have gone through this earlier today. I do not know whether Mr. Gatski is in a position to be sworn in today because his election is contested and is in that same Supreme Court that Mr. Halverson's election is and I am simply stating that as a matter of principle and fairness. I have restrained Mr. Halverson from standing up and making the speeches that Mr. Gatski has made. He feels just as strong and the people of his district feel just as strong, and should, as Mr. Gatski, but it is not solving the problem. The problem has to be solved by this House under the constitution, and we can await the advice of the Supreme Court, if we choose, in both instances.

The Supreme Court is advisory only as to whether Mr. Gatski wins or Mr. Halverson wins or if both of them lose. And I am suggesting in trying to make this a more orderly process—and obviously I am failing in this—that the problem of seating Mr. Halverson and Mr. Gatski be delayed; that we go ahead and we organize this House and then face that problem. This is not different than what Mr. Irvis suggested at the beginning of this session, and that is to put these problem areas aside until we move ahead.

My motion is not debatable. I am asking very strongly that the Chief Clerk, who presently is presiding over this House, get the vote on the board and that the machine of Mr. Gatski and Mr. Halverson, if the machine is hooked up to his seat, be locked.

Mr. TRELLO. Mr. Speaker, the point that I am trying to bring forward is the fact that my dear friend, Mr. Halverson, has not been certified, unfortunately. He does not have a certificate of election in the Chief Clerk's office but Mr. Gatski does.

Mr. RYAN. Mr. Chief Clerk, if Mr. Trello would listen or if he would like to see that Mr. Halverson has the same credentials to present to this House as Mr. Gatski—The only difference is that Judge Larsen of the Supreme Court saw fit—for what reason I do not know, because he has no apparent authority or jurisdiction to do it—sitting as a court of one, to sign a stay order.

I know—and I am not going to get into the political parts of it unless asked—their credentials are exactly the same. No one has passed on the merits of either case in the Supreme Court. They have not looked at the merits of the case. One justice of the Supreme Court, for no apparent reason, with no merits being presented to him, signed a stay. The other one properly exercising his sound judicial discretion decided to abide by the law, at least as I understand it, and not do that.

Now these are two separate questions. Mr. Halverson wants to be seated as badly as Mr. Gatski. Now, we will take care of

this a little bit later on today. Let us get this House organized. All we are doing is repeating ourselves.

The CHIEF CLERK. Will the gentleman yield for a second? I think we have had enough of a discussion on this. It is not debatable. The only thing in front of this House of Representatives is the motion to table. The motion was made by Mr. Irvis.

PARLIAMENTARY INQUIRY

The CHIEF CLERK. The Chair recognizes the gentleman from Lehigh, Mr. Ritter. For what purpose does the gentleman rise?

Mr. RITTER. I rise to a parliamentary inquiry.

The CHIEF CLERK. The gentleman will state it.

Mr. RITTER. Mr. Chief Clerk, is there not something in the constitution which says that when a member presents himself or herself to this body for a seat in this body that this House shall then proceed to determine that? Is there nothing in the constitution which says that?

The CHIEF CLERK. Mr. Ritter, have you looked up the answer to that question?

Mr. RITTER. No. I asked you, Mr. Chief Clerk.

The CHIEF CLERK. I think that the House has made its decision when it overruled the Chair, and in the constitution I think it reads that the members of this House of Representatives will decide on who the members will be in this House as long as they have the right credentials and their certifications.

Mr. RITTER. Mr. Chief Clerk, the gentleman from Luzerne, Mr. Gatski, has presented himself before this body and he is asking to be seated. It seems to me that that does take precedence over any other motion, and we ought to deal with Mr. Gatski's request. Either we seat him or we do not, but it seems to me that that does take precedence and that nothing else ought to be before this House except the seating of Mr. Gatski as he has requested.

The CHIEF CLERK. We decided that question when I ruled, and I was overruled by the majority of this House and that answered that question. The only question here before us today, right this moment, is the voting to table the motion made by Mr. Irvis, which is not debatable.

PARLIAMENTARY INQUIRY

The CHIEF CLERK. The Chair recognizes the gentleman from Philadelphia, Mr. Street. For what purpose does the gentleman rise?

Mr. STREET. I rise to a parliamentary inquiry.

The CHIEF CLERK. The gentleman will state it.

Mr. STREET. Mr. Speaker, I just stood here a couple of minutes ago and took an oath to uphold the Constitution of the United States and also the Constitution of Pennsylvania.

Now, before I vote I want to know that if I vote against the seating of this gentleman, will I, in fact, be upholding the Constitution of the United States and of the State of Pennsylvania?

POINT OF ORDER

The CHIEF CLERK. The Chair recognizes the gentleman from Dauphin, Mr. Piccola. For what purpose does the gentleman rise?

Mr. PICCOLA. I rise to a point of order.

The CHIEF CLERK. The gentleman will state it.

Mr. PICCOLA. The gentleman is out of order.

Mr. STREET. Do I have the floor?

The CHIEF CLERK. I agree that Mr. Street is out of order.

The Chair recognizes the gentleman from Allegheny, Mr. Irvis.

Mr. IRVIS. May I remind the members of the House of Representatives that we are here supposedly representing the people of this Commonwealth, and, I, with some hesitation, inquire as to our particular standing in their minds as of this moment, if they are indeed watching.

May I suggest that we carry on with the motion to table, which is not debatable. Let us settle that motion and let us get on with the business of the day. No, we have not tabled. The question of whether or not we shall table is still before us. Let us call for that question; let us get that settled; and then let us go on with the election of the Speaker, if, in fact, this motion is tabled, and then let us get on with the question of whether or not we seat Mr. Halverson or whether or not we seat Mr. Gatski. But I would suggest to all of you that the sooner we get to this business and the more cleanly we can handle it, the better it will be for each and every one of us.

QUESTION OF CONSTITUTIONALITY

Mr. WILLIAMS. Mr. Speaker, on the motion to table, my question was one of order. That question was framed as to whether or not the motion to table is constitutional in view of the fact that the Chair has to entertain that.

The CHIEF CLERK. Mr. Williams.

Mr. WILLIAMS. Let me finish, Mr. Speaker.

The CHIEF CLERK. I did not recognize you at the moment.

Mr. WILLIAMS. Can I be recognized, sir?

The CHIEF CLERK. The Chair recognizes the gentleman from Philadelphia, Mr. Williams.

Mr. WILLIAMS. I have tried to make myself clear before, but apparently the Chair did not understand that I was raising the question, which is entirely proper, that this motion is not constitutional.

I ask for the House to vote on whether or not this is constitutional in view of this gentleman's perfect right to be offered to this House, because it seems to me that the Chair misunderstands. The House has a right to decide. Mr. Gatski is saying he wants to have that right decided right now, and I am raising the question as to whether or not a motion is constitutional to prevent him from doing that and I raise that question as a point of order.

The CHIEF CLERK. The Chair recognizes the gentleman from Allegheny, Mr. Irvis.

Mr. IRVIS. Mr. Chief Clerk, in order to clear the air again, will you please not entertain the motion on the question of constitutionality raised by the gentleman from Philadelphia, Mr. Williams? That is to be decided by a vote of the House. Let the vote be taken, and then we will abide by that decision. And then let us get on. If that decision is that it is constitutional or

is not constitutional, we may move from that point. Let us move on. Otherwise we are going to be here endlessly muddying the waters and we have already done enough of that.

The CHIEF CLERK. The question that is raised on the constitutionality—

Mr. IRVIS. Whether or not a motion to table at this particular juncture is or is not constitutional. Those believing it to be constitutional, vote "aye." Those who believe it is not, vote "no." It is just that simple.

The CHIEF CLERK. It is just that simple.

On the question,

Will the House sustain the constitutionality of the motion?

(Members proceeded to vote)

The CHIEF CLERK. The Chair recognizes the gentleman from Delaware, Mr. Ryan.

Mr. RYAN. I would ask that Mr. Gatski's vote not be counted inasmuch as you did not lock the machine.

The CHIEF CLERK. The clerk will strike the vote of Gatski.

PARLIAMENTARY INQUIRY

The CHIEF CLERK. The Chair recognizes the gentleman from Mercer, Mr. Bennett. For what purpose does the gentleman rise?

Mr. BENNETT. I rise to a parliamentary inquiry.

The CHIEF CLERK. The gentleman will state it.

Mr. BENNETT. The inquiry is, what vote does it take to establish the constitutionality of a vote of this House of Representatives?

The CHIEF CLERK. A simple majority.

Mr. BENNETT. I appeal that ruling.

I will abide by that.

The CHIEF CLERK. The Chair recognizes the gentleman from Beaver, Mr. Laughlin.

Mr. LAUGHLIN. Mr. Chief Clerk, just one second, please. Would Mr. Ryan please clarify something for me? I do want to vote on this issue with all the facts and I think it is necessary that he just answer this one question that I put to him. Mr. Ryan, would you please submit to that?

Mr. RYAN. I am being urged to claim that you are out of order. It is not debatable, but go ahead if it is one question.

Mr. LAUGHLIN. Thank you, Mr. Speaker. The question is this, Mr. Speaker. You have stated very often today in debate that there is no difference between the Halverson and the Gatski circumstances. I ask you this question: Mr. Gatski has submitted to a recount of his vote. The vote has been stabilized at exactly the figure that he won by. There can be no overturning of that vote by the Supreme Court. Only the question of the legality, and that, sir, would be a criminal offense, for fraud could be in question in that election.

However, in the instance of Mr. Halverson, there are votes outstanding and are challenged that could alter the end result of that election to be ruled on by the Supreme Court.

Mr. Speaker, I bring that to your attention because I stood for a recount on an occasion in this House myself. I am familiar with the law on it. I ask you to answer that question, sir.

Mr. RYAN. I probably should have listened to the urging of my members and not answered or agreed to it, but—

Mr. LAUGHLIN. I do not doubt you wish you had.

Mr. RYAN. Simply put, I disagree with what you have said with respect to Mr. Gatski. My understanding of the problem that took place in the Gatski election is with five different voting machines. Seals were broken and other irregularities with the machines that the Supreme Court, in its wisdom, could say there shall be a new election or could disregard the votes that were cast in those five precincts. That is my understanding of what took place in the Gatski election. In the Halverson election, there were 21 votes that Mr. Halverson is certified as having won by, by the lower court, which is pretty much the trier of facts as to what votes were or were not legal.

Now there is a question up before the Supreme Court on those votes in the Halverson matter. There are true issues that can come before this House. The opinion of the Supreme Court, as stated in the McNeill case in 1886, is really about all we have to guide us right now, most currently, in this area. We are the ultimate trier of fact and their decision is advisory.

Now, that is not a yes or no answer, and it is not an easy one, and it is one that can provoke additional comments and conversation and debate, and I am asking to ignore it; but my simple answer, if that answer was simple—at least it was from a simple person—is that there are true issues in the Gatski case. Five precinct boxes are in contest, with seals broken at least on one that I know of, and I do not know the alleged irregularities in the other four precincts.

So it is not quite as simple as you would think, sir, and I am asking now that we get on to the business that is sitting before the House, supposedly nondebatable. Thank you, Mr. Chief Clerk.

The CHIEF CLERK. The Chair recognizes the gentleman from Beaver, Mr. Laughlin.

Mr. LAUGHLIN. Mr. Chief Clerk, I can accept Mr. Ryan's saying what he does and to believe what he says. However, the facts speak for themselves and Mr. Halverson's election can be overturned by the Supreme Court's count on those 50 ballots that are outstanding. Mr. Gatski's cannot, and that should be the rule of thumb, sir.

The CHIEF CLERK. On the question of the constitutionality, those to table the motion, "no." Those voting "aye" to table the motion on constitutionality—

The Chair recognizes the gentleman, Mr. Irvis.

Mr. IRVIS. Mr. Chief Clerk, the question is, again, very simple. Those who believe that the motion to table to be constitutional will vote "aye." Those who believe it to be unconstitutional, vote "no."

The CHIEF CLERK. The Chair recognizes the gentleman from Delaware, Mr. Ryan.

Mr. RYAN. Mr. Chief Clerk, again, Mr. Gatski's vote should not be counted.

The CHIEF CLERK. It is not. The clerk will record the vote.

Mr. GATSKI. Mr. Chief Clerk, point of order, personal privilege—

The CHIEF CLERK. Record the vote.

Mr. GATSKI. Personal privilege, point of order, whatever legal thing you want. Mr. Chief Clerk, I demand to be sworn in right now. I demand to be allowed to vote for the people of my district. I am being denied that by this House. The judges are there. I have been certified by the courts. I demand to be sworn in and voting here now.

The CHIEF CLERK. You are out of order, Mr. Gatski, and I am sorry to say that.

On the question recurring,

Will the House sustain the constitutionality of the motion?

The following roll call was recorded:

YEAS—101

Alden	Foster, W.	Mackowski	Scirica
Anderson	Freind	Madigan	Seltzer
Armstrong	Gallen	Manmiller	Serafini
Arty	Gannon	McClatchy	Sieminski
Belardi	Geesey	McKelvey	Sirianni
Bittle	Geist	McVerry	Smith, E.
Bowser	Gladeck	Micozzie	Smith, L.
Brandt	Goebel	Miller	Spencer
Burd	Grieco	Moehlmann	Spitz
Burns	Gruppo	Mowery	Stairs
Cessar	Hasay	Nahill	Swift
Cimini	Hayes, D. S.	Noye	Taddonio
Clark, R.	Hayes, S. E.	O'Brien, D.	Taylor, E.
Cornell	Helfrick	Perzel	Telek
Coslett	Honaman	Peterson	Thomas
Cunningham	Hutchinson, W.	Piccola	Vroon
Davies	Johnson, E.	Pitts	Wagner
DeVerter	Klingaman	Polite	Wass
Dietz	Knepper	Pott	Weidner
Dininni	Lashinger	Punt	Wenger
Dorr	Lehr	Pyles	Wilson
Durham	Levi	Rocks	Wilt
Earley	Lewis	Ryan	Wright, J. L.
Fischer, R. R.	Lynch, E. R.	Salvatore	Yohn
Fisher, D. M.	Lynch, F.	Scheaffer	Zord
Foster, A.			

NAYS—98

Austin	Fryer	Livengood	Rieger
Barber	Gallagher	Manderino	Ritter
Beloff	Gamble	McCall	Rodgers
Bennett	George, C.	McIntyre	Schmitt
Berson	George, M.	McMonagle	Schweder
Borski	Giammarco	Michlovic	Seventy
Brown	Goodman	Milanovich	Shadding
Caltagirone	Grabowski	Mrkonic	Shupnik
Cappabianca	Gray	Mullen, M. P.	Steighner
Chess	Greenfield	Murphy	Stewart
Cianciulli	Harper	Musto	Street
Clark, B.	Hoeffel	Novak	Stuban
Cochran	Hutchinson, A.	O'Brien, B.	Sweet
Cohen	Irvis	O'Donnell	Taylor, F.
Cole	Itkin	Oliver	Trello
Cowell	Johnson, J.	Petrarca	Wachob
Dawida	Jones	Pievsky	Wargo
DeMedio	Kernick	Pistella	White
DeWeese	Knight	Pratt	Williams
DiCarlo	Kolter	Pucciarelli	Wright, D.
Dombrowski	Kowalyshyn	Rappaport	Yahner
Donatucci	Kukovich	Reed	Zeller
Duffy	Laughlin	Rhodes	Zitterman
Dumas	Letterman	Richardson	Zwilk
Fee	Levin		

NOT VOTING—2

Brunner Gatski

The majority of the votes cast being in the affirmative, the question was determined in the affirmative, and the constitutionality of the motion was sustained.

The CHIEF CLERK. Now you are voting on a motion to table. The question is on the motion. It is not debatable, and those voting to table the motion made by Mr. Irvis will vote "aye." Those opposing the motion will vote "no."

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

The following roll call was recorded:

YEAS—101

Alden	Foster, W.	Mackowski	Scirica
Anderson	Freind	Madigan	Seltzer
Armstrong	Gallen	Manmiller	Serafini
Arty	Gannon	McClatchy	Sieminski
Belardi	Geesey	McKelvey	Sirianni
Bittle	Geist	McVerry	Smith, E.
Bowser	Gladeck	Micozzie	Smith, L.
Brandt	Goebel	Miller	Spencer
Burd	Grieco	Moehlmann	Spitz
Burns	Gruppo	Mowery	Stairs
Cessar	Hasay	Nahill	Swift
Cimini	Hayes, D. S.	Noye	Taddonio
Clark, R.	Hayes, S. E.	O'Brien, D.	Taylor, E.
Cornell	Helfrick	Perzel	Telek
Coslett	Honaman	Peterson	Thomas
Cunningham	Hutchinson, W.	Piccola	Vroon
Davies	Johnson, E.	Pitts	Wagner
DeVerter	Klingaman	Polite	Wass
Dietz	Knepper	Pott	Weidner
Dininni	Lashinger	Punt	Wenger
Dorr	Lehr	Pyles	Wilson
Durham	Levi	Rocks	Wilt
Earley	Lewis	Ryan	Wright, J. L.
Fischer, R. R.	Lynch, E. R.	Salvatore	Yohn
Fisher, D. M.	Lynch, F.	Scheaffer	Zord
Foster, A.			

NAYS—98

Austin	Fryer	Livengood	Rieger
Barber	Gallagher	Manderino	Ritter
Beloff	Gamble	McCall	Rodgers
Bennett	George, C.	McIntyre	Schmitt
Berson	George, M.	McMonagle	Schweder
Borski	Giammarco	Michlovic	Seventy
Brown	Goodman	Milanovich	Shadding
Caltagirone	Grabowski	Mrkonic	Shupnik
Cappabianca	Gray	Mullen, M. P.	Steighner
Chess	Greenfield	Murphy	Stewart
Cianciulli	Harper	Musto	Street
Clark, B.	Hoeffel	Novak	Stuban
Cochran	Hutchinson, A.	O'Brien, B.	Sweet
Cohen	Irvis	O'Donnell	Taylor, F.
Cole	Itkin	Oliver	Trello
Cowell	Johnson, J.	Petrarca	Wachob
Dawida	Jones	Pievsky	Wargo
DeMedio	Kernick	Pistella	White
DeWeese	Knight	Pratt	Williams
DiCarlo	Kolter	Pucciarelli	Wright, D.
Dombrowski	Kowalshyn	Rappaport	Yahner
Donatucci	Kukovich	Reed	Zeller
Duffy	Laughlin	Rhodes	Zitterman
Dumas	Letterman	Richardson	Zwinkl
Fee	Levin		

NOT VOTING—2

Brunner
Gatski

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

The CHIEF CLERK. On the motion to table the vote is 101 to 98. On the motion that was made by Mr. Ryan to table Mr. Irvis' motion, it will be tabled.

MOTION TO ADJOURN

The CHIEF CLERK. The Chair recognizes the gentleman from Philadelphia, Mr. Richardson.

Mr. RICHARDSON. Mr. Chief Clerk, it appears to me that as we are being railroaded through this House, it is just an injustice being given to all of the members, the parents, relatives, friends and neighbors who have come all the way from wherever they have come from to witness this action here in the House of Representatives.

Mr. Speaker, since Mr. Gatski, who is a member of this House who has been duly elected by the people in his district, be not allowed to sit here and vote, then Mr. Speaker, you should adjourn the House, and I move that we adjourn the House right now until you decide, as the Speaker, that this gentleman has a right to vote, because it seems to me representing the 201st district that that person has the right to vote, and if he is not allowed to vote, then you should dismiss the House until the matter is cleared up completely and then allow everyone to vote like they are supposed to. Until then, Mr. Speaker, I think you should adjourn the House and call it back in when everybody is recognized and everybody has the right to vote. I so move, Mr. Speaker, that this House adjourn.

There is no need in subjecting the individuals who have come from all over across this State of Pennsylvania to see this mockery today in action because some individuals choose to railroad us. I am not going to sit here and be railroaded and I suggest, Mr. Speaker, that you adjourn the House now.

The CHIEF CLERK. The motion has been made to adjourn the House. It is not debatable.

Mr. RICHARDSON. It is not debatable and I do not want to hear anything but the roll call and I suggest that we return February 1. That we adjourn—

The CHIEF CLERK. When is your time and place and date?

Mr. RICHARDSON. One o'clock, February 1, 1979, Mr. Speaker. That we reconvene the House at that time.

The CHIEF CLERK. The time will be February 1, 1979.

Mr. RICHARDSON. At 1 o'clock.

The CHIEF CLERK. In the same place?

Mr. RICHARDSON. We could do it in Philadelphia.

The CHIEF CLERK. Respect the member, please.

Mr. RICHARDSON. I get justice there. It is not debatable, Mr. Chief Clerk.

The CHIEF CLERK. The Chair recognizes Mr. Ryan.

Mr. RYAN. Mr. Speaker, number one, we cannot adjourn for a month without the concurrence of the Senate, and I think that everyone in the House knows that.

Number two, we are trying to get the House organized. We tried to do it with dignity, although it is quickly falling apart, and I think, just for the record, before it falls apart further if it is possible, that I should say that Mr. Irvis and Mr. Manderino and I, together with Mr. Seltzer, have from time to time over the past weeks consulted with the hope that the proceedings here today would not fall apart, would not become a circus, would not turn into a fracas, which it has done in part, and we sincerely made an effort to communicate one with the other. I wanted to say that to Mr. Shupnik when he made his earlier remarks.

We knew that there were going to be problems. Every person in this Commonwealth who paid any attention to the November 7th election could foresee problems today when we organized. I do not think that there are any real surprises here for any of us, particularly those of us who are members.

It is truly unfortunate that there was no clear-cut majority on November 7, be it Republican or Democrat, if for no other reason but that these proceedings today could go in a reasonably clear, clean fashion and that there would be no additional shame brought on this General Assembly.

We suggested earlier today that the problems with Mr. Halverson and Mr. Gatski be set aside until a later date until the Supreme Court had handed down an advisory opinion. The Democratic leadership, after consultation, decided that that was not the way that they wanted to go, and I am not blaming them for that, but that is why we are in this area of argument right now, and I do not think that it is anything any of us have to apologize for, that is, that we are concerned with the Gatski and Halverson elections.

I would just ask that this session, with family and friends present and those not present—and those members of our family and friends who are not present perhaps are watching this proceeding on television as it is being televised live by the Public Broadcasting System, People's Business—and I would like to urge each of you to vote against the motion to adjourn. I will try and constrain myself from talking so much, and that is tough for an Irishman, and I am going to ask that the others do it so that we get this House organized, that we get on with the business of the Commonwealth as it is guided by this particular House.

I am going to ask that we vote "no" on the motion to adjourn and then I am going to ask to be recognized and, in turn, so that there will be no surprises, yield to the gentleman who is going to nominate the speaker from the Republican side of the House so that we can move ahead.

Again, I apologize really to the guests here today and suggest to them that this is not a surprise. This is a very, very difficult day that has followed a very, very difficult election on November 7, one that will surely go down in the history books of perhaps this whole country and, I suggest may never again occur in the annals of United States history, what happened here in Pennsylvania on November 7 as it pertains to the House election. Mr. Chief Clerk, I ask that we vote "no" on the motion to adjourn.

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

The following roll call was recorded:

YEAS—39

Beloff	Giammarco	Novak	Rieger
Borski	Harper	O'Brien, B.	Ritter
Brown	Itkin	O'Donnell	Rodgers
Cappabianca	Jones	Oliver	Seventy
Cianciulli	Knight	Petrarca	Shadding
Clark, B.	Kukovich	Pratt	Street
Cochran	Letterman	Pucciarelli	Taylor, F.
Cohen	Michlovic	Rappaport	White
Dawida	Milanovich	Rhodes	Williams
Donatucci	Murphy	Richardson	

NAYS—160

Alden	Foster, A.	Levin	Schmitt
Anderson	Foster, W.	Lewis	Schweder
Armstrong	Freind	Livengood	Scirica
Arty	Fryer	Lynch, E. R.	Seltzer
Austin	Gallagher	Lynch, F.	Serafini
Barber	Gallen	Mackowski	Shupnik
Belardi	Gamble	Madigan	Sieminski
Bennett	Gannon	Manderino	Sirianni
Berson	Geesey	Manmiller	Smith, E.
Bittle	Geist	McCall	Smith, L.
Bowser	George, C.	McClatchy	Spencer
Brandt	George, M.	McIntyre	Spitz
Burd	Gladeck	McKelvey	Stairs
Burns	Goebel	McMonagle	Steighner
Caltagirone	Goodman	McVerry	Stewart
Cessar	Grabowski	Micozzie	Stuban
Chess	Gray	Miller	Sweet
Cimini	Greenfield	Moehlmann	Swift
Clark, R.	Grieco	Mowery	Taddonio
Cole	Gruppo	Mrkonic	Taylor, E.
Cornell	Hasay	Mullen, M. P.	Telek
Coslett	Hayes, D. S.	Musto	Thomas
Cowell	Hayes, S. E.	Nahill	Trello
Cunningham	Helfrick	Noye	Vroon
Davies	Hoeffel	O'Brien, D.	Wachob
DeMedio	Honaman	Perzel	Wagner
DeVerter	Hutchinson, A.	Peterson	Wargo
DeWeese	Hutchinson, W.	Piccola	Wass
DiCarlo	Irvis	Pievsky	Weidner
Dietz	Johnson, E.	Pistella	Wenger
Dininni	Johnson, J.	Pitts	Wilson
Dombrowski	Kernick	Polite	Wilt
Dorr	Klingaman	Pott	Wright, D.
Duffy	Knepper	Punt	Wright, J. L.
Dumas	Kolter	Pyles	Yahner
Durham	Kowalyszyn	Reed	Yohn
Earley	Lashinger	Rocks	Zeller
Fee	Laughlin	Ryan	Zitterman
Fischer, R. R.	Lehr	Salvatore	Zord
Fisher, D. M.	Levi	Scheaffer	Zwikl

NOT VOTING—2

Brunner Gatski

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

RESOLUTION ELECTION OF SPEAKER

Mr. PICCOLA offered the following resolution, which was read, considered and adopted:

In the House of Representatives, January 2, 1979.

RESOLVED, That in accordance with the provisions of Article 2, Section 9, of the Constitution of this Commonwealth, I move that the House now proceed with the election of the Speaker.

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—105

Alden	Fisher, D. M.	Lynch, F.	Seirica
Anderson	Foster, A.	Mackowski	Seltzer
Armstrong	Foster, W.	Madigan	Serafini
Arty	Freind	Manmiller	Seventy
Barber	Gallen	McClatchy	Sieminski
Belardi	Gannon	McKelvey	Sirianni
Bittle	Geesey	McVerry	Smith, E.
Bowser	Geist	Micozzie	Smith, L.
Brandt	Gladeck	Miller	Spencer
Burd	Goebel	Moehlmann	Spitz
Burns	Grieco	Mowery	Stairs
Caltagirone	Gruppo	Nahill	Swift
Cessar	Hasay	Noye	Taddonio
Cimini	Hayes, D. S.	O'Brien, D.	Taylor, E.
Clark, R.	Hayes, S. E.	Perzel	Telek
Cornell	Helfrick	Peterson	Thomas
Coslett	Honaman	Piccola	Vroon
Cunningham	Hutchinson, W.	Pitts	Wagner
Davies	Johnson, E.	Polite	Wass
DeVertter	Klingaman	Pott	Weidner
Dietz	Knepper	Punt	Wenger
Dininni	Lashinger	Pyles	Wilson
Dorr	Lehr	Rocks	Wilt
Dumas	Levi	Ryan	Wright, J. L.
Durham	Lewis	Salvatore	Yohn
Earley	Lynch, E. R.	Scheaffer	Zord
Fischer, R. R.			

NAYS—92

Austin	Gallagher	Livengood	Rieger
Beloff	Gamble	Manderino	Ritter
Bennett	George, C.	McCall	Rodgers
Berson	George, M.	McIntyre	Schmitt
Borski	Giammarco	McMonagle	Schweder
Brown	Goodman	Michlovic	Shadding
Cappabianca	Grabowski	Milanovich	Shupnik
Chess	Gray	Mrkonic	Steighner
Cianciulli	Greenfield	Mullen, M. P.	Stewart
Clark, B.	Harper	Murphy	Street
Cochran	Hoeffel	Musto	Stuban
Cohen	Irvic	Novak	Sweet
Cole	Itkin	O'Brien, B.	Taylor, F.
Cowell	Johnson, J.	O'Donnell	Trello
Dawida	Jones	Oliver	Wachob
DeMedio	Kernick	Petrarca	Wargo
DeWeese	Knight	Pievsky	White
DiCarlo	Kolter	Pistella	Williams
Dombrowski	Kowalyshyn	Pratt	Wright, D.
Donatucci	Kukovich	Pucciarelli	Yahner
Duffy	Laughlin	Rappaport	Zeller
Fee	Letterman	Reed	Zitterman
Fryer	Levin	Richardson	Zwikl

NOT VOTING—4

Brunner Gatski Hutchinson, A. Rhodes

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

NOMINATIONS FOR SPEAKER

The CHIEF CLERK. Nominations are now in order for the office of the Speaker. The Chair recognizes the gentleman from Philadelphia, Mr. Richardson.

Mr. RICHARDSON. Mr. Chief Clerk, a point of order, because it is not fair to the members here sitting to find out exactly what the rules are going to be to govern who is going to be elected if you do not have a constitutional majority and, Mr. Speaker, since you will now allow Mr. Gatski to vote, it is only right and fitting that we as members know what you are doing, because at this point and at this time, it seems to me that we have been made a mockery out of in the House of Representatives of Pennsylvania, and I do not want to be a member sitting here without having any knowledge of what we are about to do. Without having the full contents of who is going to be allowed to vote, who is not going to be allowed to vote and what is going to constitute a constitutional majority, I think that is in order, Mr. Speaker, before you ask anybody to be nominated.

The CHIEF CLERK. The Chair recognizes the gentleman, Mr. Irvis.

Mr. IRVIS. Mr. Chief Clerk, I do not think that there is anyone in this audience, except those who are very young, who are unaware of the numerical situation here in the House of Representatives. Neither party has succeeded in electing 102 members as of this moment. Democratic lawyers and Republican lawyers have been busily at work for now more than 30 days trying to ascertain what the constitution of this Commonwealth proclaims as to the requirement for the election of a speaker. The constitution is vague about that, Republican lawyers stating that without question the precedents are that all you need is a simple majority; the Democratic lawyers saying that the precedents cited by the Republican lawyers are really not precedents at all. So, Your Honor, everything is standard and normal as it is in your courtroom, the legal opinions being colored by the particular advocacy of the person speaking them.

The facts are these: Since 1830 and prior to that date, there were no recordings of the votes for speaker. Since 1830, of the 100 elections, I believe, that have been held for speaker, 98 of those elections were held with a constitutional majority. Only two, one in 1901 and one 1868, were held with less than a constitutional majority. If you wish to argue that those two set the precedent and the other 96 do not, then, of course, you will argue that a simple majority is enough to elect a speaker on the floor of the House.

If, on the other hand, you argue as I do, that precedent requires that there be at least a constitutional majority to elect the speaker, then you will base that argument on the other 96 elections from 1830 on.

Quite obviously here today, and you have seen the vote, the Republican Party has 101 votes on the floor, and with 101 votes the Republican Party intends to nominate and to elect a speaker. Equally obviously, the Democrats do not have 101 votes on the floor, but I suggest to you, Mr. Chief Clerk, that even though the Republican Party at this moment has 101

votes on the floor, there is no guarantee that it is going to have 102, and even though it may elect a speaker with 101 in January of 1979, there is no guarantee that that same speaker will be the speaker by the mid-part of February in 1979.

I would suggest also that it would be the better part of wisdom, although I do not expect us to follow it, that we delay the election for speaker until after the Somerset election has been decided and until after the Lehigh County election has been decided, brought upon us by the untimely death of young Frank Meluskey. That, I think would be the course of reason, but I have served here now for two decades and rarely have I been surprised by the advent of reason, so I do not expect to be surprised by it today, but I say to you, on the Republican-Party side, in your joy of victory, which you certainly deserve to have — *the joy rather than the victory* — do not forget that you may very well be playing a very mischievous game and that mischief has a way of coming back.

If you set this precedent in 1979 of saying that a simple majority of those present will be enough to elect a speaker, then you had better be prepared to live with that precedent for as long as the Democrats stare at you from the floor of this House. I thank you, Mr. Chief Clerk.

The CHIEF CLERK. The Chair recognizes the gentleman, Mr. Ryan.

Mr. RYAN. Mr. Chief Clerk, I think really what Mr. Irvis should have done and what I will now do is to compliment the legal staffs of both the Republican and Democratic sides because it was they who worked so diligently for the past 30 days, and I know that the candles burned late at night in the leadership offices, both Republican and Democratic, while they were reviewing the research that was done by these members of our respective staffs.

I missed some of Mr. Irvis' remarks and I run the risk, perhaps, of repeating them, but we researched—when I say we, I am going to try to take credit vicariously for having done this, although in truth I did not do any of it and I am just reading the results of the research—back to 1783 every election of the Speaker in the House of Representatives of the Commonwealth of Pennsylvania. We researched the 50 states of these United States. We researched the elections of the Speaker of the United States House of Representatives and we came to one conclusive end, and that is, that a simple majority of a quorum present is sufficient to elect a speaker of the House.

The only precedent in Pennsylvania, the only precedent in Pennsylvania, are the two elections referred to by Mr. Irvis, where less than a so-called constitutional majority elected a Speaker, and these two cases were not contested. I think that it is interesting and I would guess that maybe the staff people from the other side found the same thing but perhaps did not include it in the memorandum that they gave to Mr. Irvis. And that is going back through all of the years, all of the years, where a speaker was elected. Regardless of the numerical superiority, be it the so-called constitutional majority or a simple plurality or a majority, the words uttered at the conclusion of the vote count where it was not made unanimous, which has

happened, of course, many times, and after nominations were closed and the vote count recited, the magic words in almost every case where a majority of all of the votes cast were, so and so is elected speaker. This goes on all through the 1900's, the 1800's, and back down through the 1700's, the late 1700's. Nowhere does it appear that the so-called constitutional majority was required, even though in 98 of 100 of those cases there was, in fact, a constitutional majority.

That differs, of course, from what we announce when we pass a bill. Even when a bill passes unanimously, the speaker of the House says, "A constitutional majority having voted in favor," or the lack of one, and it fails.

The precedent that we look to when we do not have our own rules includes Mason's Manual, which again says "a majority of a quorum." Cushing, Hinds', which governs pretty much the United States House of Representatives, in each of these, in addition to the two cases, we find a simple majority of a quorum present is sufficient to elect a speaker, and, of course, our own Jefferson's Manual, which we look to time and time again so that from a precedent standpoint, from a legal standpoint, from a parliamentary standpoint, I think that we are on sound ground when we say that a simple majority of a quorum present is sufficient to elect a speaker.

In addition to that, there are any number of reasons that could be recited as to why we should not delay, aside from the fact that 101 or 100, a simple majority is sufficient to elect a speaker. There are any number of other reasons.

Mr. Irvis suggests that shortly perhaps the Halverson election and the Gatski election will be determined by the Supreme Court. Time and time again I have read in the paper, as each of us has, that the Supreme Court is not moving quickly. We look here just in the past 15 or 20 years, I forget the date offhand, when in Schuylkill County a decision on a Senate race was delayed for 2 years, and, in fact, when that decision came down, the term had expired. I am not suggesting that our present Supreme Court would act that way, but I am saying that that possibility exists. And in the case of the Meluskey seat in Lehigh County, who is to know whether or not there is going to be a challenge there. No one of us here can predict the outcome of that election, whether it will be lopsided for the Democratic candidate or lopsided for the Republican candidate, or this year, the way things are going, it could be, again, a dead tie.

I think that we have tried to act responsibly in these elections. If you look to the Adams County election, we were behind by 14 votes. We did not file appeals. We did not try and delay. We are trying to act fairly. Believe me, we are. We have communicated with the leadership on the other side so that there would be no surprises, so there would be no upheaval here today, although with limited success. And I suggest to the House and to future members of the future legal staffs as they research this problem, perhaps in the year 3000, as we did over a many-year period, that a simple majority of a quorum present is sufficient to elect a speaker to the House of Representatives of the Commonwealth of Pennsylvania, and I would ask that we now move on to that and recognize the gentleman from Lebanon, Mr. Moehlmann.

NOMINATIONS FOR SPEAKER OF HOUSE

The CHIEF CLERK. The Chair recognizes the gentleman from Lebanon, Mr. Moehlmann.

Mr. MOEHLMANN. Thank you, Mr. Chief Clerk.

I rise to place in nomination to the high office of Speaker of this House of Representatives, the name of a member of the House. I would like to say a few words about him, although I do not want to keep the assembled members in suspense too long as to the identity of that member.

The election of the last two Speakers of the House have been, in my estimation, historical events for different reasons, as the members here know. I regard this present election as an equally historical event because if this gentleman becomes the speaker of the House, he will be the first person in the history of this Commonwealth from the County of Lebanon to be elected to that office.

I have served in the House now for two terms and I have been associated with the House and been familiar with it for some time longer than that. I have seen along that course of time quite a few different Speakers of this House and I have been struck by them, by their personalities, their leadership capability, the strength of them, intelligence, knowledge, but I think mostly I have been struck by those men because of the reverence and respect for the House of Representatives, for the institution of the legislature and for state government itself.

I am very proud to nominate the person that I do nominate because I see in him all of those same qualities — the strength of leadership, intelligence, knowledge, and that respect and that reverence. I know that all of the members of the Republican caucus hold in high esteem this gentleman, and we know in our hearts that his capability for leadership is not only the best that we have but equal to those capabilities of past Speakers and I think in many ways surpasses those capabilities.

I suspect that many, perhaps most, perhaps even all of the members of the opposition party have that same respect for this gentleman. In my opinion, he is the logical successor to all of the excellent Speakers this House has had in the past, and it is with great pride and a whole lot of enthusiasm that I nominate to be Speaker of the House, the gentleman from Lebanon County, Mr. H. Jack Seltzer.

The CHIEF CLERK. The gentleman from Lebanon County, Mr. Moehlmann, places in nomination for the office of Speaker, the gentleman from Lebanon County, the Honorable H. Jack Seltzer, for the office of Speaker.

The Chair recognizes the gentleman from Delaware, Mr. Ryan.

Mr. RYAN. Mr. Chief Clerk, I have been at this microphone a number of times today. On occasion the words that I had to say, the motion I had to make, was not a pleasant one. It was not one that I necessarily looked forward to doing. That is not so at this moment.

Any young lawyer, when he is admitted to the Bar Association, aspires to be a judge. Some of them have made it. Any member of this House, the day that he is sworn in, aspires to be Speaker of this House. Jack Seltzer is no exception to that. His aspirations to be Speaker have been known for many years. His

conduct, while in this House, has always been for the betterment of the House. His conduct while a member of this House has been partisan, as it should have been, as was the conduct of prior Speakers when they were members of the body in chief. Mr. Irvis, our former Speaker, can be tremendously partisan when the occasion calls for it, yet on the rostrum, with the gavel in his hand, he conducted this House in a fair manner. There is no doubt in my mind that hard decisions will be made this year, but with Jack Seltzer in the chair those hard decisions made by the Speaker of this House will be handled in a fair manner.

I enthusiastically, Mr. Chief Clerk, second the nomination of Mr. Seltzer of Lebanon County to be Speaker of the House of Representatives of the Commonwealth of Pennsylvania.

The CHIEF CLERK. The gentleman from Delaware County, Mr. Ryan, seconds the nomination of Mr. Seltzer for the office of Speaker. The chair recognizes the lady from Cambria County, Mrs. Clark.

Mrs. CLARK. Mr. Chief Clerk, I also second the nomination of Jack Seltzer to the office of Speaker of the House of Representatives.

Jack Seltzer, by his past performance in the House has shown that he is a most efficient, most capable, and a very strong leader, and I am very honored to second the nomination of Jack Seltzer to the position of Speaker of the House of Representatives.

The CHIEF CLERK. The lady from Cambria County, Mrs. Clark, seconds the nomination of Jack Seltzer for the Speaker of the House of Representatives.

The CHIEF CLERK. Are there any other nominations? The Chair recognizes the gentleman from Berks County, Mr. Fryer.

Mr. FRYER. Mr. Chief Clerk, distinguished colleagues of the House of Representatives, 2 years ago on January 6, 1977, to be exact, the Honorable Matthew Ryan of Delaware County, despite a Democratic majority of 118 to 85, nominated a Republican member for Speaker of the House. In his brief nominating remarks, Mr. Ryan said, and I quote, "I stand here today to nominate a Republican candidate for the office of Speaker of the House. This is not intended as a declaration of war but rather the offer of an alternative."

I stand here today as a member of a party, the Democratic Party, that may or may not be in the minority, depending entirely on the final outcome of the recent legislative elections which to all intent and purposes have not yet been fully decided. So what I am offering you today is not exactly what Mr. Ryan offered 2 years ago. My candidate, the Democratic candidate, is a candidate, yes, but he is also a viable candidate who has proven his mettle in some of the most intensive debate in this House in my memory. I am, of course, referring to the Honorable K. Leroy Irvis, the gentleman from Allegheny County, whose stewardship as the Speaker of the House during our last session won the accolades of members of both sides of the aisle, and with good reason. As the presiding officer of this House, K. Leroy Irvis proved to all of us that he is indeed blessed with the temperament and the sense of impartiality and fair play that are prime requisites for one who seeks to sit

in the Speaker's chair. Even with a substantial majority in his own party, Mr. Irvis was able time and again to separate himself from partisan politics and conduct the affairs of this office, this body, with a degree of equality that assured every member, regardless of what party affiliation, that he or she would be given the opportunity to be heard on any matter that was important to both this House and the Commonwealth of Pennsylvania.

During the 1979-1980 session of this House, when the majority party will be afforded that privilege by the barest of margins, and when it is conceivable that such a majority could change at any moment during the 2 long years ahead, I feel and I know that I am joined by a good number of my colleagues in this observation, that just possibly perhaps never in Pennsylvania's history was it more important for us to elect a Speaker who has proved to us that regardless of which party holds the upper hand, he, the Speaker, will conduct the business on the House floor with the decorum, dignity and impartiality that has distinguished Speaker Irvis' period of service.

It is for that reason, among others, Mr. Chief Clerk, that I am both pleased and honored to present in nomination for Speaker of the House, the gentleman from Allegheny County, the Honorable K. Leroy Irvis.

The CHIEF CLERK. The gentleman from Berks County, Mr. Fryer, placed in nomination for the office of Speaker the name of the Honorable K. Leroy Irvis.

The Chair recognizes the gentleman from Westmoreland County, Mr. James J. Manderino.

Mr. MANDERINO. Mr. Chief Clerk, I rise to second the nomination of K. Leroy Irvis for Speaker of the House of Representatives. Mr. Irvis has been a member of this House for more than 20 years and has held a leadership position for the past 16 years.

In May of 1977, as this House was in the midst of an extremely difficult session, Mr. Irvis was named Speaker of this House, and he guided the House through that session by virtue of his temperate nature, his even handedness and the wisdom that he has accumulated from his many years of service.

The 1979-1980 session, Mr. Chief Clerk, promises to be another difficult one, and I am sure that we will face volatile issues of taxes perhaps, and budgets, repair of roads and other pressing matters. These issues, I believe, will be resolved by a House almost equally divided.

I can think of no better man to lead us during these unusual times than the experienced and fair-minded man from Allegheny County, K. Leroy Irvis. It is, therefore, with great pleasure that I second his nomination for Speaker of this House of Representatives.

Thank you, Mr. Chief Clerk.

The CHIEF CLERK. The gentleman from Westmoreland County, Mr. Manderino, seconds the nomination of Mr. Irvis for office of Speaker.

The Chair recognizes the gentleman from Allegheny County, Mr. Ivan Itkin.

Mr. ITKIN. Thank you.

Mr. Chief Clerk, it is indeed a great pleasure and honor for

me to stand here today and to second the nomination of Mr. K. Leroy Irvis for Speaker of the House.

I think that every member who has participated in prior sessions would recognize Mr. Irvis as the wisest and the fairest among us and who has, by our own personal observation, demonstrated that in the way he has held the office of Speaker.

To some of us, perhaps in our caucus, who like to view that the majority has its way and runs the show and is willing to run roughshod over the minority, as I have seen it in prior sessions, Mr. Irvis never rose or, I should have said, stepped down to those types of operations in the Speaker's Chair.

He is by far the most qualified to serve as our presiding officer because he represents all of us and has represented all of us, recognizing the fact that as Speaker he is chosen and elected by all of us.

I truly believe that if this was a nonpartisan legislature sitting here today to pick its presiding officer, the one that each one of us can place his faith in guiding this House and in ruling fairly, that man would be K. Leroy Irvis. And although I have been here long enough to recognize that sometimes fairness and justice do not prevail in this House and sometimes the right people are not selected to serve in their best capacity, I still feel very honored and very gratified to take this opportunity to second the nomination of K. Leroy Irvis for Speaker of this House of Representatives.

The CHIEF CLERK. The gentleman from Allegheny County, Mr. Itkin, seconds the nomination of Mr. Irvis for office of Speaker.

TELLERS APPOINTED

The CHIEF CLERK. The Chair names as tellers for the purpose of tallying the votes for the office of Speaker, the gentleman from Lancaster County, Mr. Noah Wenger, and the gentleman from Dauphin County, Mr. Stephen R. Reed.

Will the gentlemen please come up and sit in the Chief Clerk's and the Secretary's chairs in the center of the hall?

The Chair recognizes the gentleman from Philadelphia, Mr. Richardson.

Mr. RICHARDSON. Mr. Chief Clerk, I have a point of order, but before I do that I yield the floor to Mr. Gatski.

The CHIEF CLERK. The Chair recognizes the gentleman from Luzerne, Mr. Gatski.

Mr. GATSKI. Thank you, Mr. Chief Clerk.

Mr. Chief Clerk, I would like to know the status on this very important election now. I have been certified by the county courts of Luzerne County. I went through every procedure. I would like to know what the status is on my casting a vote for the 116th district. I believe I have a right to do that for this most important post.

The CHIEF CLERK. The answer to your question, Mr. Gatski, is that only the members who were sworn in are entitled to vote for the Speaker.

Mr. GATSKI. Mr. Chief Clerk, would you please check the record to see if at any time a motion was presented denying me the right to vote on the floor?

The CHIEF CLERK. When the motion was made by Mr. Irvis to table the motion, your vote was not recorded.

Mr. GATSKI. Then, Mr. Chief Clerk, I would like to thank from the bottom of my heart the members on the other side of the aisle who acted so fairly and kindly toward me today, and as long as my vote is no longer required here, I will take my family, who came here for this occasion, and leave. Thank you very much.

POINT OF ORDER

The CHIEF CLERK. The Chair recognizes the gentleman from Philadelphia, Mr. Richardson. For what purpose does the gentleman rise?

Mr. RICHARDSON. I rise to a point of order.

The CHIEF CLERK. The gentleman will state it.

Mr. RICHARDSON. Mr. Chief Clerk, on all of the votes that I have witnessed since I have been a member on the floor of this House, there was always someone who made a motion to close the nominations for any election that has taken place. I do not recall that taking place at this point, Mr. Speaker, and I ask for a ruling from the Chair.

The CHIEF CLERK. Do you wish to make the motion to close the nominations?

Mr. RICHARDSON. I am not making any motion, Mr. Speaker, until you let Mr. Gatski vote. You are railroading him right out of this House, and in front of his family, his friends, and all the members of the House of Representatives, and I just think it is unfair. I am glad that America and Pennsylvania are watching how this gentleman has to take his family out of here because you unfairly do not want to rule the House the way it is supposed to be done. And I say, Mr Chief Clerk, that the election is invalid and everything that is being done is wrong, and until it is corrected, Mr. Chief Clerk, I will stand on the floor of this House and protest what I think is unfair and unjust, and unless we members stand up and fight for this man, who has been sworn in duly by the members of his district, just like I was and every other member here, I think it is wrong, and you have to answer to that in this Commonwealth of Pennsylvania, Mr. Chief Clerk.

The CHIEF CLERK. The Chair recognizes the gentleman from Allegheny, Mr. Itkin.

Mr. ITKIN. Mr. Chief Clerk, I move that nominations be closed for the office of Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to.

The CHIEF CLERK. Those voting for Mr. Seltzer will vote green; those voting for Mr. Irvis will vote red. The votes will be tallied as follows: Every green vote will be tallied as a vote for Mr. Seltzer, and every red vote will be tallied as a vote for Mr. Irvis. Only those members in their seats will be permitted to vote. Members will proceed to vote.

The following roll call was recorded:

YEAS—101

Alden Foster, W. Mackowski Scirica

Anderson	Freind	Madigan	Seltzer
Armstrong	Gallen	Manmiller	Serafini
Arty	Gannon	McClatchy	Siemiński
Belardi	Geesey	McKelvey	Sirianni
Bittle	Geist	McVerry	Smith, E.
Bowser	Gladeck	Micozzie	Smith, L.
Brandt	Goebel	Miller	Spencer
Burd	Grieco	Moehlmann	Spitz
Burns	Gruppo	Mowery	Stairs
Cessar	Hasay	Nahill	Swift
Cimini	Hayes, D. S.	Noye	Taddonio
Clark, R.	Hayes, S. E.	O'Brien, D.	Taylor, E.
Cornell	Helfrick	Perzel	Telek
Coslett	Honaman	Peterson	Thomas
Cunningham	Hutchinson, W.	Piccola	Vroom
Davies	Johnson, E.	Pitts	Wagner
DeVerter	Klingaman	Polite	Wass
Dietz	Knepper	Pott	Weidner
Dininni	Lashingier	Punt	Wenger
Dorr	Lehr	Pyles	Wilson
Durham	Levi	Rocks	Wilt
Earley	Lewis	Ryan	Wright, J. L.
Fischer, R. R.	Lynch, E. R.	Salvatore	Yohn
Fisher, D. M.	Lynch, F.	Scheaffer	Zord
Foster, A.			

NAYS—98

Austin	Fryer	Livengood	Rieger
Barber	Gallagher	Manderino	Ritter
Beloff	Gamble	McCall	Rodgers
Bennett	George, C.	McIntyre	Schmitt
Berson	George, M.	McMonagle	Schweder
Borski	Giammarco	Michlovic	Seventy
Brown	Goodman	Milanovich	Shadding
Caltagirone	Grabowski	Mrkonic	Shupnik
Cappabianca	Gray	Mullen, M. P.	Steighner
Chess	Greenfield	Murphy	Stewart
Cianciulli	Harper	Musto	Street
Clark, B.	Hoeffel	Novak	Stuban
Cochran	Hutchinson, A.	O'Brien, B.	Sweet
Cohen	Irvis	O'Donnell	Taylor, F.
Cole	Itkin	Oliver	Trello
Cowell	Johnson, J.	Petrarca	Wachob
Dawida	Jones	Pievsky	Wargo
DeMedio	Kernick	Pistella	White
DeWeese	Knight	Pratt	Williams
DiCarlo	Kolter	Pucciarelli	Wright, D.
Dombrowski	Kowalyshyn	Rappaport	Yahner
Donatucci	Kukovich	Reed	Zeller
Duffy	Laughlin	Rhodes	Zitterman
Dumas	Letterman	Richardson	Zwinkl
Fee	Levin		

NOT VOTING—2

Brunner Gatski

The CHIEF CLERK. The Tellers will confirm the recorded vote.

The vote: 101 for the Honorable Jack Seltzer, and the Honorable K. Leroy Irvis received 98 votes.

The Honorable H. Jack Seltzer, having received a majority of all the votes cast, is hereby declared elected Speaker of the House of Representatives. My congratulations.

COMMITTEE APPOINTED TO ESCORT SPEAKER-ELECT TO THE ROSTRUM

The CHIEF CLERK. The Chair appoints the gentleman from Lebanon, Mr. Moehlmann, and the gentleman from Delaware,

Mr. Ryan, to escort the Speaker-elect Jack Seltzer to the rostrum.

Mr. MOEHLMANN. Ladies and gentlemen of the House, the Speaker-elect, Mr. H. Jack Seltzer.

OATH OF OFFICE ADMINISTERED TO THE SPEAKER-ELECT

The oath of office was administered to the Honorable H. Jack Seltzer, Speaker-elect of the House of Representatives, by the Honorable James S. Bowman.

PRESENTATION OF GAVEL

The CHIEF CLERK. The Chair requests the Honorable John Hope Anderson to take the chair for the purpose of presenting the gavel to Speaker Seltzer.

Mr. ANDERSON. The duty I am about to perform gives me more pleasure than any job I ever had to do in the House. I threw away a 30-minute speech on the qualifications of Jack Seltzer because those of you who have served with him know he is qualified. The members, relatives, and guests here in the House would think I was exaggerating if I told you all that I could about Jack Seltzer.

It is certainly a pleasure, Jack, for me to give to you this gavel. I know you will be one of the finest Speakers this House has ever had, and let me present to you the gavel of the House of Representatives of Pennsylvania.

THE SPEAKER (H. JACK SELTZER) IN THE CHAIR

ACKNOWLEDGMENT SPEECH

The SPEAKER. Ladies and gentlemen of the House, distinguished guests all, John Hope just said he threw away a 30-minute speech. I had one of about 3 minutes and I threw that away.

It is a very trying day — a lot of heartache, disappointment, and happiness. In the 22 years that I have been a member of this House of Representatives, I have served with six Speakers, every one of whom was an excellent Speaker of the Pennsylvania House of Representatives.

My only goal is that when I leave this rostrum, whether it is after a period of 1 day, 1 week, 1 month, 1 year, or one term, that my peers, you ladies and gentlemen who are sitting here in the floor of the House today, will say, Well, Jack was not a bad guy, after all.

One word about the Judge who swore me in. Twenty-two years ago yesterday, then Jim Bowman, now President Judge Jim Bowman, and I took our first oath of office on the very floor of this House. Thank you, Jim, for coming over here and swearing me in. I appreciate it.

PRESENTATION OF COMMEMORATIVE GAVEL

The SPEAKER. The Chair recognizes the Chief Clerk for a presentation.

The CHIEF CLERK. Mr. Speaker, will you come forward?

The Chair recognizes the Honorable K. Leroy Irvis to come to the rostrum.

The Honorable K. Leroy Irvis will present the gavel to the Honorable H. Jack Seltzer.

Mr. IRVIS. Will the gentleman, Mr. Speaker Seltzer, please step forward?

Jack, I have had the honor of presiding over this body and belonging to it, and you now have the honor of presiding. And I know from my experiences over the past 20 years with you that, being a man of intelligence, integrity and judgment, we have placed this body in good hands. We trust your judgment. And I present you with a commemorative gavel as an indication from all of us that we recognize in you our leader in the House of Representatives.

Mr. Seltzer, congratulations.

SENATE MESSAGE

ADJOURNMENT RESOLUTION FOR CONCURRENCE

The Senate presented the following resolution for concurrence:

In the Senate, January 2, 1979.

RESOLVED, (the House of Representatives concurring), That when the Senate adjourns this week it reconvene on Tuesday, January 16, 1979; and be it further

RESOLVED, That when the House of Representatives adjourns this week it reconvene on Tuesday, January 16, 1979.

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

On the question,

Will the House concur in the resolution of the Senate?

REQUEST TO AMEND RESOLUTION

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, I would like to amend the resolution, the concurrent resolution. I have had conversations both with Mr. Irvis and with one of the staff members of the Senate. So that the concurrent resolution calls for us coming back on the 15th of January, at the same time, 1 p.m.

The SPEAKER. It has been moved by the gentleman, Mr. Ryan, that the adjournment resolution be amended to read: Monday, January 15, 1979.

The Chair recognizes the gentleman from Philadelphia, Mr. Richardson.

Mr. RICHARDSON. I oppose Mr. Ryan's amendment. Number one, January 15 is Dr. Martin Luther King's birthday. This House and Senate passed a bill to make it a state holiday. I would object to the rule being made by Mr. Ryan to come back then on that day.

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

Mr. WILLIAMS. Mr. Speaker, there is some debate on the motion. We would like to present some reasons on the motion. Some folks can understand the reasons for the opposition, please.

The SPEAKER. The Chair recognizes the lady from Philadelphia, Mrs. Harper.

Mrs. HARPER. Mr. Speaker, I object to the motion.

The SPEAKER. The lady asks for unanimous consent to debate the motion. The lady is in order and may proceed.

Mrs. HARPER. Mr. Speaker, Dr. Martin Luther King's birthday will be celebrated on January 15, and we voted for that day to be a holiday. I would like to ask the members to observe that holiday.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Williams, to debate the motion.

Mr. WILLIAMS. Mr. Speaker, I would like to register my objections to coming back on the 15th of January.

I would like to add one thought: We had long debate and a struggle about the holiday for Martin Luther King, so I am not going to go into that except to say that with all we have been through today and for us to even have to struggle about whether we come back on the 15th as an agreed-to-date for coming back, what it does, I think, is sort of act as an insult or slap in the face with regard to the many concerns that were expressed initially about making it a holiday.

I would hope that we give some decent thought as to what that would do if we came back on the 15th of January since we, as a legislative body, made that a holiday.

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, I understand the concern of the gentleman and the lady with respect to the celebration of that holiday. Our problem, however, stems from the fact that it is necessary for the House and the Senate, in joint session, to meet to go ahead with the certification of the election returns of the Governor and the Lieutenant Governor. It should not, in any way, be construed as any mark of disrespect for the memory of Dr. Martin Luther King. It is one of these necessary evils that we as a legislative body from time to time have to go through.

For instance, I am reminded, as I was listening to Speaker Seltzer refer to his first election, of my first day in office which was on January 1, which happened to fall on a holiday, and we were called back because of the constitutional problems.

Wait a minute. Something is going on behind my back. I may change my mind.

AMENDMENT WITHDRAWN

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, it is my understanding that arrangements have been made with the Senate that a token number of Senators will come over in joint session today for the sole purpose of certifying the election of the Governor and the Lieutenant Governor, and it will not be necessary for me at this time to amend the earlier resolution, the concurrent resolution. Accordingly, I withdraw that amendment.

On the question recurring,

Will the House concur in the resolution of the Senate?

Resolution was concurred in.

Ordered, That the clerk inform the Senate accordingly.

SPEAKER PRESENTS FAMILY

The SPEAKER. If I may indulge the membership of this House for 30 seconds on a personal matter, I would like to present to you my wife of many, many years and my son Michael and my daughter Patty. Will they all stand?

ANNOUNCEMENT OF MAJORITY

CAUCUS CHAIRMAN

The SPEAKER. The Chair recognizes the gentleman from Perry, Mr. Noye, for the purpose of making an announcement.

Mr. NOYE. Mr. Speaker, as a chairman of the Republican Caucus, I have been instructed to announce, for the information of the members of the House and for the record, that the gentleman from Delaware County, Mr. Matthew Ryan, has been elected Majority Leader by the Republican caucus and that the gentleman from Huntingdon County, Mr. Samuel E. Hayes, Jr., has been elected Majority Whip.

Furthermore, the gentleman from York, Mr. Anderson, has been elected Secretary; the gentleman from Allegheny County, Mr. Richard Cessar, has been elected Policy Committee Chairman; the gentleman from Philadelphia, Mr. Frank Salvatore, Caucus Administrator, and the gentleman from Montgomery County, Mr. Richard A. McClatchy, Appropriations Committee Chairman.

REMARKS BY MAJORITY LEADER

The SPEAKER. The Chair recognizes the majority leader for any remarks he would like to offer at this time.

Mr. RYAN. Mr. Speaker, like you, I had a lengthy speech to make, but I think that it would be wrong for me to do it at this time and I will reduce my remarks substantially.

Really, what I wanted to say, and it is difficult to say it now, is that we recognize the political realities facing the House of Representatives; we recognize the political realities facing the Commonwealth of Pennsylvania. Those realities are that whether we like it or not, this has got to be a bipartisan effort, this coming session of the General Assembly. We have a razor-thin majority here in the House, and the Democrats are in control of the Senate. We must work together. We intend to work together and have attempted to work together, if by no other means than by communicating over these past several weeks with the leadership on the other side as to all of our plans.

Now, many of our families and friends have left, and we can understand that. This has been a long, long day. I guess that those of you who are remaining are wondering why you were beating upon the heads and shoulders of the different members of the House to get tickets to come to the floor, which were very, very scarce and difficult to get. You will notice that there are many empty seats. We could have predicted this, perhaps, that this was going to be a long day.

We are proud of each of you, each of our new members, and we are sure your families are proud of you. We hope that at the conclusion of these 2 years, this term, that each of us will be as proud of ourselves and what we have accomplished during those 2 years as we are justifiably proud of the job we did in

getting elected to this particular legislative body.

We look forward to meeting with you. We look forward to struggling forward with you. We look forward to accomplishing something for the good of everyone here this coming term. Thank you very much.

The SPEAKER. The Chair recognizes the majority whip.

Mr. S. E. HAYES. Mr. Speaker, I would yield to the gentleman from Philadelphia, if he has an important announcement.

QUESTION ON PROCEDURE

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Richardson. For what purpose does the gentleman rise?

Mr. RICHARDSON. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. RICHARDSON. Mr. Speaker, since now you have been sworn in as Speaker and since the leadership on your side of the aisle indicated partisanship and fairness, I was just wondering whether or not you are going to deal with swearing in Mr. Gatski in front of his family and friends that he brought with him?

The SPEAKER. The gentleman's statement was not a point of order.

The Chair now recognizes the gentleman from Huntingdon.

Mr. RICHARDSON. That was a point of order, Mr. Speaker, and I asked a question. I would just like to get a ruling from the Chair.

The SPEAKER. Will the gentleman yield? He will be recognized when the majority whip has completed his remarks.

REMARKS BY MAJORITY WHIP

The SPEAKER. The Chair recognizes the majority whip.

Mr. S. E. HAYES. The Chair thanks the gentleman.

Mr. Speaker, it has been a long election night, indeed. Since November 7, 1978, there have been counts and recounts, appeals and orders, from the various election districts in this Commonwealth. And the fruition of all of those things came to bear here this afternoon. Since November 7, myself, I have spent a lot of time studying those things which were mentioned today. Many times, I felt like taking this microphone to engage in the debate, but I guess my better judgment told me not to, at least at those particular times.

Since November 7, I have read that Mason's Manual as several other leaders have referred to here today, and all those other papers which come to bear upon whether we could or could not elect a Speaker, whether one should be seated or whether one should not be seated in this House of Representatives.

When I returned home at the end of last week, there was a letter waiting there for me, a letter from a friend, a friend whom I have not had a chance to talk to for several months now and maybe even a year or so. That letter was dated the day before the eve of Christmas. I thought maybe it was the usual Christmas greeting. I opened it and I learned that it was not. I

read the gentleman's letter and returned it to my files of correspondence.

Then, again, this past weekend I began reading Mason's Manual and all of those papers which were referred to here today. At 4 o'clock this morning, restless as I was, I went and got Mason's Manual again to be sure I was prepared for the day, and probably we have been over-prepared for this day, all of us. But I also picked up that letter again, the letter that had come to me a few days before. And as I read that letter over, I said to myself, probably what this man is trying to say to me is more important to the people of Pennsylvania than all of those things which we will engage in on the morrow in floor debate.

What the gentleman wrote to me from another district here in the Commonwealth was about one of the new members who was sworn in here today. That gentleman does not know I received the letter, I dare say. Certainly, I did not go to that gentleman and say, I received a letter about you from, I guess, a mutual friend. But this friend of mine, this friend of his, asked me if I would go across the aisle and offer my help to him. I have not yet done that here today. It has been much too busy a day. And, for sure, there are many days following this one, days when he will genuinely want help and need help.

To the gentleman who will one day know that I was speaking about him and to all those others who have come here to this body for the first time and to all of those who are here returning today from previous experience, I recall for all of us those early words written by Charles Dickens in his Tale of Two Cities when he said: "It is the best of times, and yes, it is also the worst of times."

To that new member, to all other new members and to all of my colleagues who have served here before, I offer this observation: To a large extent here in the Commonwealth of Pennsylvania, we can determine whether the day is to be the best of times or whether the day is to be the worst of times. I guess that many, if not most, would have said that maybe today we experienced some of the worst of times.

To those who are disheartened by the day, let us all unite together at this one moment, this brief moment. I say to the man who wrote me the letter, yes, I will offer to help that new Representative if and when he wants my help. And to all the other new Representatives who are here today, regardless of party, I offer you my same pledge.

Those of you who have served before know that I try to the best of my ability to help all where I can regardless of political persuasion. There will be days, I guess, when we agree to be Republicans and we agree to be Democrats, and those moments are reported more widely than other moments. But there will be those moments, greater in number, when we will all be brothers and sisters together, trying not only to help one another but to help those people who have elected us here to this House of Representatives, and little has been said about those persons today. It is the people of Pennsylvania. Let us help the people of Pennsylvania by representing them as we would want to be represented ourselves.

I look forward to a good session with you in 1979 and 1980.

Thank you, Mr. Speaker.

SENATE MESSAGE**RESOLUTION FOR CONCURRENCE****JOINT SESSION**

The Senate presented the following resolution for concurrence:

In the Senate, January 2, 1979.

RESOLVED, (the House of Representatives concurring), That the Senate and House of Representatives meet in Joint Session, Tuesday, January 2, 1979 at 4:15 o'clock P.M. in the Hall of the House of Representatives for the purpose of witnessing the opening, counting and computing the official returns of the election for Governor and Lieutenant Governor held on Tuesday, November 7, 1978 in the several counties of the Commonwealth.

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

On the question,

Will the House concur in the resolution of the Senate?

Resolution was concurred in.

Ordered, That the clerk inform the Senate accordingly.

ANNOUNCEMENT OF MINORITY LEADERSHIP

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Greenfield.

Mr. GREENFIELD. Mr. Speaker, as chairman of the Democratic caucus, I have been instructed to announce for the information of the members of the House and for the record that the gentleman from Allegheny County, Mr. K. Leroy Irvis, has been elected Minority Leader by the Democratic caucus, and that the gentleman from Westmoreland County, Mr. James J. Manderino, has been elected Minority Whip.

For the record I would like to inform that the following officers have been elected: Minority Caucus Chairman, Roland Greenfield; Minority Caucus Secretary, Joseph Wargo; Minority Administrator, David DiCarlo; and Minority Policy Chairman, James Goodman.

Thank you, Mr. Speaker.

REMARKS BY MINORITY LEADER

The SPEAKER. At this time, it gives me great pleasure to present to the members of this House of Representatives, the distinguished floor leader, Mr. K. Leroy Irvis.

Mr. IRVIS. Thank you, Mr. Speaker.

It has been a trying afternoon, and I am certainly not going to try your patience that much further.

I welcome the new members. I remind you that beyond all the tinsel and glow and beyond all the thrust and parries is our responsibility — yours and mine, Republican and Democrat — to help govern this Commonwealth of Pennsylvania.

If you and I remember over the next few months that that is our prime responsibility, we shall have served our constituency well. If you and I forget that in the bitterness of individual conflict or in the futile cuttings and slashings of partisan politics, then the Commonwealth and its people will not be well served and you and I will not deserve to be here.

I have faith that the first course is the one that you will select. If I may help any of the new ones in that course, you have only to indicate.

Thank you, Mr. Speaker.

REMARKS BY MINORITY WHIP

The SPEAKER. The Chair now takes the opportunity to introduce to the House the minority whip of the House, Mr. Manderino.

Mr. MANDERINO. Thank you, Mr. Speaker.

It has been a long day. Mr. Irvis talked about the tinsel and the ornaments of today and the grand gestures that we have gone through. There will be more of the same, I am sure, during the session. I am sure that as both parties will put forth, and this leader along with Mr. Irvis, and the leaders on the other side will put forth their programs, we will be trying to persuade members one way or the other on various votes. But I know, as Mr. Irvis expressed, that our job here is to do the work of our constituencies for the betterment of Pennsylvania, and I am sure that we will all do that.

While I am here, since I did not get around to telling all the members on this side of the aisle and those of you on the other side of the aisle who want to, I invite you to wander down and I will be in my office, perhaps for the last day today, in the leader's office on the first floor. There is food and drink. You are all welcome.

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

Mr. RYAN. I understood that Mr. Manderino had food and drink in that office and I was hoping that he would not say that it was his office today, because I was inviting all my friends down to see my new office.

RESOLUTION**APPOINTMENT OF TELLER**

Mrs. KERNICK offered the following resolution, which was read, considered and adopted:

In the House of Representatives.

Tuesday, January 2, 1979.

RESOLVED, That the gentleman from Perry, Mr. Fred Noye, be appointed Teller on the part of the House of Representatives to open and compute the vote for Governor and Lieutenant Governor in a Joint Session of the Senate and House at the time fixed by concurrent resolution.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Richardson.

Mr. RICHARDSON. Mr. Speaker, I would like to have an answer to my inquiry.

The SPEAKER. For what purpose does the gentleman rise?

Mr. RICHARDSON. For the same reason I yielded the floor before, Mr. Speaker, and you asked me to wait until after Mr. Hayes finished and I have done that. I have waited patiently. Now I raise the same question that I raised before.

In sight of the matter that you have indicated that your leadership is going to be partisan and fair, we would just like

to know whether or not now you are going to be fair enough to seat Mr. Gatski, who has come all the way with his family and his friends to see him sworn in, whether or not you are going to have the judge swear him in now? That is the question.

The SPEAKER. In response to the question, it is up to the House to determine whether or not any member is sworn and when they are sworn.

RESOLUTION

COMMITTEE TO ESCORT THE SENATE

Mr. FREIND offered the following resolution which was read, considered and adopted:

In the House of Representatives.
Tuesday, January 2, 1979.

RESOLVED, That the Speaker appoint a committee of two to escort the members and officers of the Senate to the hall of the House for the purpose of attending a Joint Session of the General Assembly.

COMMITTEE TO WAIT UPON THE SENATE APPOINTED

The SPEAKER. The Chair appoints as a committee to wait upon the Senate, the lady from Lancaster, Mrs. June Honaman, and the gentleman from Philadelphia, Mr. Ronald R. Donatucci.

PLACING OF MACE

The SPEAKER. The oath of office having been taken by the members of the House and a Speaker having been elected, the Chair now instructs the sergeant at arms to place on the rostrum the mace, which is the symbol of authority of this House. When the mace is at the Speaker's right, the House is in session.

(Mace was placed on rostrum.)

The House will be at ease awaiting the arrival of the Senate.

ANNOUNCEMENT BY SPEAKER

The SPEAKER. For the information of the members and guests, there are several items of business in addition to the joint session with the Senate that this House will take up, the election of a chief clerk and the election of a secretary.

Will the members and guests please be seated? The members of the other body are about to present themselves on the floor of the House.

REPORT OF COMMITTEE ESCORTING SENATE

The SPEAKER. The Chair recognizes the sergeant at arms of the House.

The SERGEANT AT ARMS. Mr. Speaker, I wish to announce the presence of the committee of the House escorting the Senate to the hall of the House.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the chairperson of the committee of the House escorting the Senate, the lady from Lancaster, Mrs. Honaman.

Mrs. HONAMAN. Mr. Speaker, your committee appointed to wait upon the Senate and to escort them to the hall of the House has performed that duty and reports that the Senate now is present.

The SPEAKER. The committee is discharged with the thanks of the House.

LIEUTENANT GOVERNOR ERNEST P. KLINE REQUESTED TO PRESIDE

The SPEAKER. The Chair requests the Lieutenant Governor, the Honorable Ernest P. Kline, to preside over the proceedings of the Joint Session of the General Assembly.

The President pro tempore of the Senate, the Honorable Martin L. Murray, is invited to be seated on the rostrum.

The members of the Senate will please be seated.

JOINT SESSION OF THE GENERAL ASSEMBLY

LIEUTENANT GOVERNOR ERNEST P. KLINE PRESIDING

The SPEAKER. It gives me great pleasure to present to the members of the General Assembly the Lieutenant Governor of the Commonwealth of Pennsylvania, the Honorable Ernest P. Kline.

The LIEUTENANT GOVERNOR. I got that a lot easier than he did.

I mentioned to the Speaker that this may be the first time in Pennsylvania history that the two presiding officers in the Senate and in the House are both official residents of Lebanon County, both from Palmyra. I finish my term as President of the Senate on January 16. The Speaker will have to speak for himself.

ELECTION RETURNS

The LIEUTENANT GOVERNOR. This being the day and the time agreed upon by a concurrent resolution of the Senate and the House of Representatives and in accordance with the provisions of the constitution and the laws of this Commonwealth for the opening and computing of the official returns of the election for Governor and Lieutenant Governor, held on Tuesday, November 7, 1978, in the several counties of this Commonwealth, the returns will now be opened and read.

The Teller on the part of the Senate is the gentleman from Bucks County, Senator Lewis, and the Teller on the part of the House of Representatives is the gentleman from Perry County, Mr. Noye. The Tellers will please come to the desks assigned to them by the Chief Clerk of the House and proceed in the performance of their duties.

The clerk will proceed with the reading of the election returns for Governor and Lieutenant Governor.

The following election returns were read:

In the Name and by Authority of the Commonwealth of Pennsylvania

HIS EXCELLENCY, THE LIEUTENANT GOVERNOR OF THE COMMONWEALTH OF PENNSYLVANIA, THE PRESIDENT PRO TEMPORE OF THE SENATE, AND THE MEMBERS OF THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA, GREETINGS:

HONORABLE SIRS:

I have the honor to present the official returns of the election for Governor of the Commonwealth of Pennsylvania, wherein it was disclosed that

- Dick Thornburgh, Republican, received 1,966,042 votes
- Pete Flaherty, Democrat, received 1,737,888 votes
- Mark Zola, Socialist Workers, received 20,062 votes
- Lee Frissell, Consumer Party, received 17,593 votes
- Others (write-in) received 384 votes

as the same have been certified to and filed with the Secretary of the Commonwealth of Pennsylvania by the return boards.

Respectfully submitted,

BARTON A. FIELDS
Secretary of the Commonwealth

(SEAL)

In the Name and by Authority of the Commonwealth of Pennsylvania

HIS EXCELLENCY, THE LIEUTENANT GOVERNOR OF THE COMMONWEALTH OF PENNSYLVANIA, THE PRESIDENT PRO TEMPORE OF THE SENATE, AND THE MEMBERS OF THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA, GREETINGS:

HONORABLE SIRS:

I have the honor to present the official returns of the election for Lieutenant Governor of the Commonwealth of Pennsylvania, wherein it was disclosed that

William W. Scranton, III, Republican received 1,966,042 votes

- Robert P. Casey, Democrat, received 1,737,888 votes
 - Naomi Berman, Socialist Workers, received 20,062 votes
 - Betty Burkett, Consumer Party, received 17,593 votes
 - Others (write-in) received 384 votes
- as the same have been certified to and filed with the Secretary of the Commonwealth of Pennsylvania by the return boards.

Respectfully submitted,

BARTON A. FIELDS
Secretary of the Commonwealth

(SEAL)

Commonwealth of Pennsylvania
Department of State

Harrisburg, January 2, 1979.

Pennsylvania, ss:

I, Barton Fields, Secretary of the Commonwealth of Pennsylvania, having the custody of the Great Seal of Pennsylvania DO HEREBY CERTIFY, That the attached is a true and correct list of the votes cast by the electorate at the November 7, 1978 General Election for the office of Governor and Lieutenant Governor as the same appears of record and remains on file in this office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of Pennsylvania to be affixed, the day and year above written.

BARTON A. FIELDS
Secretary of the Commonwealth

(SEAL)

GENERAL ELECTION NOVEMBER 7, 1978
GOVERNOR AND LIEUTENANT GOVERNOR

COUNTIES	DEM.	REP.	SOCIALIST	CONSUMER	OTHERS
	FLAHERTY & CASEY	THORNBURGH & SCRANTON	WORKERS ZOLA & BERMAN	FRISSELL & BURKETT	
Adams,	6,034	10,386	38	46	3
Allegheny,	258,981	241,111	4,427	1,749	202
Armstrong,	14,263	9,665	32	53	1
Beaver,	44,094	21,887	117	184	17
Bedford,	5,690	8,147	5	50	2
Berks,	36,252	43,286	457	337	0
Blair,	18,678	20,976	52	326	0
Bradford,	3,629	10,637	34	53	2
Bucks,	53,394	74,446	742	545	0
Butler,	23,027	17,003	163	139	0
Cambria,	37,771	22,427	95	386	0
Cameron,	982	1,377	0	5	0
Carbon,	7,180	8,862	104	59	0
Centre,	11,343	18,529	157	147	33
Chester,	25,935	58,481	282	314	0
Clarion,	6,833	5,677	16	27	3

COUNTIES	DEM. FLAHERTY & CASEY	REP. THORNBURGH & SCRANTON	SOCIALIST WORKERS ZOLA & BERMAN	CONSUMER FRISSELL & BURKETT	OTHERS
Clearfield,	12,619	10,989	44	64	0
Clinton,	3,703	5,563	64	56	1
Columbia,	8,122	10,907	48	55	8
Crawford,	10,185	13,214	88	189	1
Cumberland,	14,798	35,311	275	139	11
Dauphin,	21,426	42,546	541	191	0
Delaware,	80,468	125,744	1,428	805	0
Elk,	6,893	4,781	15	28	0
Erie,	35,899	41,670	704	480	0
Fayette,	28,225	13,843	185	83	1
Forest,	972	974	4	4	1
Franklin,	9,104	17,323	51	122	0
Fulton,	1,458	1,827	3	11	4
Greene,	7,215	4,029	21	26	5
Huntingdon,	4,224	6,781	17	42	0
Indiana,	11,911	11,986	41	109	0
Jefferson,	7,289	6,896	15	54	0
Juniata,	2,389	3,814	11	13	0
Lackawanna,	35,411	43,558	163	144	0
Lancaster,	21,768	59,416	366	289	4
Lawrence,	21,051	11,874	77	77	3
Lebanon,	9,066	16,652	129	99	4
Lehigh,	28,516	40,509	336	232	10
Luzerne,	52,513	56,054	265	257	0
Lycoming,	11,815	19,371	153	101	0
McKean,	3,586	7,106	48	78	0
Mercer,	17,119	17,052	283	125	12
Mifflin,	4,406	6,266	57	33	2
Monroe,	6,398	9,100	108	64	2
Montgomery,	70,272	135,304	660	1,034	25
Montour,	1,782	2,870	8	16	0
Northampton,	24,909	31,024	480	269	0
Northumberland,	12,513	18,264	431	183	0
Perry,	3,200	7,120	26	27	0
Philadelphia,	371,646	336,771	4,852	6,372	0
Pike,	1,789	3,516	23	23	0
Potter,	1,904	3,391	5	18	0
Schuylkill,	24,183	33,407	103	142	0
Snyder,	2,039	6,324	12	23	0
Somerset,	14,720	10,578	33	94	0
Sullivan,	936	1,482	2	7	0
Susquehanna,	3,763	8,054	24	23	0

COUNTIES	DEM.	REP.	SOCIALIST	CONSUMER	OTHERS
	FLAHERTY & CASEY	THORNBURGH & SCRANTON	WORKERS ZOLA & BERMAN	FRISSELL & BURKETT	
Tioga,	2,827	8,371	14	23	0
Union,	1,944	6,079	36	35	0
Venango,	8,479	8,515	23	35	4
Warren,	4,584	7,561	92	55	0
Washington,	44,491	22,796	107	143	0
Wayne,	2,584	7,016	49	24	1
Westmoreland,	76,049	39,398	511	317	7
Wyoming,	2,108	5,389	10	20	10
York,	28,621	44,759	300	320	5
TOTAL,	1,737,888	1,966,042	20,062	17,593	384

TELLERS' REPORT AND CERTIFICATES OF ELECTION SIGNED

The LIEUTENANT GOVERNOR. The official returns having been opened and read, the Chair recognizes the Teller on the part of the Senate, the gentleman from Bucks County, Senator Lewis.

SENATOR LEWIS. Mr. President, the Tellers agree on their count and submit the following report of the joint votes cast for the offices of Governor and Lieutenant Governor:

The LIEUTENANT GOVERNOR. The Chair thanks the gentleman.

(Reading the Tellers' Report:)

Dick Thornburgh and William W. Scranton, III, having jointly received the highest number of votes, are duly elected Governor and Lieutenant Governor of the Commonwealth of Pennsylvania for the term of 4 years from the third Tuesday of January, 1979.

The certificates of election for Governor and Lieutenant Governor have been signed by the officers of the Senate and the House and the Tellers on the part of the Senate and the House of Representatives and will be filed.

CERTIFICATE OF ELECTION PRESENTED

The following signed certificate of election was presented:

Commonwealth of Pennsylvania.
January 2, 1979.

We, the President of the Senate and Speaker of the House of Representatives of the Commonwealth of Pennsylvania, do certify that the President of the Senate did, on the second day of January, A. D., one thousand nine hundred and seventy-nine, in the Hall of the House of Representatives at the State Capitol, open returns of the election for Governor and Lieutenant Governor of this Commonwealth, and publish the same in the presence of both Houses of the General Assembly, conformably to

the provisions of the Constitution and laws of said Commonwealth and upon counting the votes by a teller appointed on the part of each House, it appeared that Dick Thornburgh and William W. Scranton III jointly had the highest number of votes; whereupon said Dick Thornburgh was declared to have been duly elected Governor of the Commonwealth and William W. Scranton III was declared to have been duly elected Lieutenant Governor of the Commonwealth.

In testimony whereof, we have hereunto set our hands and affixed our seals the day and year above written.

ERNEST P. KLINE
President of the Senate

H. JACK SELTZER
Speaker of the House of
Representatives

(SEALS)

H. CRAIG LEWIS
Teller on the part of the Senate

FRED C. NOYE
Teller on the part of the House of
Representatives

JOINT SESSION ADJOURNED

The LIEUTENANT GOVERNOR. The Chair thanks the members of the House and the Senate and the visitors for their courtesy. It was necessary to perform that chore in order to officially designate the winners in time for the January 16th day.

I now ask the members of the House and visitors to remain seated for just a moment while the members of the Senate leave the hall of the House.

It is necessary for the Senators to reassemble immediately in the Senate chamber for the purpose of finishing today's formal business.

The business for which the joint session has been assembled having been transacted, and with thanks to the Speaker, this session is now adjourned.

**THE SPEAKER (H. JACK SELTZER)
IN THE CHAIR**

MOTION

PRINTING PROCEEDINGS OF JOINT SESSION

The SPEAKER. The Chair recognizes the gentleman from Lycoming, Mr. Grieco.

Mr. GRIECO. Mr. Speaker, I move that the proceedings of the Joint Session of the Senate and the House of Representatives, held this 2nd day of January, 1979, be printed in full in this day's Legislative Journal.

On the question,

Will the House agree to the motion?

Motion was agreed to.

RESOLUTION

ELECTION OF CHIEF CLERK

Mr. BRANDT offered the following resolution, which was read, considered and adopted:

In the House of Representatives, January 2, 1979.

RESOLVED, That the House do now proceed to the election of a Chief Clerk of the House.

NOMINATION FOR CHIEF CLERK

The SPEAKER. Nominations are now in order for the office of Chief Clerk of the House.

The Chair recognizes the gentleman from Montgomery, Mr. McClatchy.

Mr. McCLATCHY. Mr. Speaker, it is my great privilege today to offer to the House a good friend of all of us. He has been with us, I guess, a number of years. He had been here in the House long before I came. I treasure that friendship and I think we all do.

Charlie Mebus has been an honored member of the Montgomery County delegation for years and years. His spirit, his courage, his honesty and his fortitude, I think, are what are needed in this position. I am sure Charlie will do for us all what we have wanted to do for quite a long while.

I was sad to see him leave this past year. But I think it is a great heartfelt pleasure seeing him back and being with us again.

Mr. Speaker, I have a great deal of pleasure to nominate Charles Mebus from Montgomery County, and it is with enthusiasm I present today his name for Chief Clerk of the House of Representatives.

The SPEAKER. The gentleman from Montgomery County, Mr. McClatchy, places in nomination the name of Charles Mebus for the office of Chief Clerk.

Are there any other nominations?

The Chair hears none.

Without objection, the Chair declares the nominations closed.

The Chair apologizes to the minority leader.

For what purpose does the gentleman rise?

Mr. IRVIS. To make an observation about this particular election.

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

Mr. IRVIS. Charlie Mebus is a friend of ours as well as a friend of yours, and we have no desire on this side to be negative with Charlie Mebus's candidacy. We wish to point out, however, that by this voice vote we do not indicate that we think the procedure here is the correct one. I reiterate what I said as far as the election of the Speaker is concerned. We believe that this should have been delayed until one party or the other has succeeded in having a constitutional majority on the floor of this House. However, inasmuch as the Speaker has been elected, we will now offer any formal objections to the voice vote for the Chief Clerk.

The SPEAKER. Is the gentleman, Mr. Irvis, requesting a roll call vote?

Mr. IRVIS. No, Mr. Speaker, I am not.

The SPEAKER. On the motion, those in favor of the election of Mr. Mebus for the office of Chief Clerk of the House will say "aye"; those opposed "no."

The "ayes" have it, and Mr. Mebus is elected Chief Clerk of the Pennsylvania House of Representatives.

RESOLUTION

ELECTION OF SECRETARY OF HOUSE

Mr. BURNS offered the following resolution which was read, considered and adopted:

In the House of Representatives, January 2, 1979.

RESOLVED, That the House do now proceed to the election of a Secretary of the House.

NOMINATION FOR SECRETARY OF HOUSE

The SPEAKER. Nominations are now in order for the office of Secretary of the House.

The Chair recognizes the gentleman from Schuylkill, Mr. Hutchinson.

Mr. W. D. HUTCHINSON. Mr. Speaker, it is with great pleasure that I place in nomination for the office of Secretary of the House a constituent of mine, one who has long been active in community and governmental affairs, who has been the Chief Clerk of this House in which position he served well and honorably, the gentleman from Pottsville, Schuylkill County, Mr. Robert M. Scheipe.

The SPEAKER. The Chair recognizes the gentleman from Schuylkill, Mr. Klingaman.

Mr. KLINGAMAN. Mr. Speaker, I rise to second the nomination of one who has already served in many of the nonmember offices of this House, my associate from Schuylkill County, Mr. Robert Scheipe.

The SPEAKER. The Chair recognizes the gentleman from McKean, Mr. Mackowski.

Mr. MACKOWSKI. Mr. Speaker, I rise also to second the motion of Robert Scheipe. I will not belabor this thing at this moment, but I would like to be on record as seconding the motion.

Thank you, Mr. Speaker.

The SPEAKER. Are there any further nominations?

The Chair hears none.

On the motion, those in favor of the election of Robert Scheipe as Secretary of the House will vote "aye"; opposed, "no."

The "ayes" have it and Mr. Scheipe is elected Secretary of the House.

COMMITTEE APPOINTED TO ESCORT CHIEF CLERK-ELECT AND SECRETARY-ELECT TO BAR OF HOUSE

The SPEAKER. The Chair appoints the gentleman from Allegheny, Mr. Cessar, and the gentleman from Schuylkill, Mr. Hutchinson, to escort the Chief Clerk-elect and the Secretary-elect of the House to the bar of the House.

OATH OF OFFICE ADMINISTERED TO CHIEF CLERK AND SECRETARY

The SPEAKER. The oath of office required by the constitution will now be administered to the Chief Clerk-elect and the Secretary-elect of the House by the Honorable Lee F. Swope of Dauphin County.

(The oath of office was administered to the Mr. Charles Mebus, Chief Clerk-elect, and Mr. Robert Scheipe, Secretary-elect, by the Honorable Lee F. Swope.)

COMMITTEE TO ESCORT CHIEF CLERK AND SECRETARY TO ROSTRUM

The SPEAKER. The Chair asks the retiring Chief Clerk and Secretary of the House to escort the newly elected Chief Clerk and Secretary to their respective stations.

(The escort committee performed its duty.)

PARLIAMENTARIAN APPOINTED

The SPEAKER. In compliance with the laws of this Commonwealth authorizing the Speaker to appoint a Parliamentarian, the Chair appoints Mr. Clay Keen of Dauphin County, Parliamentarian.

One of the most difficult jobs here today was that of Parliamentarian in the beginning of today's session.

At this time I would like to ask the Parliamentarian who opened the ceremonies, Mr. Clarence Myer, to come to the microphone for any remarks he would like to give to this body.

Mr. MYER. Mr. Speaker and members of the House, mine was a challenging, exciting, but, most of all, very short term of office, but it has been a pleasure to have been your Parliamentarian these past 7 months. I want to especially thank Mr. Irvis, with whom it was indeed a great pleasure to have worked, and also to thank Mr. Moore, a very capable assistant. I would like to extend my best wishes to all of you for the most successful tenure in office. Thank you.

RESOLUTION

THANKING JUDGES JAMES S. BOWMAN

AND LEE F. SWOPE AND SECRETARY OF THE COMMONWEALTH BARTON A. FIELDS

Mr. RICHARDSON offered the following resolution, which was read, considered and adopted:

In the House of Representatives, January 2, 1979.

RESOLVED, That the members of the House of Representatives do hereby extend their thanks to the Honorable James S. Bowman, President Judge of the Commonwealth Court; the Honorable Lee F. Swope, President Judge of the Court of Common Pleas of Dauphin County; and the Honorable Barton A. Fields; Secretary of the Commonwealth.

On the question,

Will the House adopt the resolution?

Resolution was adopted.

RESOLUTION

COMMITTEE TO INFORM THE SENATE THE HOUSE OF REPRESENTATIVES IS ORGANIZED

Mr. RITTER offered the following resolution, which was read, considered and adopted:

In the House of Representatives, January 2, 1979.

RESOLVED, That a committee of two members be appointed by the Speaker to wait upon the Senate and inform that body that the House of Representatives is organized and ready to proceed with the business of the session.

On the question,

Will the House adopt the resolution?

Resolution was adopted.

COMMITTEE APPOINTED

The SPEAKER. The Chair appoints as a committee to notify the Senate that the House is organized, the gentleman from Allegheny, Mr. Pott, and the gentleman from Lehigh, Mr. Ritter.

The committee will now proceed in the performance of its duties.

RESOLUTION

COMMITTEE TO INFORM THE GOVERNOR THE HOUSE OF REPRESENTATIVES IS ORGANIZED

Mr. W. D. HUTCHINSON offered the following resolution, which was read, considered and adopted:

In the House of Representatives, January 2, 1979.

RESOLVED, That a committee of two members be appointed by the Speaker to wait upon His Excellency, the Governor of the Commonwealth, and inform him that the House of Representatives is organized and ready to receive any communications he may wish to make.

On the question,

Will the House adopt the resolution?

Resolution was adopted.

COMMITTEE APPOINTED

The SPEAKER. The Chair appoints as a committee to wait upon the Governor and to notify him that the House is organized, the gentleman from Schuylkill, Mr. Hutchinson, and the lady from Philadelphia, Mrs. Harper.

The committee will now proceed with the performance of its duties.

RESOLUTION**ADOPTION OF TEMPORARY RULES**

Mr. RYAN offered the following resolution, which was read, considered and adopted:

In the House of Representatives, January 2, 1979.

RESOLVED, That the existing Rules of the 1978 Session be and are hereby adopted as the Temporary Rules for the 1979 Session of the House of Representatives until the adoption of permanent Rules.

On the question,

Will the House adopt the resolution?

Resolution was adopted.

**REPORT OF COMMITTEE TO WAIT
UPON GOVERNOR**

The SPEAKER. The Chair recognizes the gentleman from Schuylkill, Mr. Hutchinson.

Mr. W. D. HUTCHINSON. Mr. Speaker, the committee appointed to inform His Excellency, the Governor, that the House is organized has performed its duty.

The SPEAKER. The Chair thanks the committee.

**COMMUNICATION FROM GOVERNOR
REASONS FOR PARDONS**

The Secretary to the Governor presented the following communications from the Governor:

Commonwealth of Pennsylvania
Governor's Office, Harrisburg

January 2, 1979.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

I have the honor to present herewith, the reasons for pardons and commutations granted by me from January 3, 1978, to date.

MILTON J. SHAPP.
GOVERNOR

The SPEAKER. The Reasons for Pardons will be printed in the Appendix to the Journal.

(For reasons, see Appendix.)

**REPORT OF COMMITTEE TO WAIT UPON
THE SENATE**

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Pott.

Mr. POTT. Mr. Speaker, your committee instructed to inform the Senate that the House is organized and ready to proceed with the business of the session has performed that duty.

The SPEAKER. The Chair thanks the gentleman and the members of his committee.

SENATE MESSAGE**RESOLUTION FOR CONCURRENCE****AUTHORIZING APPOINTMENT OF
INAUGURAL COMMITTEE**

The Senate presented the following resolution for concurrence:

In the Senate, January 2, 1979.

RESOLVED, (the House of Representatives concurring), That the President Pro Tempore of the Senate be and is hereby authorized to appoint a committee of sixteen Senators to act in conjunction with a committee of twenty Members of the House of Representatives to be appointed by the Speaker, to make necessary arrangements for the inauguration of the Governor-elect to wait upon His Excellency; and be it further

RESOLVED, That the inaugural ceremonies take place at twelve o'clock noon on the third Tuesday of January, the 16th instant, 1979, on the front steps of the Main Capitol Building; and be it further

RESOLVED, That said committee be and is hereby authorized to expend the sum not exceeding the amount provided in the General Appropriation Bill to make and carry out said arrangements.

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

On the question,

Will the House concur in the resolution of the Senate?

Resolution was concurred in.

Ordered, That the clerk inform the Senate accordingly.

THE SPEAKER. Does the majority leader have any further business to present to the House?

Has the minority leader any further business to present to the House?

The Chair recognizes the gentleman from Delaware, Mr. Alden.

Mr. IRVIS. Mr. Speaker, would the Speaker defer a moment?

MOTION TO REMOVE MOTION FROM TABLE

The SPEAKER. The Chair recognizes the minority leader.

Mr. IRVIS. Earlier in this session I moved that this House recognize the gentleman, Mr. Gatski as having been elected and be officially sworn in as a member of this body. That motion was tabled, and I now remove that motion from the table so that the House may act upon it.

The SPEAKER. It has been moved by the gentleman from Allegheny, Mr. Irvis, that the motion to seat the gentleman from Luzerne, Mr. Gatski, be taken from the table.

The Chair recognizes the gentleman from Schuylkill, Mr. Hutchinson.

Mr. W. D. HUTCHINSON. Mr. Speaker—

The SPEAKER. Will the gentleman yield?

The motion is not debatable. When the motion was first put and then laid on the table, there was much latitude given, and, without objection, the Chair will permit 2 minutes of debate pro and con on the subject.

Are the minority leader and the gentleman from Schuylkill, Mr. Hutchinson, in accord?

Mr. IRVIS. In accord.

Mr. W. D. HUTCHINSON. In accord.

The SPEAKER. The gentleman may proceed.

Mr. W. D. HUTCHINSON. Mr. Speaker, I rise to oppose the motion.

There was much talk earlier today about partisanship, about the rights of an elected member. I would rather prefer to talk about the prerogatives of this House of the people and the prerogatives of the people of this Commonwealth who have entrusted, under their constitution, the right to judge the qualifications of its members to this House.

The statutes of this Commonwealth say that the only appeal in connection with and a contested election is to this House, and that is in Section 1747 of the Election Code relating to contested elections.

The Supreme Court of this Commonwealth in the McNeill election contest in 1886 has said—in fact, it refused to entertain a writ of certiorari on the ground—that it had no jurisdiction; that all this House had done in the statute, which is the same as Section 1747 of the present code, had been to delegate the power to the common pleas court.

This is an important issue, and unless it be thought that there be partisanship in this House, I would ask all members to remember that it is the prerogatives of the House that are at stake.

The future cannot be seen. We do not know whether it will be a Democrat or a Republican or some other party arguing this principle. But in the light of history, whether the Democrats or Republicans end up seating a member or both members is relatively unimportant. In connection with the overriding principle that we are the ones who judge the qualifications of our members, a position in which the Supreme Court has no place under the constitution and the statutes, I would, therefore, urge that the motion to table be defeated until the proper procedures can be followed under the Election Code to lodge an appropriate appeal to this House from the decision of the courts. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the minority leader.

Mr. IRVIS. Mr. Speaker, with due deference to my learned brother, he has made an argument which is untimely. His argument might have been timely and worth listening to in debating if in fact the House were making the decision. We do not, on this side, argue that it is the prerogative of the House to decide on the qualifications of its own members. What we say is that we are asking for the opportunity to debate whether or not a member should be seated. By tabling the motion which I made earlier, by maintaining it on the table, you deny the House the exercise of that very prerogative which the gentleman argued for. You deny the House the opportunity to debate on the substantive merits of the particular case. All that we are asking is

that you permit us to bring to the floor of the House the question as to whether or not Mr. Gatski has in fact been elected and ought to be in fact sworn in. By the motion to table, you have gagged that debate; you have prevented the House from exercising the very prerogative which you argue for. Therefore, I renew my request that the motion be removed from the table so that the House may engage in debate on the substance of the matter.

On the question,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—94

Austin	Gallagher	Livengood	Ritter
Barber	Gamble	Manderino	Rodgers
Beloff	George, C.	McCall	Schmitt
Bennett	George, M.	McMonagle	Schweder
Berson	Giammarco	Michlovic	Seventy
Borski	Goodman	Milanovich	Shupnik
Brown	Grabowski	Miller	Steighner
Caltagirone	Gray	Mrkonc	Stewart
Cappabianca	Greenfield	Mullen, M. P.	Street
Chess	Harper	Murphy	Stuban
Clark, B.	Hasay	Musto	Sweet
Cochran	Hoeffel	Novak	Taylor, F.
Cohen	Irvic	O'Brien, B.	Trello
Cole	Itkin	O'Donnell	Wachob
Cowell	Johnson, J.	Petrarca	Wagner
Dawida	Jones	Pievsky	Wargo
DeMedio	Kernick	Pistella	White
DeWeese	Knight	Pratt	Williams
DiCarlo	Kolter	Pucciarelli	Wright, D.
Dombrowski	Kowalshyn	Rappaport	Yahner
Duffy	Kukovich	Reed	Zeller
Dumas	Laughlin	Rhodes	Zitterman
Fee	Letterman	Richardson	Zwick
Fryer	Levin		

NAYS—97

Alden	Foster, W.	Mackowski	Scirica
Anderson	Freind	Madigan	Seltzer
Armstrong	Gallen	Manmiller	Serafini
Arty	Gannon	McClatchy	Sieminski
Belardi	Geesey	McKelvey	Sirianni
Bittle	Geist	McVerry	Smith, E.
Bowser	Gladeck	Micozzie	Smith, L.
Brandt	Goebel	Moehlmann	Spencer
Burd	Grieco	Mowery	Spitz
Burns	Gruppo	Nahill	Stairs
Cessar	Hayes, D. S.	Noye	Swift
Cimini	Hayes, S. E.	O'Brien, D.	Taddonio
Clark, R.	Helfrick	Perzel	Taylor, E.
Cornell	Honaman	Peterson	Telek
Coslett	Hutchinson, W.	Piccola	Thomas
Cunningham	Johnson, E.	Pitts	Vroon
Davies	Klingaman	Polite	Wass
DeVertter	Knepper	Pott	Weidner
Dietz	Lashinger	Punt	Wenger
Diminni	Lehr	Pyles	Wilson
Dorr	Levi	Rocks	Wilt
Earley	Lewis	Ryan	Wright, J. L.
Fischer, R. R.	Lynch, E. R.	Salvatore	Yohn
Fisher, D. M.	Lynch, F.	Scheaffer	Zord
Foster, A.			

NOT VOTING—10

Brunner	Durham	McIntyre	Rieger
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Cianciulli
Donatucci

Gatski
Hutchinson, A.

Oliver

Shadding

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

The SPEAKER. The Chair recognizes the majority leader.

Mr. RYAN. Mr. Speaker, at the conclusion of Mr. Irvis' remarks, Mr. Hutchinson was attempting to get the floor to explain that incumbent upon us, as a result of this activity, is that the matter be assigned to a committee and that committee study it under the McNeill case and make its recommendations to the floor, not to deny the members of this House the right to pass on the qualifications and the elections of either the two members-elect.

ADJOURNMENT

Mr. ALDEN moved that this House of Representatives do now adjourn until Tuesday, January 16, 1979, at 10 a.m., e.s.t.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 5:23 p.m., e.s.t., the House adjourned.

MEMBER SWORN IN AFTER ADJOURNMENT

The SPEAKER. To any of the members and guests who would like to say, a newly elected member from Philadelphia, Dave Shadding, is having a special swearing-in ceremony.

Dave, will you present yourself in the well of the House?

To the friends and relatives who came with you, Dave, welcome.

OATH OF OFFICE ADMINISTERED

The SPEAKER. I present to you all the Honorable Lee Swope of Dauphin County, who will administer your oath.

HONORABLE LEE SWOPE. Mr. Shadding, are you prepared to take your oath of office?

Will you raise your right hand please?

Do you, David Shadding, solemnly swear, or affirm, that you will support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth, and that you will discharge your duties and the duties of the office with fidelity?

If so, answer, "I do."

(Mr. Shadding asserted oath.)