PLAINTIFF'S EXHIBIT

CCS-74

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

Considered the second time and agreed to,
Ordered, To be printed on the Calendar for third consideration.

BILLS OVER IN ORDER

SB 533 and SB 587 — Without objection, the bills were passed over in their order at the request of Senator PICCOLA.

BILL ON SECOND CONSIDERATION

SB 656 (Pr. No. 1574) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for definitions; defining the offense of unlawful access to information; and further providing for unlawful use of computer and for bases of personal jurisdiction over persons outside this Commonwealth.

Considered the second time and agreed to,
Ordered, To be printed on the Calendar for third consideration.

BILL OVER IN ORDER

HB 1333 — Without objection, the bill was passed over in its order at the request of Senator PICCOLA.

REPORTS FROM COMMITTEES

Senator THOMPSON, from the Committee on Appropriations, reported the following bill:

HB 1944 (Pr. No. 3079) (Amended) (Rereported)

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, authorizing municipalities to deny issuing permits, variances, licenses or other approvals to persons who are delinquent in tax payments or are in violation of certain codes, statutes or regulations; codifying provisions on taxation and fiscal affairs for cities of the first class; making repeals; and providing for funds for specified fines and penalties.

Senator BRIGHTBILL, from the Committee on Rules and Executive Nominations, reported the following bills:

SB 216 (Pr. No. 1617) (Amended) (Rereported) (Concurrence)

An Act amending Titles 15 (Corporations and Unincorporated Associations) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for limitations on asbestos-related liabilities relating to certain mergers or consolidations; and further providing for certain statutes of limitations and for certain transfers.

SB 696 (Pr. No. 1618) (Amended) (Rereported) (Concurrence)

An Act amending the act of July 6, 1989 (P.L.169, No.32), known as the Storage Tank and Spill Prevention Act, defining "environmental media"; and providing for certain notification when there are releases from storage tanks.

SB 837 (Pr. No. 1619) (Amended) (Rereported) (Concurrence)

An Act amending the act of July 6, 1989 (P.L.169, No.32), known as the Storage Tank and Spill Prevention Act, further providing for payment of certain claims from the Underground Storage Tank Indemnification Fund; and for Underground Storage Tank Environmental Cleanup Program.

HB 1633 (Pr. No. 3033) (Rereported) (Concurrence)

An Act amending the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, further defining "occupational disease."

SPECIAL ORDER OF BUSINESS
SUPPLEMENTAL CALENDAR No. 1

SENATE CONCURS IN HOUSE AMENDMENTS AS AMENDED

SB 216 (Pr. No. 1617) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 15 (Corporations and Unincorporated Associations) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for limitations on asbestos-related liabilities relating to certain mergers or consolidations; and further providing for certain statutes of limitations and for certain transfers.

On the question,
Will the Senate concur in the amendments made by the House, as amended by the Senate, to Senate Bill No. 216?

Senator PICCOLA. Madam President, I move that the Senate do concur in the amendments made by the House, as amended by the Senate, to Senate Bill No. 216.

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

The PRESIDING OFFICER. The Chair recognizes the gentleman from Bucks, Senator Tomlinson.

Senator TOMLINSON. Madam President, an amendment that was put into Senate Bill No. 216 in the Committee on Rules and Executive Nominations is an amendment that will help the company Crown Cork & Seal, an international company with its world headquarters located in Philadelphia, about 5 minutes from my district. Crown Cork & Seal is a company that makes cans and bottles and bottle caps. It has a thousand employees and a payroll of about $47 million, pays local taxes and State taxes of about $4 million, and besides that it does about a billion dollars'

worth of business in the State of Pennsylvania with other Pennsylvania companies. So, its financial impact on this State is very, very important, and at a time when we are losing more and more jobs and at a time when we are losing good, family-sustaining jobs, and at a time when we are losing manufacturing jobs, this company is critically important to the financial welfare of many, many families in my district.

But something has happened to them. They have been under siege by litigants and lawyers from Texas and Mississippi, and they are now paying to the tune of about $190 million a year in litigation and claims to people who have asbestos claims against Crown Cork & Seal.

Now, the thing that aggrieves me about that is that Crown Cork & Seal does not and never has made asbestos or used asbestos in its products. It did, however, in 1963 acquire a bottle cap company that had an asbestos division, but within 90 days sold off that division and relieved itself of that business. Because of that and an investment of about $6 million, they now have paid out almost $300 million in claims in Texas and Mississippi. What that has done to this company is destroyed its bond rating. Its bond rating is now junk-rate bonds. It is having difficulty borrowing money, and that has impacted on the company very, very severely. I think it is important that we try to protect Pennsylvania jobs and a Pennsylvania company against out-of-State litigants when they do not even have asbestosis. Not one of the claimants has been found to be sick or have asbestosis, and the company does not make asbestos. So, what we have done here is tried to limit the liability of the company to the amount that it paid for the subsidiary that it bought in 1963, and that is about $6 million.

Madam President, it does not make any sense to me to have an 80-year-old litigant in Mississippi who does not have asbestosis get an award of $25 million from a company that did not make asbestos. Yet, I have a retired couple in my district who worked all their life, raised a family, they have now retired, they have done everything right, they have saved their money, and now they are looking at losing their pension, and they certainly have looked at the stock they bought from a company that they worked for all their life go from $45 to $50 a share down to about $1.50 a share.

It makes no sense to me that I have people who are 55 years of age working in Bensalem, Philadelphia, Wilkes-Barre, Connellsville, working and giving a lot of their life to this company who are now not sure they are going to have a job, when a 55-year-old litigant in Mississippi gets a $25 million award. What we are doing is transferring money from a company that makes bottles and cans to people in Mississippi and Texas who do not have asbestosis. Yet, I have workers who are working for a company who are worried about their jobs, who are worried about their futures, who are worried about their retirements, and who are worried about their pensions.

So, Madam President, I ask that we adopt Senate Bill No. 216 with the amendment that Senator Conti put into it in the Committee on Rules and Executive Nominations, and I ask for the Members' support on this issue.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Philadelphia, Senator Stack.

Senator STACK. Madam President, I also rise in support of Senate Bill No. 216. I rise today to discuss legislation that will have an important impact on Pennsylvania public policy. It should be a basic governmental interest to make sure our corporate merger laws do not unfairly expose innocent companies to ruin solely because of a merger.

It is now evident that as an unforeseen consequence of mergers that happened in the past, Pennsylvania corporations that never themselves produced, sold, or installed asbestos products may become subject to asbestos-related liabilities. Similarly, the amount of assets fairly available to satisfy those asbestos-related liabilities may have become unfairly and unjustly enlarged. There is an unprecedented avalanche of asbestos-related claims made in the United States today. What has been described by the U.S. Supreme Court as an elephantine mess that the court has called out for legislative solutions. In view of this historically unprecedented situation, it is an essential governmental interest and matter of public policy that the amount of assets available to satisfy asbestos-related claims be fairly limited to the value of assets of the person or company that actually caused the damage through the production, sale, or installation of asbestos.

What this all boils down to is really an issue of fairness. That is the goal of this legislation, to achieve some measure of fairness for Pennsylvania companies like Crown Cork & Seal. Now, I believe many of you are familiar with the problems that Crown Cork & Seal is facing, but I want to provide a brief summary to put this issue into perspective.

Crown Cork & Seal, a solid Pennsylvania company that employs 1,000 Pennsylvania residents and contributes close to $1 billion to the State economy, is teetering on the brink of bankruptcy. It is in this predicament, in large part, because of an avalanche of asbestos-related lawsuits the company faces, hundreds of thousands of lawsuits amounting to hundreds of millions of dollars in claims. Crown Cork & Seal faces these lawsuits and this dire financial situation despite the fact the company never manufactured, sold, or installed a single asbestos-containing product, not a single asbestos product in the company's 100 year history.

The origins of this problem began some 40 years ago when Crown Cork & Seal, a manufacturer of bottle caps and beverage and food containers, was seeking to expand its operations. As part of that effort, it acquired a stock interest in Mundet Cork Company, a manufacturer of cork-lined bottle caps, called crown corks, that were first invented in the 1800s by Crown Cork & Seal's founder. A small division of Mundet, prior to any Crown involvement with the company, had at one time manufactured cork and asbestos insulation. However, those asbestos manufacturing operations were shut down before any Crown involvement with Mundet. In addition, what was left of that insulation division was sold off to another company within 93 days of Crown's first stock interest in Mundet, and 2 years later the remainder of Mundet was merged into Crown.

Now Crown's very existence is threatened, the result of an avalanche of lawsuits against the company for a product it never produced or sold. Today, we have a chance to restore fairness for companies like Crown Cork & Seal. We have in this amendment a fair and equitable solution. One section of the amendment limits liability inherited solely because of the merger law to the total

value of the assets of the merged company that was actually in the asbestos business. And in an independent section, the amendment places the assets of a Pennsylvania corporation that exceed that total value beyond the reach of claimants. The amendment eliminates what is essentially a windfall to claimants, a windfall that is destroying innocent corporations and innocent working people's jobs.

The amendment to Title 15 that will become law as part of Senate Bill No. 216 is substantively the same as the amendment to section 7104 of Title 42 in Senate Bill No. 818, with revisions to certain terms to conform with the definitions in Title 15.

Now, I know many of my colleagues are concerned about insuring that individuals injured by asbestos receive just compensation, but it should be those companies that were actually involved in the production and installation of asbestos that should bear the cost of compensating individuals exposed to asbestos and suffering health problems. Crown Cork & Seal is not one of those companies. Beyond that fact, there are typically dozens, if not hundreds, of companies named in asbestos lawsuits. Do not let anyone fool you by saying that these people will not be compensated. I think it is clear they will. More importantly, they will be compensated by the companies that actually bear some responsibility.

I have also heard arguments against the bill that say it will only apply to Pennsylvania claimants. That is plain wrong. This bill will apply to out-of-State claimants in out-of-State courts. Yes, in the case of Crown Cork & Seal, claims against Mundet will continue to be filed in out-of-State courts, and each court will use its own State liability law to determine the impact that Mundet's products had on claimants. However, each out-of-State court will have to look to Pennsylvania corporate law to determine the extent which Crown, as a successor by merger, is responsible for Mundet's liability.

Pennsylvania public policy should insure that domestic corporations like Crown Cork & Seal that engage in a merger do not become the subject of unfair, unjustifiable, and unprecedented liability solely as a result of the merger.

This legislation also provides protections for working families and retirees. Specifically, the legislation states that the provisions shall not apply to insurance companies, workers' compensation benefits, collective bargaining agreements, or obligations arising under the National Labor Relations Act. These protections, as well as a significant number of Pennsylvania jobs this bill will save, are why so many labor unions are backing this legislation. The International Association of Machinists and Aerospace Workers, the Teamsters, and the Seafarers International Union, as well as other local Pennsylvania unions, are all supporting this bill. It is not often that Pennsylvania's business community and labor unions join together in support of an issue such as this. When they do, I think it is important to take notice.

Today, we have the opportunity to make a significant statement in terms of Pennsylvania public policy. By voting "yes," you can ensure that a major Pennsylvania company like Crown Cork & Seal is treated equitably, and that jobs will be protected for our Pennsylvania citizens and families.

Thank you, Madam President.

The PRESIDING OFFICER. The Chair recognizes the gentleman from York, Senator Waugh.

Senator WAUGH. Madam President, the legislation before us today, Senate Bill No. 216, is legislation that I support. I rise today to just make a few comments for the record on the proposal. It has obviously been here for quite some time in the General Assembly and been identified, as the two speakers before me so eloquently pointed out, as the Crown Cork & Seal legislation.

I would like to, first of all, just say for the record, make no mistake, this legislation does affect some 150 to 200 jobs in the legislative district that I represent. In Hanover, there is a Crown Cork & Seal plant. But I would like to just say to the Members briefly that there is really more to this legislation than just the jobs that we have heard about. Before you make your decision, please consider the subject, and that subject is asbestos litigation. Under the history and future of asbestos-related litigation in the United States, asbestos claims have been going on for nearly a generation, Madam President. Tens of thousands of claims are filed each year by a relatively small number of "specialized," quote, unquote, law firms. It has been said that the asbestos attorneys, as they are called, file claims using a shotgun approach. This method of naming claimants is that they list every possible manufacturer of asbestos products or a parent corporation that may have been the cause of harm to their clients. After a court finds liability or the company is ready or agrees to settle the lawsuit, the lawyers simply go after the deepest pockets to satisfy that judgment.

Over the years, the list of defendants with a direct relationship to asbestos manufacturing and installation has really been shrinking. Corporations named as defendants in these suits have been falling into bankruptcy, quite frankly. When one of the big guys falls, their pockets are finally empty, the asbestos attorneys focus their efforts on the next biggest, and then the next, and then the next. Right or wrong, that is just the way the game is played in asbestos litigation. Since 1982, 28 national companies have declared or been involved in bankruptcy because of asbestos-related claims. Among those corporations that have fallen in just the past year alone, Owens Corning International, W. R. Grace Company, Babcock and Wilcox Company, Armstrong World Industries, and G-I Holdings. All of these corporations have sought bankruptcy protection because of liabilities from claims for asbestos-containing products that they stopped using decades ago. The fact is, more than 40,000 asbestos-related cases are filed each year; 40,000 asbestos-related cases are filed each year. Even more startling, 1,200 companies have been drawn into asbestos litigation so far. Even though asbestos has not been used since the mid-1970s, insurance experts believe that claims will continue to be filed until the year 2050. By then the tab for asbestos-related claims is expected to hit $200 billion in compensation and punitive damage payments. Madam President, that is equivalent to the budget of the Commonwealth of Pennsylvania for 10 full years.

A recent study conducted by the Rand Corporation's Institute for Civil Justice predicts that all of the remaining asbestos manufacturers will be driven into bankruptcy within the next 2 years alone. The study goes on to predict that when the companies that actually caused the harm all go under, asbestos attorneys will file claims against a whole new list of targets, including oil refining businesses, retailers, automobile manufacturers and distributors of automobiles, textile manufacturers, and other businesses, busi-

nesses that had little or absolutely no relationship to asbestos products or asbestos industries.

I ask the Members of this body to look to their own senatorial districts. Think about it. Consider whether you have a company, a manufacturer, a retailer, a refinery that could be named as a defendant in an asbestos-related claim sometime in the near future. According to the Rand Corporation study, every Senate Member likely does, and in my case, as I pointed out earlier, there are more than 150 employees of the Crown Cork & Seal Company in York County. I am deeply concerned about those workers, and I am concerned about the futures for their families. I have received a number of letters, phone calls, and faxes from them over the last several weeks. I would like to give you one example. This one constituent wrote to me with his perspective. His sentiments were echoed time and time again in the messages I received. Here is what he wrote: quote, "The company I work for was in the wrong place at the wrong time. They are getting hammered 40 years after the temporary ownership of an asbestos-producing company, even though they never even produced asbestos, and now we are being pushed to the brink of financial ruin by lawsuits," unquote. They have families, homes, hopes for the future that may well ride on the passage of this bill.

Make no mistake, Madam President, I support Senate Bill No. 216 for the jobs, the constituents that I have just alluded to, but any legislation, in my book at least, that we pass here really has to be fundamentally fair, and that was mentioned earlier by Senator Stack. Senate Bill No. 216 is fair. I doubt that there is anyone who would stand on this Senate floor today and argue that persons afflicted with asbestosis or a malignant cancer of some type related to asbestos inhalation should not be compensated for their injury. There is no one in this Senate who would say compensation is not due if you have that type of an injury. Certainly, they should receive compensation. They have been harmed, they should be allowed to go after the companies that manufactured and installed asbestos products and be permitted to extract a fair, a fair amount of compensation for the harm done to them.

Madam President, that is exactly what the legislation before us today does. It does nothing to stop a person suffering from an asbestos-related injury from going after the ones who are responsible for causing the harm. This legislation is about ensuring that the list of potential or possible defendants in these lawsuits only includes the ones that have actually done harm. Today that list of defendants includes a company that is headquartered in Pennsylvania, with employees in my senatorial district. It is a company that never, ever manufactured or installed an asbestos product in all the years of its operation. Today it is Crown Cork & Seal. If the Rand Corporation study is to be believed, in the not-too-distant future that hit list of named defendants and asbestos-related claims will possibly include a company in the senatorial district that you represent, with employees that you serve as constituents.

I urge your support of this legislation this evening. Thank you, Madam President, for the time.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Schuylkill, Senator Rhoades.

Senator RHOADES. Madam President, will Senator Tomlinson submit to interrogation.

Senator TOMLINSON. Yes, Madam President.

Senator RHOADES. Madam President, will this amendment affect anthracosilicosis or any black lung claims?

Senator TOMLINSON. Madam President, no, it will not. In fact, as Senator Waugh and Senator Stack have stated, it will not affect those even with asbestosis claims, so it will not affect black lung.

Senator RHOADES. Madam President, it affects no present, no future black lung claims?

Senator TOMLINSON. No, Madam President.

Senator RHOADES. Madam President, and it is not intended to limit anthracosilicosis or black lung claims?

Senator TOMLINSON. Madam President, that is true; it is not intended to limit that.

Senator RHOADES. Thank you, Madam President.

POINT OF ORDER

The PRESIDING OFFICER. The Chair recognizes the gentleman from Philadelphia, Senator Stack.

Senator STACK. Madam President, I rise to ask the Chair for a ruling under Senate Rule XXI, section 2. As a partner in a law firm that represents Crown Cork & Seal, is it appropriate for me to vote on this bill, or should I recuse myself?

The PRESIDING OFFICER. The Senator has requested a ruling from the Chair as to whether he is required to vote on the motion. He cites his membership in a law firm that is involved in the matter. The rules require that a Member not voting have a direct pecuniary interest in the outcome of the matter before this body. We find that as an attorney, Senator Stack is a member of a class and has, at best, if any interest, an indirect pecuniary interest, and it is the ruling of the Chair that you are required to vote on the motion.

Senator STACK. Thank you, Madam President.

And the question recurring,
Will the Senate agree to the motion?

The yeas and nays were required by Senator PICCOLA and were as follows, viz:

YEA-44

Armstrong	Greenleaf	Mellow	Stack
Bodack	Hall	Mowery	Stout
Boscola	Hughes	Murphy	Thompson
Brightbill	Jubelirer	Musto	Tomlinson
Conti	Kasunic	O'Pake	Wagner
Corman	Kitchen	Piccola	Waugh
Costa	Kukovich	Punt	Wenger
Dent	LaValle	Rhoades	White, Donald
Erickson	Lemmond	Robbins	White, Mary Jo
Fumo	Logan	Scarnati	Williams, Anthony H.
Gerlach	Madigan	Schwartz	Wozniak

NAY-5

Earll	Orie	Tartaglione	Williams, Constance
Hoffman			

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate inform the House of Representatives accordingly.