

SABAH, MALAYSIA

# Warta Kerajaan

Tambahan Pertama

*Diterbitkan dengan Kuasa*

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Jil. LI]

KOTA KINABALU, KHAMIS, 23 JANUARI 1997

[No. 1

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**Kenyataan-kenyataan berikut adalah diterbitkan atas perintah Tuan Yang Terutama Yang di-Pertua Negeri untuk Makluman Umum.**

**DATUK SERI PANGLIMA KHALIL BIN DATU HAJI JAMALUL J.P.,**  
*Setiausaha Kerajaan Negeri.*

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**No. 1**

Enakmen-Enakmen berikut telah dikemukakan dan diluluskan dalam Majlis Mesyuarat Dewan Undangan Negeri yang diadakan pada 19 dan 22 November 1996 dan telah diperkenankan oleh Tuan Yang Terutama Yang di-Pertua Negeri pada 30 Disember 1996. Enakmen-Enakmen itu adalah dengan ini diterbitkan untuk makluman umum:—

**ENAKMEN-ENAKMEN**

- No. 13 Tahun 1996 – Enakmen Perbekalan Tambahan Kedua (1996) 1996.  
The Second Supplementary Supply (1996) Enactment 1996.
- No. 14 Tahun 1996 – Enakmen Konservasi Alam Sekitar 1996.  
The Conservation of Environment Enactment 1996.

(ii)

- No. 15 Tahun 1996 – Enakmen Bandaraya Kota Kinabalu 1996.  
The City of Kota Kinabalu Enactment 1996.
- No. 16 Tahun 1996 – Enakmen Perbekalan (1997) 1996.  
The Supply (1997) Enactment 1996.

## CONSERVATION OF ENVIRONMENT ENACTMENT 1996

### ARRANGEMENT OF CLAUSES

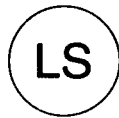
#### Clause

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**STATE OF SABAH**

I assent,



**TUN DATUK SERI PANGLIMA HAJI SAKARAN BIN DANDAI,**  
*Yang di-Pertua Negeri.*

30TH DECEMBER, 1996.

**No. 14 of 1996**

An Enactment to make provisions relating to the conservation of environment and for matters connected therewith and incidental thereto.

ENACTED by the Legislature of the State of Sabah as follows:

**PART I**

**PRELIMINARY**

**1.** This Enactment may be cited as the Conservation of Environment Enactment 1996 and shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint.

Short title  
and  
commence-  
ment.

Interpreta- tion.	<p><b>2. (1)</b> In this Enactment, unless the context otherwise requires—</p>
Enactment No. 2 of 1968.	<p>“alienated land” shall have the same meaning assigned to that expression by the Forest Enactment 1968;</p> <p>“conservation area” means any area of land designated as such under section 3(6) to enable the Director to take such measures as he deems fit and necessary for the protection and conservation of natural resources to provide for the safeguard and enhancement of the environment;</p>
Act 127.	<p>“Council” means the Environmental Quality Council established under section 4 of the Environmental Quality Act 1974;</p> <p>“Director” means the Director of State Department of Environmental Conservation;</p> <p>“environment” means the physical factors of the surroundings of the human beings including land, water, atmosphere, climate, sound, odour, taste, the biological factors of animals and plants and the social factor of aesthetics;</p> <p>“Environmental Authority” means any local authority, statutory body or department of the State or Federal Government or such other authority, officer or person duly directed by the Director under this Enactment to exercise the powers conferred or perform the duties imposed upon the Environmental Authority by this Enactment or to perform such duties or functions as may be directed by the Director for the implementation, execution or enforcement of any order, direction, ruling or decision of the Director;</p>
Enactment No. 2 of 1968.	<p>“forest produce” shall have the same meaning assigned to that expression by the Forest Enactment 1968;</p>
Enactment No. 2 of 1968.	<p>“Forest Reserve” shall have the same meaning assigned to that expression by the Forest Enactment 1968;</p> <p>“inland waters” means the waters of any rivers, waterways, lakes, reservoirs, watercourses, water catchment areas within the State and in the foreshores and includes subterranean water;</p>
Cap. 68.	<p>“land” shall have the same meaning assigned to that expression by the Land Ordinance;</p>

“Minister” means the Minister responsible for environmental conservation and protection;

“natural resources” means air, biological diversity of resources, minerals, oil, gas, forest and forest produce, land, rocks, soils, sub-soils, animals, birds, plants, marine or aquatic life and waters of the State;

“occupier” means any person in actual occupation of land and, in the case of land reserved or allocated for the use of a native community, includes the head of the community;

“owner” means the person in whose name the title to any land is registered and includes—

- (i) any person, other than the Government, who receives or is entitled to receive the rent or profits of any land whether on his own account or on behalf of himself and others or as an agent; and
- (ii) any holder of a Temporary Occupation Licence;

“plant” means any species of plant or any part thereof, including all tree and crop species and vegetation;

“pollution” means any direct or indirect alteration of the physical, thermal, chemical, biological, or radioactive properties of any part of the environment by discharging, emitting, or depositing wastes so as to affect any beneficial use adversely, to cause a condition which is hazardous or potentially hazardous to public health, safety, or welfare, or to animals, birds, fish or aquatic life, or to plants;

“State land” shall have the same meaning assigned to that expression by the Forest Enactment 1968;

“storm water” means all flow of water directly due to rainfall, before such water joins a stream;

“stream” means a watercourse of natural origin wherein water flows either continuously or intermittently, whether or not its conformation has been changed by artificial means, and includes swamps or marshes, whether forming the source or found upon the course of or feeding such watercourse;

“Temporary Occupation Licence” means a Temporary Occupation Licence issued under section 18(1) of the Land Ordinance;

Enactment  
No. 2 of  
1968.

Cap. 68.

“vegetation” means all species of plants and trees, moss, algae and fungi, and any other vegetable products of the soil or water.

(2) It shall be the duty of an Environmental Authority to carry out such duties and functions as may be directed by the Director and to implement, carry out, comply with and ensure compliance of all directions, orders and rulings of the Director made pursuant to the provisions of this Enactment.

## PART II

### CONSERVATION AND IMPROVEMENT OF NATURAL RESOURCES

Director  
may make  
orders for  
conservation  
of natural  
resources.

3. (1) The Director if he considers—
- (a) that measures are necessary for—
    - (i) the conservation of, or the prevention of injury to, natural resources; or
    - (ii) the protection and enhancement of the environment or the prevention and control of such activities which may cause pollution,
 in a conservation area or any other land; and
  - (b) that having regard to all the circumstances it is just and equitable that such measures should be undertaken by the owner or occupier of such conservation area or land,

may order in writing the owner or occupier, as the Director may decide, to undertake or adopt such measures as he may deem necessary for the conservation of natural resources or the protection and enhancement of the environment in such conservation area or other land.

- (2) Such order may relate to—
- (a) the use to which the conservation area or land may be put and the manner thereof;
  - (b) the prohibition, restriction or control of the firing, clear-

- ing or destruction of vegetation, or the breaking up or clearing of conservation area or land for any purpose;
- (c) the prohibition, restriction or control of cultivation of any part of the conservation area or land;
  - (d) the method of the cultivation of the conservation area or land;
  - (e) the manner of watering, depasturing and moving stock;
  - (f) the preservation and protection of the source, course and banks of streams;
  - (g) the protection and control of water, the sources of supply of water required for human consumption, including inland waters;
  - (h) the construction and maintenance of works for, or the doing or abstaining from doing any act which in the opinion of the Director is necessary for, the conservation of natural resources or the protection and enhancement of the environment;
  - (i) the location or relocation of any agricultural, housing or industrial estates, farms, water catchment areas, places for fish or aquaculture in inland waters; and
  - (j) the mode, manner and places for discharge of water, sewage and other effluent into any inland waters and the emission of smoke into the atmosphere.

(3) If any owner or occupier of land fails or neglects to carry out any order made under subsection (1) within such reasonable time as may be fixed by the Director, he shall be guilty of an offence and shall, on conviction, be liable to, in the case of a first offence, imprisonment for six months and a fine of one thousand ringgit and,



in the case of a second or subsequent offence, imprisonment for one year and a fine of two thousand ringgit. A court in addition to any penalty it may impose shall make an order requiring the owner or occupier, as the case may be, to carry out within a specified time the order of the Director.

(4) If any owner or occupier of land fails or neglects to carry out any order relating to paragraph (f), (g) or (h) of subsection (2) within such reasonable time as the Director may have fixed, the Environmental Authority may carry out or complete any works which are necessary to give effect to such order.

(5) Where an advance to an owner or occupier has been made by the Government to enable him to carry out an order under this section, or the Environmental Authority has carried out or completed works which are necessary to give effect to such order, such advance or the amount of cost incurred in carrying out or completing such works shall be a debt due by such owner or occupier, as the case may be, to the Government and, until discharged, interest shall be paid thereon at the rate of three per cent per year.

(6) The Yang di-Pertua Negeri may, by notification in the *Gazette*, designate any area of land (whether alienated or unalienated) as a conservation area to be managed by the Director for the protection and conservation of natural resources to provide for the safeguard and enhancement of the environment on such land or to be subject to any order made by the Director under subsection (1).

Director  
may direct  
construc-  
tions of  
works.

4. If the Director—

- (a) decides that the proposed works should not be the subject of an order under section 3; and
- (b) approves such works as being in the public interest; or
- (c) approves works for the protection of inland waters or the foreshores and banks of any river against erosion and encroachment of the sea; or

- (d) approves any measures for preventing or controlling pollution and protecting and enhancing the quality of the environment,

the Director may direct the Environmental Authority to undertake, construct and maintain upon any land such works or activity as the Director may deem necessary for the protection, conservation and improvement of natural resources and for the protection and enhancement of the environment.

5. (1) The Director may, subject to such rules as may be made under section 22, by order published in the *Gazette*, require any person undertaking the following activities:

Reports on activities having impact on environment and natural resources.

- (a) development of agricultural estates or plantation of an area exceeding the dimension specified in the said order;
- (b) clearing of forest areas for the establishment of agricultural estates or plantation;
- (c) carrying out of logging operations on State land, alienated land or Forest Reserve under the provisions of the Forest Enactment 1968 of an area exceeding the dimension specified in the said order;
- (d) carrying out of any activity, including exploration for minerals, mining, farming, clearance of vegetation and setting up of agricultural estates in any area which in the opinion of the Director may pollute or in any way affect the sources of supply of water for human consumption;
- (e) development of commercial, industrial and housing estates of an area exceeding the dimension specified in the said order;
- (f) extraction and removal of rock materials;
- (g) activities which may cause pollution of inland waters of

Enactment No. 2 of 1968.

the State or endanger marine or aquatic life, organism or plants in inland waters, or pollution of the air, or erosion of the banks of any rivers, watercourses or the foreshores and fisheries; or

- (h) any other activities which may injure, damage or have any adverse impact on the quality of the environment or the natural resources of the State,

to submit to the Director a report from such expert or authority and in such form as may be approved by the Director, on the impact of such activities on the natural resources and environment and any other particulars or information as may be required by the Director.

(2) Upon consideration of such report, and having regard to the standards and recommendations of the Council, and after making all necessary enquiries and seeking any further opinion as the Director may deem desirable or necessary, the Director may make such order or direction as the Director is empowered to do under section 3 or any other provisions of this Enactment or to undertake such works as may be deemed necessary under section 4.

(3) Nothing in this section shall authorise or deem to have authorised the Director or the Yang di-Pertua Negeri, in the exercise of the powers conferred under section 22, to make any order, direction, guidelines, rules or regulations in regard to the environment affecting matters over which the State, by virtue of the provisions of the Federal Constitution, has no legislative authority.

Apportion-  
ment of cost.

6. (1) The Environmental Authority shall notify the Director of the cost of any works constructed under the powers conferred by section 4.

(2) If the Director is of opinion that, having regard to all the circumstances, it is just and equitable that the owner of any land upon which any such works have been executed, or such owner and the owners of any other land which, in his opinion, has benefited from such works, should pay or contribute towards the cost thereof, he shall notify the Environmental Authority and the owner or each

of the owners accordingly, and shall in such notification specify the amount of such cost, if any, to be borne by the Government and the amount of payment or contribution to be made by such owner or by each of such owners.

(3) The amount of payment or contribution fixed by the Director in terms of subsection (2) shall be a debt due by the owner to the Government and, until discharged, interest shall be paid thereon at the rate of three per cent per year, with effect from the date of notification.

### PART III

#### GENERAL

7. When any matter arises for the determination of the Director, all persons having an interest in such matter shall, where reasonable be notified in writing or in such other manner as the Director may direct of the questions at issue and be given facilities for making thereon such representations, in person or by writing, as they may see fit. Representations may be made either to the Director or to such officer of the Government as the Director may appoint to receive representations on his behalf.

Director to  
give notice  
to interested  
parties.

8. (1) For the determination of any subject under consideration, the Director shall have the powers which a Sessions Court has to summon witnesses, to cause oaths and affirmations to be administered to them, to examine them and to call for the production of documents.

Director  
may  
summon  
witnesses.

(2) A summons for the attendance of a witness or for the production of any book, document or record before the Director shall be signed and issued by the Director, and shall be served in the same manner as a summons for the attendance of a witness at a criminal trial.

(3) Any person summoned to give evidence or to produce any book, document or record or giving evidence before the Director shall be entitled to the same privileges and immunities as if he were

summoned to attend or were giving evidence at a trial in a Sessions Court and may be allowed by the Director any reasonable expenses necessarily incurred by him in so attending.

(4) Any person who fails without reasonable excuse to attend in obedience to such summons, or, subject to the provisions of subsection (3), fails to answer fully to the best of his knowledge any question relevant to the matter under investigation, or when required fails to produce any book, document or record as aforesaid, shall be guilty of an offence and shall, on conviction, be liable to imprisonment for three months and a fine of five hundred ringgit.

Appeal from  
determina-  
tion of  
Director.

9. (1) The Director shall communicate in writing the terms of any approval, decision or order made by him in terms of section 10, 11 or 12 (hereinafter referred to as "a determination") to any person who is or may be directly affected by such determination.

(2) Any person who considers such determination is inequitable, unreasonable or unduly harsh may, within such time as may be prescribed, appeal to the Minister who may rescind or vary the determination of the Director.

Functions of  
Government  
departments,  
statutory  
bodies and  
local  
authorities.

10. Every Government department, statutory body and local authority shall—

- (a) generally co-operate with and assist the Director in carrying out the provisions of this Enactment; and
- (b) formulate for submission to the Director conservation schemes in and for the area in which it has jurisdiction and may, with the approval of the Yang di-Pertua Negeri, undertake the construction of works and other measures for the conservation of natural resources in and for the area in which it has jurisdiction.

Advances,  
loans, grants  
in aid and  
incentives.

11. (1) Subject to and in accordance with any rules made under this Enactment, advances may be made from the Consolidated Fund to owners or occupiers to enable them to carry out orders made under section 3, and loans or grants in aid may be made from the

Consolidated Fund to Government departments, statutory bodies or local authorities in respect of conservation schemes undertaken by them.

(2) The Director may, subject to such rules as may be made under section 22, provide incentives, by way of awards, grants or other forms of monetary awards, to owners or occupiers who carry out or complete any works, which are the subject of an order made under section 3, if it appears to the Director that they merit such incentives.

12. (1) Subject to the restrictions imposed by subsection (2), and to the extent necessary for exercising the powers conferred or performing the duties imposed by this Enactment, the Environmental Authority or any officer or person authorised in writing in that behalf by the Environmental Authority or the Director shall have the right to enter upon any land or premises at all reasonable times with such men, animals, vehicles, appliances and instruments and to do all such acts thereon as are necessary for or incidental to the exercise of the aforesaid powers or the performance of the aforesaid duties.

Rights of  
entry.

(2) The exercise of the rights conferred by subsection (1) shall be subject to the following restrictions:

- (a) no person shall enter any building or any enclosed yard attached to a dwelling except with the consent of the occupant; and
- (b) as little damage as possible shall be caused to any land or premises by the exercise of such rights, and compensation shall be paid by the Government or the Environmental Authority, as the case may be, for all damage so caused other than damage incidental to or consequent on work done to carry out an order made under section 3. The compensation may, in default of agreement, be claimed and determined in the appropriate court.

(3) If any person prevents such entry on any area as is authorised by this section, or wilfully obstructs or hinders any person so authorised in lawfully carrying out his powers or duties under this

Enactment he shall be guilty of an offence and shall, on conviction, be liable to, in the case of a first offence, imprisonment for six months and a fine of one thousand ringgit and, in the case of a second or subsequent offence, imprisonment for one year and a fine of two thousand ringgit.

Penalty for  
discharge of  
storm water.

**13.** Any person who by any act or by neglect, causes damage to another by diverting storm water from its natural course, or who injures any soil or water conservation work, shall be guilty of an offence and shall, on conviction, be liable to, in the case of a first offence, imprisonment for six months and a fine of one thousand ringgit and, in the case of a second or subsequent offence, imprisonment for one year and a fine of two thousand ringgit. A court in addition to any penalty it may impose may order the payment of compensation.

Destocking  
and  
limitation of  
stock.

**14. (1)** Where the Yang di-Pertua Negeri is satisfied that the natural resources of any area are being injured or are deteriorating through overstocking of domestic animals, he may authorise the reduction of the number of such animals and prescribe the maximum number and the class of such animals as may be depastured in any area.

(2) Destocking and limitation of stock in terms of this section shall be carried out in accordance with rules made under section 22.

Evidence.

**15. (1)** A certificate purporting to be under the hand of the Environmental Authority certifying the amount of the cost of work done to give effect to an order made under section 3, or a copy of a determination made by the Director in the terms of section 6 purporting to be certified by the Environmental Authority as a true copy, shall, until the contrary is proved, be evidence in any court of the amount due as a debt to the Government.

(2) A copy of a determination made by the Director in the terms of section 3 or 4 purporting to be certified by the Environmental Authority as a true copy shall be conclusive evidence in any court that a determination was made by the Director in the terms of the certified copy.

16. In the exercise of their functions under this Enactment, it shall be the duty of the Director and the Environmental Authority to have due regard to the needs of agriculture and forestry.

Duty of authorities as respects agriculture and forestry.

17. Where it is represented to the Minister that it is expedient in any particular case that any of the powers of the Director under the provisions of this Enactment should be exercised by a local authority, statutory body or such other authority or officer or person, the Director may, with the approval of the Minister, delegate the exercise of that power or the discharge of that duty to that local authority, statutory body, authority, officer or person:

Delegation of powers of the Director.

Provided that nothing in this section shall authorise delegation of any power to make subsidiary legislation.

18. Any person who—

Specific offences.

- (a) burns, cuts or destroys vegetation in any conservation area;
- (b) knowingly does any act or conducts any activity which pollutes or contaminates any inland waters; or
- (c) submits to the Director a report under section 5 containing any fact, data or information which he has reason to believe is false or calculated to deceive the Director,

shall be guilty of an offence and shall, on conviction, be liable to imprisonment for three years and a fine of ten thousand ringgit.

19. Where any direction or notice or order requires any act to be done or work to be executed under this Enactment or to refrain from the doing of any act or activity within the period specified therein by the Director or the Environmental Authority and default is made in complying with the requirement of such notice or order, the authority, body or person in default shall be guilty of an offence and shall, where no penalty is specially provided in this Enactment for such

Default in compliance with notice or order.



default, on conviction, be liable to a term of imprisonment for five years and a fine of twenty thousand ringgit.

Power of  
entry and  
seizure.

**20.** (1) Where any person has failed to comply with any direction, order or notice from the Director to refrain from the doing of any act or activity, and an offence under section 19 has been committed, any police officer or any person duly authorised by the Director may enter upon any land, premises, vessel, or other property and seize any tool, equipment, machinery, goods, vessel, vehicle or conveyance used or employed in the commission of such offence and any natural resources procured by such person or body in the course of the commission of the offence.

(2) A list of any such tools, equipment, machinery, goods, vessels, vehicles, conveyances or natural resources seized under subsection (1) shall be compiled by the police officer or person authorised to carry out the seizure and submitted to the court having jurisdiction over the offence at the time when the person charged with the offence is produced in court.

(3) Upon conviction of a person of any offence under section 19, the court may order the confiscation, sale or disposal of the items of properties contained in the list submitted under subsection (2) and the proceeds from such sale or disposal shall be paid over to the Director.

Power to  
prosecute.

**21.** Prosecutions in respect of any offence committed under this Enactment may be conducted—

- (a) by the State Attorney-General or a legally qualified member of the State Legal Service; or
- (b) by the Director or an officer of his Department not below the rank of grade 5 or equivalent.

Power to  
make rules.

**22.** The Yang di-Pertua Negeri may make rules generally for the purpose of carrying out the provisions of this Enactment and, in particular, such rules may provide for—

- (a) prescribing the manner in which destocking and limitation of stock shall be carried out;

- 
- (b) prescribing the time within which appeals may be lodged under section 9;
  - (c) prescribing the conditions on which loans or grants in aid may be made to the Environmental Authority in respect of conservation schemes undertaken by the Authority;
  - (d) prescribing the conditions on which an advance may be made to an owner or occupier to enable him to carry out an order made under section 3;
  - (e) prescribing the apportionment of costs between owners;
  - (f) providing for the reduction of, or the exemption from, interest payable under this Enactment;
  - (g) regulating and controlling the use of land or water;
  - (h) prohibiting, restricting or controlling the firing, clearing or destruction of vegetation, or the breaking up or clearing of land for any purpose;
  - (i) prohibiting, restricting or controlling the cultivation of land;
  - (j) regulating the method of cultivation of land;
  - (k) prescribing the manner of watering, depasturing and moving stock;
  - (l) the preservation and protection of the source, course and banks of streams;
  - (m) controlling water, including storm water;
  - (n) the construction and maintenance of works for, or the doing or abstaining from doing of any acts necessary for, the conservation of natural resources;
  - (o) prohibiting or restricting the entry into, or movement within, a conservation area of persons, equipment, machinery, vehicles, boats or animals;

- (p) prohibiting or restricting the billing, taking, molesting or disturbance of living creatures of any description in a conservation area, the taking, destruction or disturbance of eggs of any such creatures the taking of, or interference with, vegetation of any description in a conservation area, or the doing of anything therein which will interfere with the soil or damage any object in a conservation area;
- (q) prohibiting or restricting the shooting of animals or birds of any description within a conservation area (whether the area be of land or of sea) as appears to the Director requisite for the protection of a conservation area;
- (r) the protection and preservation of plants or geological or physiographical features of special interest in a conservation area;
- (s) prohibiting the depositing of rubbish and the leaving of litter in a conservation area;
- (t) prohibiting or regulating the open burning of refuse or other combustible matter in any area of land constituted as local authority area, national park, nature reserve, wild life sanctuary, forest reserve, protected or communal forest;
- (u) prohibiting the discharge, emission or deposit into the environment of any matter, whether liquid, solid, or gaseous, or of radioactivity in any prescribed area as appears to the Director requisite for the protection and enhancement of the environment;
- (v) prohibiting or regulating the pollution of inland waters or of the atmosphere or soil in any prescribed area as appears to the Director requisite for the protection and enhancement of the environment;
- (w) prohibiting or regulating any activity which may have significant environmental impact in the atmosphere or on the soils or in the inland waters of the State;

- 
- (x) prohibiting the occupier of any premises from emitting, discharging or depositing pollutants into the atmosphere which by virtue of their nature are obnoxious or offensive;
  - (y) prohibiting or restricting the lighting of fires in any area, or the doing of anything likely to cause unmitigated destruction of vegetation or pollution of or damage to the environment;
  - (z) prescribing incentives to persons or body of persons for carrying out measures which are necessary to protect and conserve natural resources for the protection and enhancement of the environment;
  - (aa) prescribing penalties (not exceeding a fine of fifty thousand ringgit or imprisonment for ten years) for any breach or failure to comply with such rules;
  - (bb) prescribing the offences which may be compounded, the persons who may compound, the limit of the sum of money to be collected for compounding such offences and the procedure and forms to be complied with in compounding;
  - (cc) prescribing rate of compensation that the Director may require any person to pay for damage caused to the environment by the act, omission, neglect or default of that person; and
  - (dd) all matters or things which are necessary or expedient to be prescribed for giving effect to this Enactment.

CERTIFIED by me to be a true copy of the Bill passed by the Legislative Assembly on Tuesday, the 19th November, 1996.

DATUK FRANCIS T.N. YAP,  
*Deputy Speaker,*  
*State Legislative Assembly.*