COMMONWEALTH OF PENNSYLVANIA

Legislative Journal

TUESDAY, OCTOBER 1, 1996

SESSION OF 1996 180TH OF THE GENERAL ASSEMBLY No. 53

SENATE

TUESDAY, October 1, 1996

The Senate met at 1 p.m., Eastern Daylight Saving Time.

The PRESIDENT pro tempore (Robert C. Jubelirer) in the Chair.

PRAYER

The Chaplain, Reverend KURT GARBE, of St. Paul's Lutheran Church, Reading, offered the following prayer:

Good afternoon. Let us turn our hearts to prayer.

Almighty God, bless those who hold office in the Senate of the Commonwealth of Pennsylvania, that they may do their work in a spirit of wisdom, kindness, compassion, and justice. Help them use their authority to serve faithfully the citizens of this great State and to promote the general welfare. Make us who came from many nations with many different languages a united people, defend our liberties that there might be justice and peace in our land, enrich our lives by ever-widening circles of fellowship, and show us Your presence in those who differ most from us.

We commend our State and nation to Your merciful care, that we may live securely in peace and be guided by Your divine providence. We ask all these things with a humble heart. Amen.

The PRESIDENT pro tempore. The Chair thanks Reverend Garbe, who is the guest today of Senator O'Pake.

JOURNAL APPROVED

The PRESIDENT pro tempore. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of September 30, 1996.

The Clerk proceeded to read the Journal of the preceding Session, when, on motion of Senator LOEPER, further reading was dispensed with and the Journal was approved.

HOUSE MESSAGE

SENATE BILL RETURNED WITH AMENDMENTS

The Clerk of the House of Representatives returned to the Senate **SB 1220**, with the information the House has passed the same with amendments in which the concurrence of the Senate is requested.

The PRESIDENT pro tempore. Pursuant to Senate Rule XIV, section 5, this bill will be referred to the Committee on Rules and Executive Nominations.

SPECIAL ORDER OF BUSINESS ANNOUNCEMENT BY THE SECRETARY

The SECRETARY. Consent has been given for the Committee on Banking and Insurance to meet during today's Session to consider Senate Bills No. 217, 1160, 1650 and House Bill No. 1026.

REPORTS FROM COMMITTEES

Senator PUNT, from the Committee on Military and Veterans Affairs, reported the following bill:

HB 774 (Pr. No. 859)

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, further providing for the pay of officers and enlisted personnel.

Senator SHAFFER, from the Committee on Community and Economic Development, reported the following bill:

HB 2380 (Pr. No. 4071) (Amended)

An Act amending the act of October 21, 1988 (P.L.1036, No.116), known as the Hardwoods Development Council Act, further providing for definitions, for the Hardwoods Development Council and for the council's powers and duties; and providing for a transfer of functions from the Department of Community and Economic Development the Department of Agriculture.

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

SB 434 (Pr. No. 2306) (Amended) (Rereported) *(Concurrence)*

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for definitions, for arrearages, for contempt of the court order, for attachment of income and for petition for custody by grandparents; and adding provisions relating to same sex marriages.

SB 1315 (Pr. No. 2307) (Amended) (Rereported)

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for deceptive business practices.

SB 1316 (Pr. No. 2308) (Amended) (Rereported)

An Act amending the act of December 17, 1968 (P. L. 1224, No. 387), entitled "Unfair Trade Practices and Consumer Protection Law," further defining "unfair methods of competition" and "unfair or deceptive acts or practices"; and further providing for unlawful acts or practices, for sales contracts and for civil penalties.

LEGISLATIVE LEAVES

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, I request a legislative leave for today's Session on behalf of Senator Helfrick.

The PRESIDENT pro tempore. Senator Loeper requests a legislative leave for today's Session for Senator Helfrick. Without objection, that leave will be granted.

The Chair recognizes the gentleman from Allegheny, Senator Bodack.

Senator BODACK. Mr. President, I request a temporary Capitol leave for Senator Belan.

The PRESIDENT pro tempore. Senator Bodack requests a temporary Capitol leave for Senator Belan. Without objection, that leave will be granted.

LEAVE OF ABSENCE

Senator BODACK asked and obtained leave of absence for Senator ANDREZESKI, for today's Session, for personal reasons.

CALENDAR

SENATE RESOLUTION No. 150, CALLED UP OUT OF ORDER, ADOPTED

Senator LOEPER, without objection, called up out of order, from page 7 of the Calendar, as a Special Order of Business, **Senate Resolution No. 150**, entitled:

A Resolution recognizing the month of October 1996 as "Sudden Infant Death Syndrome (SIDS) Awareness Month" in this Commonwealth.

On the question,

Will the Senate adopt the resolution?

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

YEAS—48

Afflerbach	Greenleaf	Mellow	Shaffer
Armstrong	Hart	Mowery	Stapleton
Belan	Heckler	Musto	Stewart
Bell	Helfrick	O'Pake	Stout
Bodack	Holl	Peterson	Tartaglione
Brightbill	Hughes	Piccola	Thompson
Corman	Jubelirer	Porterfield	Tilghman
Costa	Kasunic	Punt	Tomlinson
Delp	LaValle	Rhoades	Uliana
Fisher	Lemmond	Robbins	Wagner
Fumo	Loeper	Salvatore	Wenger
Gerlach	Madigan	Schwartz	Williams

NAYS—0

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

The PRESIDENT (Lieutenant Governor Mark S. Schweiker) in the Chair.

SPECIAL ORDER OF BUSINESS GUEST OF SENATOR NOAH W. WENGER PRESENTED TO THE SENATE

The PRESIDENT. The Chair recognizes the gentleman from Lancaster, Senator Wenger.

Senator WENGER. Mr. President, I have today a young man from my district serving as a guest Page. His name is Ken Martin. He is a senior at Garden Spot High School in Lancaster County, where he is a member of the Future Farmers of America organization, a student advisor for the FFA, and a member of the poultry judging team. Ken plans to pursue an education and a career in agriculture or agribusiness, and I am pleased to have him as a guest Page today and introduce him to the Senate.

The PRESIDENT. Would our guest please rise.

(Applause.)

GUESTS OF SENATOR MICHAEL A. O'PAKE PRESENTED TO THE SENATE

The PRESIDENT. The Chair recognizes the gentleman from Berks, Senator O'Pake.

Senator O'PAKE. Mr. President, in addition to our guest Chaplain from Reading today, we have in the gallery several other dedicated Lutheran pastors from Reading. I would ask the Chair to extend its usual warm welcome to the Lutheran clergy who are working hard in the inner city and in Reading and elsewhere to help their people.

The PRESIDENT. Would our distinguished clergy please rise so that the Senate may acknowledge you.

(Applause.)

GUESTS OF SENATOR EUGENE E. PORTERFIELD PRESENTED TO THE SENATE

The PRESIDENT. The Chair recognizes the gentleman from Westmoreland, Senator Porterfield.

Senator PORTERFIELD. Mr. President, I also have some folks in the gallery today. First of all, an individual who works in my district office, Helen Williams, has her son, Shawn, here today to see the workings of State government here in Pennsylvania. With those folks are Chuck Minerd, president, and Ed Susman, vice president, of the Westmoreland County chapter of ABATE. I would appreciate a warm welcome from the Senate.

The PRESIDENT. Would our Westmoreland County guests please rise.

(Applause.)

GUESTS OF SENATOR MELISSA A. HART PRESENTED TO THE SENATE

The PRESIDENT. The Chair recognizes the gentlewoman from Allegheny, Senator Hart.

Senator HART. Mr. President, first of all, I would like to thank my colleagues and the Chair for their indulgence this afternoon. We were waiting for the arrival of a large group from my district back home, and I know that everybody is probably looking at me saying, why were we waiting for this particular group? But this particular group happens to be headed up today by my mother, Alvina Hart, who is here today for the first time while we are in normal Session. She has been here a couple of times for swearing-in ceremonies. I would like to welcome my mother, Alvina Hart, and the members of the St. Alexis Roman Catholic Church Over 50 Club in Wexford, Pennsylvania, which is my church back home and also where I went to elementary school.

Those of you who made it in, I would like to welcome you, and I would ask that my colleagues give them our usual warm welcome.

The PRESIDENT. Would our guests please rise so that the Senate may acknowledge you.

(Applause.)

The PRESIDENT. The Chair thanks the gentlewoman from Allegheny and her special guests for their effort to make it here.

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. Senator Belan has returned to the floor, and his temporary Capitol leave is cancelled.

RECESS

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, at this time I ask for a recess of the Senate for the purpose of a Republican caucus to begin immediately in the first floor caucus room, with an expectation of returning to the floor at approximately 3:30.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Bodack.

Senator BODACK. Mr. President, I request that the Members of the Democratic Caucus meet at the rear of the Chamber in the Democratic caucus room for a brief but important caucus.

The PRESIDENT. For purposes of Republican and Democratic caucuses, with the intention of returning to the floor at 3:30, the Senate stands in recess.

AFTER RECESS

The PRESIDENT. The time of recess having expired, the Senate will come to order.

LEGISLATIVE LEAVE

The PRESIDENT. The Chair recognizes the gentleman from Cambria, Senator Stewart.

Senator STEWART. Mr. President, I request a temporary Capitol leave for Senator Mellow.

The PRESIDENT. Senator Stewart requests a temporary Capitol leave for Senator Mellow. Without objection, that leave is granted.

CONSIDERATION OF CALENDAR RESUMED

THIRD CONSIDERATION CALENDAR

BILL REREPORTED FROM COMMITTEE AS AMENDED OVER IN ORDER

HB 2388 -- Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILLS OVER IN ORDER

SB 685, HB 1053 and **SB 1158** -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1291 (Pr. No. 2304) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 29, 1953 (P. L. 304, No. 66), entitled "Vital Statistics Law of 1953," further providing for local registrars' fees.

Considered the third time and agreed to,

And the amendments made thereto having been printed as required by the Constitution,

On the question,

Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEAS—43

Afflerbach	Heckler	Mowery	Stewart
Armstrong	Helfrick	Musto	Stout
Belan	Holl	O'Pake	Tartaglione
Bell	Hughes	Piccola	Thompson
Bodack	Jubelirer	Porterfield	Tilghman
Brightbill	Kasunic	Punt	Tomlinson
Costa	LaValle	Rhoades	Uliana
Delp	Lemmond	Robbins	Wagner
Fumo	Loeper	Salvatore	Wenger
Gerlach	Madigan	Schwartz	Williams
Greenleaf	Mellow	Stapleton	

NAYS—5

Corman	Hart	Peterson	Shaffer
Fisher			

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

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

RECESS

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, at this time I ask for a very brief recess of the Senate for the purpose of a meeting of the Committee on Banking and Insurance to be held in the Rules room at the rear of the Senate Chamber.

The PRESIDENT. For the purpose of a meeting of the Committee on Banking and Insurance, this Senate stands in recess.

AFTER RECESS

The PRESIDENT. The time of recess having expired, the Senate will come to order.

SPECIAL ORDER OF BUSINESS SUPPLEMENTAL CALENDAR No. 1

SENATE CONCURS IN HOUSE AMENDMENTS AS AMENDED

SB 434 (Pr. No. 2306) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for definitions, for arrearages, for contempt of the court order, for attachment of income and for petition for custody by grandparents; and adding provisions relating to same sex marriages.

On the question,

Will the Senate concur in the amendments made by the House, as amended by the Senate, to Senate Bill No. 434?

Senator LOEPER. Mr. President, I move that the Senate do concur in the amendments made by the House, as amended by the Senate, to Senate Bill No. 434.

On the question,

Will the Senate agree to the motion?

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Fumo.

Senator FUMO. Mr. President, I rise to oppose the motion to concur in Senate Bill No. 434. Mr. President, the major provision in this bill and the most controversial provision in this bill is one which outlaws, so to speak, same-sex marriages. Mr. President, I know that this is a wonderful political issue for the right and for moderates. It is something that everybody can go home to their constituents and say, is it not wonderful, we protected you today from all of these horrible homosexuals who are cohabiting. How atrocious it is.

Mr. President, that is the only reason we are moving this bill through this Chamber with such lightning speed. The House passed this bill before and it is in the Senate Committee on Judiciary and it has not moved. In fact, Mr. President, at a recent meeting when it was placed on the agenda, a quorum could not even be produced in that committee to move this bill, so it was withdrawn from consideration. And I think that was the right thing to do.

We are talking about people here who were created by God, the same as everyone else, and were created by God with different sexual beliefs and desires than other people have. They are a discernable minority, the same as if it were the color of their skin, their ethic background, or their religious beliefs. In fact, Mr. President, one might argue that this is a religious belief issue, but yet because it is a little bit foreign to some of us and to some of our constituents, and also because they are a distinct minority, it is very easy to pick on them. The same way, Mr. President, it was easy in Germany for Hitler to pick on the Jews, it was easy in this country for my immigrant parents when they came to be picked on and be discriminated against. It is always easy to pick on minorities, Mr. President.

I might add that this particular group of people are probably the least offensive to society, and by that I mean, by and large, statistically they are among Tom Ridge's decent, honest, hard-working Pennsylvanians. They are Democrats and Republicans and they do no harm to people, but yet they are picked on constantly and discriminated against constantly. If you look at the crime statistics, they are an infinitesimal amount of that statistic, and yet, Mr. President, we care about what goes on in their bedrooms. Is that not a wonderful role for us to play?

Mr. President, I am of the belief that government has no place in the bedroom, and I do not know why we have to rush to judgment on this issue right now. I recognize it is an inflammatory issue, it is one that drives some people crazy, but my plea is that these people are human beings, too, and have the right to their beliefs and the exercise of their beliefs the same as the majority of people do. They present no threat to society. In fact, they complement society and assist society by being honest, law-abiding individuals.

And, Mr. President, I do not kid myself. I know the vote today will probably be overwhelming, the same way the vote in a southern legislature years ago would have been overwhelming in discriminating against black minorities. That does not make the vote right. It is still wrong. It is no business of ours to interfere in the lives of others, in the most private and intimate way, and it is shameful that we are doing this and it is shameful that we are doing this in the heat of an election to try to go home with some Brownie points.

At a point in time when crime is rampant in this State and we do not address it, at a point in time when senior citizens are being knocked off the PACE program and we do not address it, at a point in time when there are so many people lacking health care and we do not address it, at a point in time when there are demonstrators out front living on the sidewalks of this Capitol to make their plight known and we do not address that, we will, with lightning speed, address this abomination. Mr. President, it is a sad commentary on this General Assembly that we would do this action and ignore the other plights of society out there and discriminate against a class of people who have a right not to be discriminated against.

I urge all of my colleagues to join with me in voting overwhelmingly "no" in concurring with these horrendous amendments. It is simply wrong to do. Let us join together and deal with the real problems that face Pennsylvanians - the problems of senior citizens, the problems of health care, the problems of

crime prevention. That is what we should be dealing with, not this kind of nonsense.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Williams.

Senator WILLIAMS. Mr. President, would the sponsor of Senate Bill No. 434 consent to interrogation?

The PRESIDENT. Senator Williams, you are asking Senator Greenleaf to stand for interrogation?

Senator WILLIAMS. Yes, Mr. President. I am asking if he would.

The PRESIDENT. Senator Greenleaf, would you stand for interrogation?

Senator GREENLEAF. Yes, Mr. President.

The PRESIDENT. Senator Williams, you may proceed.

Senator WILLIAMS. Mr. President, could the gentleman give a clear answer as to whether or not in Pennsylvania it is legal at the present time for people of the same sex to marry? The concern is that there has been discussion that the law of Pennsylvania may in fact be interpreted such that people of the same sex presently can get married, and I do think it is incumbent on all of us to determine at the outset whether or not people of the same sex can marry under the State of Pennsylvania law.

Senator GREENLEAF. Mr. President, it is my understanding now that presently there is not a prohibition but the language of the statute would prohibit same-sex marriages in Pennsylvania at the present time. That is my understanding.

Senator WILLIAMS. Mr. President, what statute is the gentleman referring to which expressly prohibits same-sex marriage?

Senator GREENLEAF. Mr. President, statutes dealing with the qualifications for marriage. There is presently language in there dealing with that subject.

Senator WILLIAMS. Mr. President, is the gentleman familiar with the most recent law or legislation which refers to the parties to a marriage as applicants as compared to any reference to sex?

Senator GREENLEAF. Mr. President, my understanding of the present law is it is referred to as a man and a woman, so inferentially there is a prohibition against a same-sex marriage now. It is at least my understanding, and that is what my understanding of the present law is.

Senator WILLIAMS. Does the gentleman feel that law could be produced in a few minutes or so? Because I do think that it would be--

Senator GREENLEAF. Mr. President, well, I do not have the statute in front of me here. Certainly, the gentleman could get it as well as I can. I would be happy to answer any questions he might have.

Senator WILLIAMS. Mr. President, well, I am saying, I want it for myself, but collectively do we feel as the author of the legislation to prohibit one part of it. Certainly with all the lawyers that we have and the money that we spend on lawyers we should be able to find the Pennsylvania statute which prohibits same-sex marriages, because I have been told there is some question about it one way or the other. So I was just hoping that the gentleman could gather that for us, or if the Chair could or anybody could get that law so we would know from where we start. It would be sort of embarrassing to prohibit something from other States which is permitted in Pennsylvania, and I just want to make sure that we have that. Do you think you could assist in that, Mr. President?

The PRESIDENT. No.

Senator WILLIAMS. Thank you, Mr. President.

Mr. President, I understand there is some question about whether or not folks of the same sex in Pennsylvania can get married. If that be so, then we really are in a very embarrassing position to be moving ahead on another aspect of it, and I am calling for some deliberate step on this issue. It seems sort of counterproductive, if there is any question about that.

My second point, I would like to comment on the bill as it is put, Mr. President, if I might, if I might proceed to comment.

The PRESIDENT. You may proceed.

Senator WILLIAMS. Mr. President, this bill seeks to confront the constitutional requirement that we must give full faith and credit to the acts and the recognition of other States. And despite the fact that a few days ago the Federal government was also confronting this issue, I do not believe that we in Pennsylvania or in any of the States have a legal right to think that we can override the provisions of the Constitution. And I think that the effort here is a fruitless symbolism of just that, for what purpose I do not know. But I think the more that we confront the Constitution willy-nilly, no pun intended, that we deprecate and denigrate our respect for what we say is our guiding instrument, the Constitution.

It is true that the institution of marriage is probably the most precious arrangement for stability of a people, for solidity and credibility in the government, and I do not think that we just ought to go loggers like a bunch of politicians confronting the constitutional requirement just because it may be some political point one way or another. The Constitution says that we must give respect and full faith and credit to contracts and the other basic things of law coming from other States. To pass this means that we care nothing about the other States and that we do not care about that constitutional provision. The Federal government is doing the same thing. I give you that. But the Federal government and the folks who go to Congress, they usually come from legislatures and, of course, they lose their wisdom more so when they get there. That is no reason that we should in Pennsylvania commit those same acts.

For that reason, Mr. President, I think we should defeat this bill as a surface effort to accomplish a nefarious purpose, and I think that it will infect and dirty up the whole discussion on what should be a very respectful, mature discussion throughout the cities and the States of our nation.

I close my comments, Mr. President, and I just hope that there is a clear-cut law on the books of Pennsylvania as to what the status is as to whether you can or cannot get married. I repeat, it would certainly be very silly and very embarrassing for we, the legislators of Pennsylvania, to be denying one aspect of this discussion, when, in fact, in Pennsylvania we might be able to have such a contract recognized.

Thank you.

The PRESIDENT. The Chair recognizes the gentlewoman from Philadelphia, Senator Schwartz.

Senator SCHWARTZ. Mr. President, I, too, rise to oppose concurrence on this legislation. Mr. President, let me just say from the outset that I recognize the difficulty, in fact the discomfort we have in discussing this issue. Many of us are not comfortable discussing homosexuality. We may not understand it personally and we may be concerned about it politically. But, Mr. President, we cannot allow our discomfort to grant us a license to discriminate. Because what we are really dealing with here is a question of tolerance, of privacy, and of understanding.

What are we saying if we pass this prohibition? We are saying it is against the law for two people to make a commitment to a relationship. There are, in fact, Mr. President, people who want to make this commitment - gays and lesbians who want stable relationships, who want to and do agree to take care of each other, to be responsible for each other. These are, Mr. President, values that we often say we support.

Mr. President, this may not be an easy vote for anyone, but it should not be so difficult. Our country was founded on the principles of liberty and justice for all. It is our responsibility, in fact our obligation, as elected officials to assure a society that prohibits discrimination against any class of people. It is wrong to express words of tolerance and to condemn bigotry only when it is easy and safe, only when it is in the abstract. Well, today we are faced with a choice to condemn discrimination, to end a minority group's isolation, and to build understanding. It should not be so hard. And I ask each of my colleagues not to waste this opportunity and instead to stand up for understanding, to stand up for acceptance, to stand up for fairness, and to vote against concurrence on this legislation.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Lehigh, Senator Afflerbach.

Senator AFFLERBACH. Mr. President, it occurs to me that too often when this particular issue is discussed the debate seems to focus on the concept of gender preference, sexual preference, homosexuality, lesbianism, transvestite individuals. The fact of the matter is that the issue turns not on those issues but rather on economics, pure and simple. The bill does not say that same-sex marriages between homosexuals or between lesbians or between transvestites shall be prohibited. It simply says same-sex marriages should be prohibited. It says nothing about gender preference or sexual preference, and the reason it says that, in my opinion, is because some people have begun to realize that permitting same-gender or gender-neutral marriages can cause significant economic dislocations. Marriage has longstanding been considered a civil contract. The fact that it is now defined that way in this bill does not change the way it has been for the last hundreds of years, and that civil contract confers obligations, responsibilities, and benefits upon two individuals who fulfill that legal contract.

I daresay that if we begin to redefine marriage as same gender, there will be many people who will suddenly realize that they can achieve the benefits of a married couple, whether it is in taxes, inheritances, property ownership, whatever it may be, that will be a clear economic advantage that is in fact enjoyed by married people of different genders. It has nothing to do with gender preference or sexual preference; it has everything to do with economic gain or loss.

I think there will be economic dislocations that would occur if we were to permit same-gender marriages that we have not even begun to conceive at this point, and until we are able to ascertain what those dislocations will be and who in fact will be picking up the costs of those dislocations, we need to move forward with legislation such as this. I am not so certain that we need to do it as precipitously as this bill has been done, but certainly we need to establish a base from which to work and from which to conduct a study. This bill permits us the opportunity to do that by settling the issue until such time as such a study may be completed. I would urge concurrence in the amendments.

And the question recurring,

Will the Senate agree to the motion?

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

YEAS—43

Afflerbach	Greenleaf	Mowery	Stapleton
Armstrong	Hart	Musto	Stewart
Belan	Helfrick	O'Pake	Stout
Bell	Holl	Peterson	Tartaglione
Bodack	Jubelirer	Piccola	Thompson
Brightbill	Kasunic	Porterfield	Tilghman
Corman	LaValle	Punt	Tomlinson
Costa	Lemmond	Rhoades	Uliana
Delp	Loeper	Robbins	Wagner
Fisher	Madigan	Salvatore	Wenger
Gerlach	Mellow	Shaffer	

NAYS—5

Fumo	Hughes	Schwartz	Williams
Heckler			

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.

LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Bodack.

Senator BODACK. Mr. President, I request temporary Capitol leaves for Senator Musto, Senator O'Pake, Senator Stapleton, and Senator Porterfield.

The PRESIDENT. Senator Bodack requests temporary Capitol leaves for Senator Musto, Senator O'Pake, Senator Stapleton, and Senator Porterfield, and those leaves are granted.

SPECIAL ORDER OF BUSINESS
SUPPLEMENTAL CALENDAR No. 2

BILLS REREPORTED FROM COMMITTEE AS AMENDED ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1315 (Pr. No. 2307) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for deceptive business practices.

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

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Fisher.

Senator FISHER. Mr. President, Senate Bill No. 1315, which is before us, is a bill amending Title 18, which would increase the penalties under Title 18 for the various provisions of the Deceptive and Fraudulent Business Practices Act, but it would also, most importantly, increase the penalties significantly for telemarketing fraud.

Mr. President, Senate Bill No. 1315 and Senate Bill No. 1316, the next bill on today's Calendar, as well as Senate Bill No. 1317, which previously passed the Senate, was a three-bill package which just last year my colleague, the gentleman from Delaware, Senator Bell, one of the strongest advocates on behalf of the State's consumers, and I unveiled here at a news conference in the Capitol. We felt that Pennsylvania needed to do more to protect its citizens from scam artists who use the phone and other deceptive practices to prey on consumers. We knew they were a big business and getting bigger. We knew they were finding new and more clever ways to steal from consumers. We had statistics proving that they were specifically targeting senior citizens in Pennsylvania, and we were concerned that if we did not beef up our laws here in Pennsylvania more people would lose their life savings to these clever con artists.

Then only weeks after we introduced these bills, U.S. Attorney General Janet Reno announced the results of a national FBI investigation which uncovered a massive, multi-State ring of telemarketing scam artists. During the FBI's Operation Senior Sentinel, senior citizens volunteered to tape conversations with scam artists and helped to aid in the arrest of hundreds of phony telemarketers who had stolen millions from consumers. On those tapes, con artists used flattery, high-pressure sales tactics, and threats to talk people into all kinds of so-called deals. The FBI probe was a major success in apprehending some of the biggest scam artists, and those who were arrested will be prosecuted under the Federal Telemarketing Fraud Laws.

But the fact is, these fraudulent operators are a lot like cockroaches: even when you think you have eliminated them, they resurface in another place with another scam and new victims. To make matters worse, many of these fraudulent operations actively target senior citizens and others who live alone. As a result, some older State residents have lost their entire life savings to telemarketing fraud. In one case, an 85-year-old Scranton woman lost more than $125,000 in just 18 months. Scam artists called her constantly, sending her flowers and cheesecakes as they stole her life savings. Another 78-year-old woman lost $180,000 in phone scams.

I would like to make it clear that senior citizens are not the only ones who fall prey to telephone rip-off arrests. Many people of all ages succumb to their promises of cash awards, vehicles, and all-expense-paid trips, but the fact is many telemarketers and other scam artists actively target the senior population when they are looking for victims. For that reason, the legislation before us includes stiffer penalties when the victim is over age 60. One of the bills before us today, Mr. President, would make it a specific crime under Pennsylvania law to engage in telemarketing schemes and pyramid schemes. Currently, those convicted of fraud face only civil fines, hardly a strong enough deterrent when they stand to make tremendous amounts of money. Those who would be found guilty under the new law would face sentences of up to 5 years and fines of up to $10,000 for each occurrence. This change is crucial if we want to put many of those operations out of business. Fines simply are not a strong enough deterrent. The jail time will make it harder for those scam artists to move on and start over in another location.

The second bill, Senate Bill No. 1316, imposes tougher civil penalties on telemarketers, again providing even stiffer penalties for those who prey on senior citizens. Senior citizens, as I said, are obviously not the only people who fall victim to fraudulent marketers. These criminals are stealing $40 billion annually from unsuspecting consumers of all ages. It is estimated at $2.5 billion to $3 billion a year in the State of Pennsylvania. They are getting better and better at what they do and they are very difficult to track down and prosecute. Mr. President, that is why this legislation is so important. It would crack down on those who use the phone to steal from consumers, and particularly those who target our senior citizens. It sends a message that Pennsylvania will not tolerate those who attempt to steal from consumers, particularly those who prey on our elderly.

Mr. President, this two-bill package has the strong support of the AARP, just as they have provided strong support for Senate Bill No. 1317, the telemarketing registration bill. Mr. President, these bills are very important to many citizens across this Commonwealth. Mr. President, I urge my colleagues on both sides of the aisle to make a vote for the consumers of this State, and particularly our senior citizens, by approving these bills today and sending them to the House so that they, too, can join us to provide the needed relief for the people of Pennsylvania from the fraudulent telemarketers who have been preying on the people we have been sent here to represent.

Thank you, Mr. President.

And the question recurring,
Will the Senate agree to the bill on third consideration?

HUGHES AMENDMENT A6429

Senator HUGHES offered the following amendment No. A6429:

Amend Title, page 1, line 3, by removing the period after "practices" and inserting: ; prohibiting exploitation of human labor; and imposing penalties.

Amend Bill, page 6, by inserting between lines 14 and 15:

Section 2. Title 18 is amended by adding a section to read:

§ 7330. Exploitation of human labor.

(a) General rule.—A person, individual, corporation, partnership, limited liability company, limited liability partnership, business trust, other association, estate trust, foundation or any group of persons acting directly or indirectly in the interest of an employer in relation to any employee commits exploitation of human labor if any individual is employed by such person, individual, corporation, partnership, limited liability company, limited liability partnership, business trust, other association, estate trust, foundation or any group of persons acting directly or indirectly in the interest of an employer in relation to any employee for less than the minimum living wage as set forth in this section.

(b) Exemptions.—This section shall not affect any employee or employer exempted from minimum wage requirements of statutory law.

(c) Minimum living wage.—Notwithstanding any other law to the contrary, beginning January 1, 1998, and every January 1 thereafter, the minimum hourly wage shall be increased each year to equal 1.25% of the Statewide Average Weekly Wage as determined and published by the Department of Labor and Industry in the Pennsylvania Bulletin. If the average weekly wage that is published in the Pennsylvania Bulletin shows a decrease, there shall be no change in the minimum hourly wage.

(d) Penalty.—Any person, individual, corporation, partnership, limited liability company, limited liability partnership, business trust, other association, estate trust, foundation or any group of persons acting directly or indirectly in the interest of an employer in relation to any employee who violates this section commits a summary offense and, upon conviction, shall be sentenced to pay a fine of not less than $500 nor more than $1,000, and in default of the payment of such fine and costs, shall be sentenced to imprisonment for a term not less than ten days nor more than 90 days. Each week in which an employee is paid less than the rate applicable to the employee under this section and for each employee who is paid less than the prescribed rate, a separate offense shall be deemed to occur.

Amend Sec. 2, page 6, line 15, by striking out "2" and inserting: 3

On the question,

Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Hughes.

Senator HUGHES. Mr. President, I find myself in a position that I was in I guess going back to June of this year. This amendment A6429 is special in the extent that on this day, October 1, 1996, we are raising the minimum wage of all workers across this country, and especially those here in the Commonwealth, raising their minimum wage to $4.75 an hour. We have attempted to deliberate this issue in this Chamber, Mr. President, for many months, but this Chamber has failed to respond to the requests, those on the Democratic side, to not just have a minimum wage increase but to have a livable wage increase. There is a significant difference, and we thank the President and those of good wisdom in Washington, D.C., for having the heart and the guts and the commitment to respond to workers' needs, but we are very clear that people working in Pennsylvania do not need just $4.75 an hour. That is not sufficient, nor is the $5.15 an hour sufficient that they will receive next year. They need a livable wage.

So consequently, Mr. President, we are asking this body for the first time in years, and especially the first time this year, but for the first time in many years, to deal with the real, basic economic needs of the working poor in this Commonwealth with an increase to a livable wage status. Amendment A6429 calls for, effective January 1, 1998, for the basic wage, the livable wage to increase to 50 percent of the average hourly wage for all workers in this Commonwealth.

Mr. President, the Federal government stepped to the table, but they did not step far enough. They got close. They decided that there was wisdom and political sense and the rightness to provide for the economic security of the working people in this Commonwealth and all across this country who played by the rules, who have found work, who have a job, who are trying to do the right thing and make a way for themselves, but, however, that was not enough. Consequently, we are trying to get working people, those same individuals, to get to a standard of living that is livable. Four dollars and seventy-five cents an hour, although an increase, Mr. President, is not what is necessary. It is not a livable wage in this State or any other State in this country.

So consequently, Mr. President, we offer amendment A6429 to try to make a real step, a progressive step for working people who need help, who need assistance, and who need basic livable wages so that they can make a way and prosper, like all of the rest of the corporate community does in this Commonwealth. Working people at the low end need our support, and it is time for this Senate, which has ignored this issue and let even the House of Representatives, our colleagues in the other Chamber, take an affirmative step. We have ignored it. Although the Democrats have asked for it, the Majority party in this body has ignored the pleas of working people in this Commonwealth. It is time that we get some guts. It is time that we move to true glory for working folks and give them a livable wage so that they can have all of the things that all of the rest of us desire for ourselves and our families.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, I rise to oppose the amendment. Mr. President, I think that we have had significant discussion on this floor in the last several months dealing with the issue of minimum wage. We have also had in conjunction with those discussions many issues about making Pennsylvania competitive; that is, how we cannot only keep our jobs here in the Commonwealth but also promote business so we can have new ones that are created.

Mr. President, it has always been our position that whatever should be done in dealing with the minimum wage should be a uniform standard. And, Mr. President, we had said many months ago that while the action was taking place in Washington for a standard minimum wage increase, that Pennsylvania should follow what in fact was the Federal minimum wage.

With much fanfare the Federal Congress, in a bipartisan fashion, passed a significant increase in the minimum wage not only in Pennsylvania but across this country. As the gentleman noted, today in fact, effects the first increase in that minimum wage to $4.75 an hour and it rises to $5.15 an hour effective September 1, 1997.

Mr. President, if we just look around us sometimes in Pennsylvania and check with some of our small businesses, we find that in Pennsylvania the market will dictate what salary workers are paid. Businesses that can afford to pay more will pay more, and it is one of the basic principles of a free economy. I think that, Mr. President, if we just look around we see that many small employers are already paying employee salaries well above the minimum wage because they can afford to do it.

Just last week I had a chance to be with the gentleman from Lancaster, Senator Armstrong, in Lancaster County visiting a number of different small businesses, and in each one of those cases we talked about some of the things that were able to be done as far as moving Pennsylvania forward, making Pennsylvania more competitive. And we discussed the issue of minimum wage, and in each and every case, the entry level jobs were significantly more than what the minimum wage was at that particular time. And, Mr. President, these people also indicated they were having a difficult time finding people who were trained in order to fill these positions and that it was the burden of training that they were having to take on themselves.

I think also, Mr. President, at a time when we in this Chamber have railed on about how terrible it is to pass expensive State mandates onto local governments, school districts, and businesses, we have talked endlessly about the need to create jobs and help small businesses grow, and now we have before us an action by the adoption of this amendment that would make all those words that we have talked about meaningless. I think we have made significant progress in establishing a new threshold for minimum wage. It is a standardized number that keeps Pennsylvania competitive with its neighbors. And, Mr. President, I think the minimum wage increase that we have actually experienced today on a national basis and we will see an increase again next year will keep Pennsylvania competitive, and, therefore, Mr. President, I would ask for a negative vote on the amendment.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Fumo.

Senator FUMO. Mr. President, it was not originally my intent to debate this amendment but rather just vote in favor of it, but I feel I must honestly address the remarks of the Majority Leader.

Mr. President, if business were going to pay fair wages and we did not have to worry about it, and if we could trust business that much, and believe me I am not a business basher, I am a businessman myself, but if we in government were just going to trust business, there would not be a need for a minimum wage bill at all on the books. In fact, Mr. President, if we could trust business there would not be a need for child labor laws on the books.

But, Mr. President, history has shown us that people deserve protection and that people have a right to a fair wage, not just a minimum wage. Mr. President, we have sat by while jobs have been exported from this nation, we have sat by while we have lost jobs, and if it keeps up and if we trust big business to take care of us, there will be nobody left making enough of a wage to afford to buy the products that business produces overseas. So, Mr. President, I have not bought into the idea that we should trust big business.

Mr. President, as to the problems the gentleman from Delaware, Senator Loeper, enumerated that are in the district of the gentleman from Lancaster, Senator Armstrong, then obviously those people who are offering more than minimum wage and cannot find people are not going to be upset at all about the amendment of the gentleman from Philadelphia, Senator Hughes. It probably does not even hit their pay scale. But those alleged problems, Mr. President, really do not exist.

And we have sat by on this side of the aisle in this Chamber and watched this Governor's programs get rammed down our throats. We have watched as this Chamber went along with the Governor, lowered business taxes greater than any administration ever did, yielded on the environment, destroyed workers' compensation, all these great business-friendly proposals by Governor Ridge, and I can enumerate even more, and then when the data comes out, what happens? We are 49th in job creation. Mr. President, out of 50 we are 49th.

Mr. President, I do not want to trust big business anymore. I do not want to trust the Governor's program to attract jobs. I want to help the people in this Commonwealth who have to go to work each and every day. We have already denied the working poor health care with our so-called welfare reform bill. The least we can do is make sure that they get a fair wage. The last entity in this Commonwealth and in this country I want to trust for economic policy is the business community. That is why we are where we are today with people unemployed and, more importantly, people underemployed. Husbands and wives trying to work two jobs to save their families and their homes.

And what do we do here? We have no sympathy for those people. And I know the argument well: Gee, if we raise the minimum wage we are going to lose more business. Mr. President, nothing could be further from the truth, because, by and large, the people who are paid minimum wage are people who work in service industries that exist because of the populace. Does anybody think that if McDonald's has to pay a hamburger flipper $6 an hour instead of $4.50 an hour that they are going to move out of the State and not sell McDonald's hamburgers? Mr. President, they will continue to sell those hamburgers. Yeah, they might raise the price a penny so they can gouge consumers and say it is because of the minimum wage, but guess what? Now the people working at McDonald's flipping hamburgers can afford to buy some clothes maybe that have been made in Hong Kong by some American manufacturer who has exported those jobs over there.

Mr. President, we have an obligation to take care of those people who cannot take care of themselves. Regrettably, Mr. President, that class is growing every day. The middle class is

being shrunk, the lower class is being raked, the upper class is making more money than ever. The Forbes 400 just came out this week, and there are now 23 billionaires in this country, while we have people who cannot get a decent meal. That is what the economic policies in this country and this Commonwealth have done. They made Bill Gates richer, Warren Buffett richer, and a lot of your contributors richer, but they have not done a damn thing for the middle class and they have not done a damn thing for poor people. And if you keep the disparity up, all you are asking for is civil unrest.

One of the things that has made America great has been a huge middle class, and the laws such as minimum wage, child labor laws, and Social Security are the things that made the middle class great and made this country great. And now we find the slogans are, get government off my back, leave me alone so I can compete while I export your job to Mexico. Mr. President, that is an attitude that has to stop because sooner or later we are going to destroy the fabric of this nation and the fabric of this Commonwealth. And an amendment that adjusts the wages of poor people and middle-class people so that they become fair rather than just minimum is an amendment that we all should embrace instantly.

But I know that the special interests have stuffed the coffers of the Republican Party so that they cannot worry about the middle class and the poor class. They have to worry about contributions. Mr. President, I beg you, put aside your special interests and do something once for working men and women. These are not even welfare people whom you hate and you beat up. These are working men and women. These are the working poor. These are people struggling to try to survive. Help them get a fair wage. How could you possibly say and tell the people of this Commonwealth that we should not do it? We will trust big business. We will trust small business. We will trust any business to take care of them.

History does not show us that. They are the kinds of philosophies that brought on the Great Depression, and they are also the kinds of philosophies that brought on that Great Depression and then brought forth Franklin Roosevelt that made the Democratic Party great. And I am sitting here loving it, guys, because you won with Newt and the gang, and now you see the rebellion that is going on out there, and this is another nail in your coffin if you vote "no" on this amendment today. But go ahead and do it. Then we will be in the Majority and we will get it done.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Lancaster, Senator Armstrong.

Senator ARMSTRONG. Mr. President, I just wonder where the previous speakers on the Democratic side were when they controlled the Senate, they controlled the House, and they controlled the governorship. They had plenty of time to offer all these amendments to raise the minimum wage to $10 an hour if they wanted to. If I am not mistaken, I do not know of any amendments that they brought up at that time. Do you think perhaps this could be a little political?

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Hughes.

Senator HUGHES. Mr. President, to respond and also to provide some statistics, there is no political agenda around here. This is the Senate of the Commonwealth of Pennsylvania. Politics would not be anywhere near this.

However, to say that $4.75 an hour, Mr. President, which is what is happening today, is acceptable, without benefits, I might remind folks, you know, the great benefits that we enjoy and we utilize every day, is to say that it is okay for a working person to struggle, to make it through, on $190 a week. That is what $4.75 an hour is equal to. Or maybe $760 a month, before taxes, I might add. Or maybe about $9,800 a year. That is to say by not taking action on this amendment that $4.75 is all right. Or better yet, $5.15 an hour, which we are going to have to wait another 11 months for. That is $206 a week, $824 a month, $10,712 a year. That is supposed to be okay, when you vote against this amendment. Those who vote against this amendment are saying that $4.75 an hour on October 1--thank you, President Clinton; thank you, even Newt Gingrich. Rest my soul that I would say thank you to Newt Gingrich. My gosh--but that is to say that that is acceptable, $4.75 an hour, no benefits, before taxes.

Let us go to the grocery store and see what we are going to do with $4.75 an hour. Let us pay for day care and see what we can do with $4.75 an hour. Let us figure out how to get to and from work at $4.75 an hour. Let us buy some tennis shoes for our grandkids. Okay? Or for ourselves. Some sneakers, and I am not talking about Nike, Reebok, Adidas. In my neighborhood, the bottom-line tennis shoes were called bo-bos. Let us buy some of them for $4.75 an hour. That is a whole lot of money, is it not? You can do real well with that. Toothpaste, soap, toilet paper, paper towels, a trip to the movies, what can you do with $4.75 an hour?

We say we care about the working people in this Commonwealth. We say we care about folks who are playing by the rules, folks who are trying to do the right thing, but the reward for that is totally ignoring this issue, totally ignoring this issue for over a year, for almost 18 months since I first introduced this, and then when we have an opportunity to do something even more for Pennsylvania's working people, we look the other way.

Well, the House of Representatives, the Republican-controlled House of Representatives in the Commonwealth of Pennsylvania, took action on minimum wage, and they surpassed what was done in Washington, D.C. Now, maybe there are some politics going on around here. Supposedly the rumor is that they voted that bill to give one particular Representative a little political bump--you know, the guy who switched parties the last time around and caused the Majority to change in the House of Representatives--with the knowledge that we would not take any action here in the Senate. Supposing an agreement was made. But be that as it may, notwithstanding the political agreements, the fact is that $4.75 an hour is not enough for working people in this Commonwealth. No benefits, no health care, no support, and no more money

for working people. All we want is to try to make a livable wage, not a minimum wage.

Pennsylvania should be about doing progressive things to move people forward so that their standard of living can be something at a livable level; $4.75, $190 a week, $760 a month is not a livable wage. And if you believe it is, try it out for a little bit. I have been there. It is not working. It is not sufficient. We should do something for Pennsylvania's people instead of just talking rhetoric and playing games, because that is what is happening here. I ask for adoption of this amendment, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from York, Senator Delp.

Senator DELP. Mr. President, a couple of points. First of all, the gentleman who just spoke, the gentleman from Philadelphia, Senator Hughes, suggested that we have ignored this issue here in the Senate of Pennsylvania, yet I remember that I have risen on this issue numerous times over the last 4 months and debated the gentleman from Philadelphia about this very issue, so there has been significant discussion on the issue of minimum wage.

I do remember 4 months ago the feeling was in this body that we certainly did not want to put the Commonwealth of Pennsylvania at a competitive disadvantage and raise our minimum wage. I represent York County, which is a border county with Maryland, and we certainly would not want to put businesses in York County at a competitive disadvantage, have jobs go to Maryland. But now the Federal government has acted and raised the minimum wage. And I am shocked to find out that my colleagues on the other side of the aisle are saying that is not enough. You know, I made one comment during the debate 4 months ago that perhaps what they were really interested in is creating a new department, the department of outrageous wages. They are proving I was right.

The other gentleman from Philadelphia, Senator Fumo, also said that he does not trust big business. Well, I think the big businesses that are in York County - York International, Harley Davidson, all the large corporations - those folks are not paying minimum wage. People would desperately like to get jobs at those corporations. And the only example the Senator from Philadelphia gave of a place that is paying minimum wage is McDonald's, and most of the folks who work at McDonald's are under the age of 18. They are not supporting families.

I asked Senator Hughes months ago to provide me with statistics, how many of the people in the Commonwealth of Pennsylvania who are making minimum wage are supporting families? How many of the people in the Commonwealth of Pennsylvania who are making minimum wage are teenagers, supporting their way through high school? I have yet to get those statistics. I would think if the gentleman from Philadelphia was serious about this issue, he would have provided that information to us. I have received nothing.

You know, it strikes me, this is a little bit about, I guess, what it is all about to be a Republican and what it is all about to be a Democrat. Senator Fumo reminded us that he is the party of Roosevelt. I have confidence in Americans, I have confidence in Pennsylvanians, and I certainly have confidence in York Countians. And I can tell you that the majority of York Countians do not want us to take care of them. They do not need our help to take care of them, they need us to stay out of their hair. And coming as a person, I have created jobs and nobody in my company is working currently for minimum wage. But I will tell you what, I started my career in Wire and Cable working for minimum wage, and today I am a member of the Senate of Pennsylvania, so you can make something of yourself without having the government hand it to you.

The amendment of Senator Hughes says nothing to a person's qualifications. It does not say, well, if a person has graduated from high school they should get more money, or if they have typing skills they should get more money. Nothing about qualifications. You know, when you think about the issues that we debated today already, we have debated the issue of whether or not we should let men marry men and women marry women, and now we are debating whether or not the Commonwealth of Pennsylvania should set up a high wage scale. Maybe we should mandate that all businesses pay their employees $10 an hour. It is quite a brave new world that Senator Fumo is thinking about creating here in the Commonwealth of Pennsylvania. I am just not sure I want to live in that brave new world.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Fumo.

Senator FUMO. Mr. President, I do not know about it being a brave new world, but minimum wage is a concept that has been around a long time. I do not know where the gentleman from York, Senator Delp, has been. And I am glad that the Senator at one time in his life worked for minimum wage, and I want to let me him know that because of inflation, what he earned on minimum wage was a hell of a lot more than people today earn on minimum wage, and that is why it has to be adjusted from time to time. Do not come in here and tell me that years ago, however many, he worked at a minimum wage job and why cannot people do it now. Because inflation is eating away at that wage, whatever it was.

Mr. President, there is a need. Yes, and I am proud to say I am a Democrat and we are the party of Roosevelt. We are the party that Ronald Reagan quotes. And I am surprised that he is surprised that his colleagues in the House, Republicans in the House, yesterday voted overwhelmingly to raise the minimum wage. Now, we know that was for Stish, and that is why that bill had to be moved. But conservatives in that House--and I admire you guys in here, I really do; you have a lot of courage to stand up against human beings and the middle class and the poor. You have guts, a hell of a lot more than they had in the House, because those Republicans ran for the hills the minute the vote was allowed to take place.

And we talk about in here, gee, where were you guys? Where have you been? We have been here. We have been looking for a Title 18 bill around here for months, and I give you credit right before the election to have the guts to stand up and tell the middle class and the poor to get lost because you are going to take care of big business. And you are not telling the poor who are on welfare, you are telling the working poor

to get lost. You want to get government off everybody's back. Well, we have had decades of that, and now average working men and women are more afraid of the economy than they ever have been. Maybe government should come back on their back.

* * *

(Whereupon, remarks at this point were expunged by order of the Senate.)

REMARKS EXPUNGED

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, I raise a point of order.

The PRESIDENT. The gentleman may proceed.

Senator LOEPER. Mr. President, in the course of the debate that we have just listened to as far as the amendment that is before the Senate, I believe that the gentleman from Philadelphia, Senator Fumo, was very inappropriate in his remarks directed at a Senator and that those remarks were inappropriate and should be stricken from the record.

The PRESIDENT. The Chair would observe that the gentleman's point is well-taken.

The Chair recognizes the gentleman from Philadelphia, Senator Fumo.

Senator FUMO. Mr. President, in response to that, the remarks were made because the individual Member of whom the gentleman from Delaware, Senator Loeper, speaks was in the back of the Chamber snickering, laughing, and making remarks about my remarks. And my comment merely was that that individual, if she had something to say, should take the microphone on the floor and say it and not sit in the back and snicker about an issue as serious as this. And I do not think my remarks were out of order because of that. In fact, if anything, Mr. President, and no offense to the Chair, had the Chair maintained proper order in the Chamber, the individual might not have been in the back making snickering remarks, and I, no doubt, lost my temper. But the proper place to make remarks in a loud voice in this Chamber on a piece of legislation is to step up to that mike, put it in the record and say it, and not sit in the back and snicker.

The PRESIDENT. Senator Fumo, order was at work in the Senate, and the Chair would object to that characterization. I think you know, and I speak for every Member in the Senate, including your peers and Members of your Caucus, that personal reflections are not acceptable on the floor of this Senate, and I will say no more.

Senator Hart, are you prepared to respond?

Senator FUMO. Mr. President, I recognize you are a Republican and have to defend your Members, but I will not sit in this Chamber and have Members make derogatory, smirking, laughing comments while I am speaking about a serious issue. When we are joking and kidding around, that happens an awful lot, but when you are speaking on a serious issue, to have a Member sit back there out of her seat and make those kind of comments is uncalled for.

The PRESIDENT. Senator Fumo, the Chair will ask you politely to terminate.

Senator Hart, do you care to respond?

Senator HART. Mr. President, I was not a participant in the debate. I was conferring with a colleague about another matter.

Senator FUMO. Well, then if that is the case, Mr. President, I will take the gentlewoman's word to be honorable and I will then also move that my comment to her be stricken. However, Mr. President, I would ask the gentlewoman in the future if she is going to have those kinds of conversations at those kinds of moments, if she could do it in a more appropriate place.

The PRESIDENT. Without objection, those comments are acknowledged by the Chair. The record should reflect the wishes of both Senator Loeper and Senator Fumo.

Senator Fumo, your counsel I think should be heard by all Members of the Senate when it comes to behavior on the Senate floor. Some things need to be enforced through individual honor and not always by the Chair. That goes for both Caucuses. So let us get back to the debate.

Senator Fumo, complete your point.

Senator FUMO. Mr. President, to get back to the matter at hand, it is unfair for us to sit here and not address the needs of those people who need our help desperately. Mr. President, it is our responsibility to make sure that people who are willing to work and who have found employment are paid a fair, honest, living wage. From the arguments I have heard here today then, if it were not for the United States Congress, not only this year but in past years, no one would be caring if those people were getting two bucks an hour. Mr. President, that is the kind of logic we are faced with. And I think it is important and incumbent upon us to help decent, honest, hardworking men and women, which were the terms used by our Governor so many years ago, to help out decent, honest, hardworking men and women in this Commonwealth and give them a living wage.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Bucks, Senator Heckler.

Senator HECKLER. Mr. President, I feel that the debate might be a little bit more focused and at least I would understand a little bit better what we are talking about if I could ask one or two questions of the offerer of the amendment.

The PRESIDENT. Senator Hughes, are you prepared to answer questions?

Senator HUGHES. Yes, Mr. President.

The PRESIDENT. Senator Heckler, you may proceed.

Senator HECKLER. Mr. President, I wonder, my understanding from some numbers that we have tried to run would be that the effect of the amendment, if adopted, would be to make the minimum wage about $6.60 an hour in Pennsylvania right now. Is that accurate?

Senator HUGHES. Mr. President, yes. According to the most recent figures we have, 1995, that is basically the projection, as it would be on January 1, 1998. That is correct.

Senator HECKLER. Mr. President, 1990-what?

Senator HUGHES. Mr. President, 1998. That is when the amendment would go into effect.

Senator HECKLER. Okay, Mr. President. So the minimum wage would be what for the time being then? Let us say if we adopt this, you are saying the minimum wage would not change until 1998?

Senator HUGHES. Mr. President, it would follow the concurrent progress which is $4.75 now. And on September 1, 1997, it will be $5.15, and then on January 1, 1998, it would go up.

Senator HECKLER. Mr. President, and that would be about $6.50, based on present numbers?

Senator HUGHES. Mr. President, yes. That is correct.

Senator HECKLER. Mr. President, and then continue to escalate thereafter based on--

Senator HUGHES. Mr. President, every year it would stay at half the average hourly rate for working Pennsylvanians. Half, 50 percent of that.

Senator HECKLER. Mr. President, of the average statewide weekly wage?

Senator HUGHES. Mr. President, that is correct.

Senator HECKLER. Thank you very much, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Mr. President, would the gentleman from Philadelphia, Senator Hughes, stand for interrogation.

The PRESIDENT. Senator Hughes, would you stand for interrogation?

Senator HUGHES. Yes, Mr. President.

The PRESIDENT. Senator Brightbill, you may proceed.

Senator BRIGHTBILL. Mr. President, it may surprise you, but from the conservative area in which I live and work, I have had very, very few complaints about the increase of the Federal minimum wage from $4.25 an hour to $4.75 an hour, eventually then to $5.15.

However, I did have one complaint, and it was made by a man who was a father and a grandfather and he approached me, if my recollection is correct, in the barber shop. He said, you know, Chip, I know you have nothing to do with this, but my son and my daughter-in-law both work, and they have day care and they have about 40 hours of day care a week, and he said, as a young working couple with a mortgage and trying to establish a family, they have lots of expenses. And he said, with this increase in the minimum wage, they have now received a notice from their day care center that in order for the day care workers to receive minimum wage, they are going to have to pay another 50 or 75 cents an hour, another $25, $30, $40 a week, and frankly, Chip, he said, they just do not have it.

And I thought about this man when in the debate the gentleman talked about the ability for someone who is earning $4.75 or $5.15 to pay day care, and I know the minimum wage, in my judgment, has always been the starting wage. I have three sons. I do not want any of them to always work for minimum wage, but I do not want any of them to start working for $10 an hour. I want them to start and I want them to appreciate that $4, $5, or $6 an hour before they make $8, $10, or $15 an hour. And I have a son who is 25 who is making pretty darn good money now. But he worked for minimum wage about 7 or 8 years ago.

But I am going to have to go back and when I see that guy in the barbershop he is going to say to me, hey, you know, if that Senator Hughes's amendment passes, my son and his wife, my daughter-in-law, are going to have to pay $100 a week extra for child care, $100 a week. That is two bucks an hour. And is my math correct? I was not educated on the new math, so I think it is. Two bucks an hour, 40 hours a week, 80 bucks? And we are going from $4.25 to $6.65, so that would be $2.50 an hour, so we are looking at $100 a week.

Now, I would like to give the gentleman the opportunity here in this Senate Chamber so that he can see the gentleman on television explain to him why his son and daughter-in-law, who are working people, who have mortgages, who have all the expenses and do not have $100 a week, why they should pay another $100 a week for day care.

Senator HUGHES. Mr. President, I am trying to understand the financial equation here. Why would the increase at the day care center be of that magnitude when there are, my assumption is, a number of other children who are attending that day care center also? It is really difficult for day care workers who take care of our children, and I imagine most of the Members in here have had to send their kids or their grandkids to day care and know that a day care worker is only making minimum wage and that kind of income. I am glad that they get an increase. I wish we had a total economy that valued day care workers at a little bit higher level than we value some of the other senior level working people in this Commonwealth who are taking down hundreds of thousands of dollars in an annual salary and millions of dollars annually and choose not to invest in people who take care of our children.

Senator BRIGHTBILL. Mr. President, you mean like ballplayers?

Senator HUGHES. No, Mr. President. I mean like CEOs in this State who got a $284 million tax cut two budget cycles ago and took about 30,000 or so jobs out of this Commonwealth. I mean individuals like that. Individuals who should set up day care in their own corporations, but choose to run over to foreign countries and pay folks who are making all these goods that should be made in the Commonwealth, paying them about $1.25 an hour, $1.50 an hour. It seems to me, Mr. President, that it is okay to pay in this Commonwealth, in this country, folks who take care of our children, yours and mine and the guy who works in the barber shop, it seems that we can pay them $4.75 an hour. That seems to be okay. That is how we value them.

I do not think that is right, Mr. President, and I would suggest that we move down a path in this Commonwealth that creates an economic agenda so that people who take care of folks are paid in an appropriate fashion so that your barber's grandchildren can make a wage that is compensatory to what they contribute, and I am sure they are great contributing people. I am sure they are, Mr. President.

Senator BRIGHTBILL. Mr. President, I am sure that answer will satisfy him.

The PRESIDENT. The Chair appreciates that remark.

Senator BRIGHTBILL. Mr. President, I would just like to add that the fact that there are CEOs in this country or elsewhere who make a lot of money really has no bearing on what the minimum wage should be.

I once addressed a group of children, and when I say children, these were young people 16 to 18 years of age, and these were young people who engaged in the Youth in Government Program here in the Capitol, which is sponsored by the State YMCA, and I asked them this question, and this is exactly what I said. I said, I have this terrific suggestion for a bill, and what this suggestion will do is eliminate welfare and solve poverty and we are going to eliminate poor people. And I said, here is my suggestion, we are going to pass a minimum wage bill that will provide everyone with at least $10 an hour. What do you think of that?

And the hands went up and the kids could hardly contain themselves, because they said, you cannot do that. You cannot legislate economics, you cannot legislate economic viability, and they understood that the Pennsylvania General Assembly cannot pass a minimum wage law and change the economic balance that is out there, except to the extent that we put it out of whack. We can drive it up and we can drive more of those jobs that the gentleman was referring to and getting excited about out of this country. Those kids understood that plain economic fact, that we cannot legislate prosperity.

The minimum wage that was established at the Federal level in the counties that I represent basically accurately reflects what the minimum wage is, and as long as it does that, it is fine. But once it goes beyond that point, then we are attempting to legislate prosperity, and we cannot do that. And the higher we try to make that wage and the more we try to do that, the more we are sending a signal to those same executives whom he seems to be angry about, take your jobs elsewhere. Government does not create jobs, private enterprise creates jobs. Private enterprise is driven today by the international economy. The international economy does not permit us to raise the minimum wage to $6.65 an hour.

Now, what are we really all about here? What is this debate really all about? You know, a couple of months ago the gentleman simply wanted to raise the minimum wage. He was happy to increase it to $4.75 or $5.15. What happened? Well, Congress did it and we have a law that automatically implements the Congressional minimum wage, so we did not have to do that. So now the gentleman is back up with another amendment. Does the gentleman really believe that by legislating a $6.65 an hour, a $2-an-hour increase, that we can legislate prosperity in the Commonwealth of Pennsylvania? And if he thinks that, why is he holding it to $6.65? Why is he not legislating $10 an hour? If you are going to legislate a little prosperity, why not legislate a lot of prosperity?

Mr. President, I ask for a negative vote.

Senator HUGHES. Mr. President, the gentleman asked me a question.

The PRESIDENT. Senator Brightbill has the floor.

Senator HUGHES. Mr. President, he asked me a question. I thought I was here for interrogation.

The PRESIDENT. No, I do not believe he did. The Chair does observe these things. He was not asking a question. I think he is about to finish his remarks.

Senator BRIGHTBILL. Mr. President, that is correct. Mr. President, I asked for a negative note.

I wish, I wish as a legislator life would be so simple that I could come up here and cast a vote and make everybody in Pennsylvania more prosperous, and I am certain that everybody else in this Chamber wishes that, too. And the simple fact is that we cannot do that, and we cannot do that in a national economy and we cannot do that in an international economy, and that is why it took Congress a number of months to come to the balance that they came to of $4.75 and $5.15. If it was so simple, why did they just not go to $5.15?

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Hughes.

Senator HUGHES. Thank you, Mr. President.

POINT OF ORDER

Senator LOEPER. Point of order, Mr. President.

The PRESIDENT. The gentleman will state his point.

Senator LOEPER. Mr. President, I believe that this is the third time the gentleman is speaking on this same issue.

Senator BODACK. Mr. President.

The PRESIDENT. Senator Armstrong is about to comment, Senator Bodack.

Senator BODACK. Mr. President, the gentleman from Philadelphia has the floor.

The PRESIDENT. The Chair has spoken, Senator Bodack. Senator Armstrong is about to comment.

Senator BODACK. The gentleman from Philadelphia has the floor.

The PRESIDENT. The Chair will recognize you in a moment.

Senator BODACK. Mr. President, why would you stifle our Member?

The PRESIDENT. The Chair is losing his patience. Senator Armstrong has the floor.

Senator FUMO. The Chair should not lose his patience. That is why he is the Chair. Calm down.

The PRESIDENT. The Chair recognizes the gentleman from Lancaster, Senator Armstrong.

Senator ARMSTRONG. Mr. President, I am always amazed that the Democrats say they are the party of compassion. They are compassionate with someone else's money. Is government supposed to be compassionate or is the government supposed to be fair? I think the people in this country want a government that is fair. The gentleman from Philadelphia, Senator Fumo, I think has a bill dealing with government mandates, that we should not be mandating things on local governments or on the people. This is probably, I do not know how much this is, but well over a $100 million mandate in the Commonwealth of Pennsylvania, probably the largest mandate we have ever had, but yet he is against putting government mandates down to the local level. To me, it is very hypocritical, and I urge a negative vote.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Bodack.

Senator BODACK. Mr. President, I would ask to interrogate the gentleman from Philadelphia, Senator Hughes.

The PRESIDENT. Senator Hughes, do you stand for interrogation?

Senator BODACK. Thank you, Mr. President.

The PRESIDENT. Senator Bodack, carry on.

Senator BODACK. Mr. President, a short while ago the gentleman was asked a question by the gentleman on the other side who implied that the $100 difference that he is talking about in excessive moneys to go for child care is coming in one piece to someone as $100, and I wonder if the gentleman could clarify that as the question he was asked by the previous speaker?

The PRESIDENT. Do you want to restate your question for Senator Hughes?

Senator HUGHES. Mr. President, the question was asked of me around the issue of cost of child care, and what I want to be real clear in is that a child care worker does not take care of, in a normal day care setting, one child. They take care of maybe a minimum of four children. The cost of an increase in the minimum wage would be shared by, shall we say, that child care worker is taking care of four children, that cost would be shared by four, maybe six, maybe seven different families. So as that child care worker has the opportunity to benefit from an increase in minimum wage, that cost is shared by not just one family, it is not a one-to-one ratio, it is shared by several families. The costs are spread out.

And as to the other question that was raised around the issue of the State determining issues of prosperity, it is also clear that this State regulates economic prosperity on a daily basis. We regulate the price of milk in this Commonwealth, Mr. President. We regulate taxes in this Commonwealth, Mr. President. We regulate contracts as to who gets paid to do State work and who does not get paid and the amount of those contracts. We are in the business it seems, unfortunately, Mr. President, in the last 2 years of--

POINT OF ORDER

Senator LOEPER. Point of order, Mr. President.

The PRESIDENT. The gentleman will state his point.

Senator LOEPER. Mr. President, I believe that the gentleman is being interrogated by the gentleman from Allegheny, Senator Bodack, and I believe that the answer to Senator Bodack's question is being dilatory at this point and I would ask for a more direct interrogation.

Senator BODACK. Mr. President, the gentleman that I am querying has not fully answered my question. Now, the question was stated very clearly. He is in the process of getting to the point that I want to become more knowledgeable about, and I am being shut out by the other side of the aisle again.

The PRESIDENT. The Chair believes it to be dilatory and that stands as its judgment.

Senator Hughes, finish up.

Senator HUGHES. Mr. President, to respond, and I will come to closure here, the costs of the day care situation are borne by a number of families for that one worker. This State does regulate prosperity - we regulate prices, we regulate contracts, we regulate a number of issues - and consequently the issue of targeting the wages of Pennsylvania's workers, this increase that was called for is an increase to get back to the original standard of the reason why the minimum wage was put in place, to get workers to 50 percent of the average hourly wage of this Commonwealth. The minimum wage used to be at that level. It has dropped down since then to about 35, 36, 37 percent. This amendment is to bring workers up to parity. That is the answer to the interrogation. That is why we are asking for support for this amendment.

Senator BODACK. Mr. President, the gentleman referred to the Milk Marketing Board as maintaining inflated prices from the cow's udder to the baby's mouth. I would wonder how that would impact upon the $4.25 an hour minimum wage worker who must now pay inflated prices to feed their babies.

Senator HUGHES. Mr. President, well, the worker with an increase in their wage to a livable wage would be able to respond, would be in a better position to respond to any other increases that may occur in milk, in bread, or in cereal, or whatever, in the cost of clothing, the cost of soap, toothpaste, other expenses that worker has to respond to. The difference here, Mr. President, from what they are trying to do, what they have done in Congress is not a livable wage. We want to be progressive in our thoughts in how we need to treat working people and to get them to a livable wage. It is my submission, as I have submitted for years now, that $4.75 an hour is not a livable wage. It is clearly a minimum wage. It is not a livable wage, however.

Senator BODACK. Mr. President, I thank the gentleman.

One comment that I do have, though, and especially for the visitors who visit the Senate of Pennsylvania and for people who are looking in on what we do here from time to time, it would seem that our most spirited debates come when there is a question of money involved here that the Commonwealth must expend or that someone must expend, such as the $4.25 minimum wage, but, you know, I do not recall such a spirited debate when we raised ourselves $12,000 during the same week that we voted against the increase to $4.25 for our people in the Commonwealth who needed additional funds.

Thank you, Mr. President.

LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Fumo.

Senator FUMO. Mr. President, I request a temporary Capitol leave for Senator Williams, who has been called to his office.

The PRESIDENT. Senator Fumo requests a temporary Capitol leave for Senator Williams. That leave is granted.

The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, I request a legislative leave for Senator Gerlach.

The PRESIDENT. Senator Loeper requests a legislative leave for Senator Gerlach, and that leave is granted.

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

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

YEAS—19

Afflerbach	Hughes	O'Pake	Stout
Belan	Kasunic	Porterfield	Tartaglione
Bodack	LaValle	Schwartz	Wagner
Costa	Mellow	Stapleton	Williams
Fumo	Musto	Stewart	

NAYS—29

Armstrong	Hart	Madigan	Salvatore
Bell	Heckler	Mowery	Shaffer
Brightbill	Helfrick	Peterson	Thompson
Corman	Holl	Piccola	Tilghman
Delp	Jubelirer	Punt	Tomlinson
Fisher	Lemmond	Rhoades	Uliana
Gerlach	Loeper	Robbins	Wenger
Greenleaf			

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

And the question recurring,
Will the Senate agree to the bill on third consideration?

BODACK AMENDMENT A6432

Senator BODACK offered the following amendment No. A6432:

Amend Title, page 1, line 3, by removing the period after "practices" and inserting: ; and prohibiting certain electronic terminal fee assessments.

Amend Bill, page 6, by inserting between lines 14 and 15:

Section 2. Title 18 is amended by adding a section to read:

§ 7330. Electronic terminal fee assessment prohibited.

(a) General rule.—It shall be unlawful to assess an electronic terminal fee against the consumer conducting a transaction at an electronic terminal if the transaction does not relate to or affect an account held by the consumer with the financial institution that is the owner, operator or lessee of the electronic terminal.

(b) Enforcement.—A violation of this section by a financial institution shall constitute a summary offense and in addition shall be punishable by a fine of not more than $100 per assessment.

(c) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Electronic fund transfer." A transfer of funds, other than a transaction originated by check, draft or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer or magnetic tape so as to order, instruct or authorize a financial institution to debit or credit an account. The term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, direct deposits or withdrawals of funds and transfers initiated by telephone. The term does not include any of the following:

(1) A check guarantee or authorization service which does not directly result in a debit or credit to a consumer's account.

(2) A transfer of funds, other than those processed by automated clearinghouse, made by a financial institution on behalf of a consumer by means of a service that transfers funds held at either Federal Reserve banks or other depository institutions and which is not designed primarily to transfer funds on behalf of a consumer.

(3) A transaction the primary purpose of which is the purchase or sale of securities or commodities through a broker-dealer registered with or regulated by the Securities and Exchange Commission.

(4) An automatic transfer from a savings account to a demand deposit account pursuant to an agreement between a consumer and a financial institution for the purpose of covering an overdraft or maintaining an agreed-upon minimum balance in the consumer's demand deposit account.

(5) A transfer of funds which is initiated by a telephone conversation between a consumer and an officer or employee of a financial institution which is not pursuant to a prearranged plan and under which periodic or recurring transfers are not contemplated.

"Electronic terminal." An electronic device, other than a telephone operated by a consumer, through which a consumer may initiate an electronic fund transfer. The term includes, but is not limited to, point-of-sale terminals, automated teller machines and cash dispensing machines.

"Financial institution." A bank, bank and trust company, savings bank, private bank, credit union, national bank, national bank and trust company, national savings bank or national credit union.

Amend Sec. 2, page 6, line 15, by striking out "2" and inserting: 3

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

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Bodack.

Senator BODACK. Mr. President, this amendment amends a Title 18 bill to make it a summary offense for a bank to impose a surcharge on people using the bank's ATM machine if they are customers of another bank. It is a summary offense, and it would be punishable by $100 per assessment, and I would like to point out that the definitions in this amendment are identical to Federal law. This all comes about, Mr. President, because during the summer months it was called for by Mellon National Bank in Pittsburgh and also Pittsburgh National Bank to increase the surcharge and place a double charge on the consumers who use ATM machines by simply raising their charges for people who use the ATM machines who are not members of PNC or Mellon, whose machines they might be using.

Mr. President, there is no question that this is a double charge, because the banks already receive what is called a network interchange fee in order to process an ATM transaction with a customer from another bank. The ATM surcharge, I submit, is unfair. It is excessive, it is profit padding, and it is a double hit on the consumers' ability to access his or her money.

Now, Mr. President, at this point, I would like to point out to all of the Members of this Chamber that I am not opposed to the banks or the banking industry in the Commonwealth of Pennsylvania, or anyplace else in this country, from securing a profit for their doing business. I happen to be a firm believer that money is the lifeblood of any business, and businesses, therefore, are entitled to make a profit. But this surcharge, Mr. President, comes at a time when the smaller, independent banks, even though they are making money as are the larger banks, it does undermine the competition that they present to the larger banks, especially here in the Commonwealth. Be-

cause PNC and Mellon Bank own the greatest number of ATM machines, it poses a serious threat to the continued existence of a fair, free, and competitive marketplace for banking services. In effect, what the large banks are doing with this ATM charge is telling consumers that they will have to become their customers if they want to avoid excessive fees and still have access to most ATMs.

Mr. President, there is a problem with that. There is a very serious problem with that, because without competition, I do not think many people would get much of a fair shake out of the banking industry, even though I agree they are entitled to make a profit, they are entitled to make money. What we have seen since the passage of Senate Bill No. 863 are a lot of excessive fees that have been generated by bankers. What we have here is we are looking at a situation where 3 years or so ago there were 96 fees that a bank could charge customers. Mr. President, I submit to you that today that number of 96 fees that a bank charges has grown to in excess of 250. Yes, 250 service fees that did not exist 10 or 20 years ago, or even as long as 5 years ago.

Now, Mr. President, I do not think I have to remind the people in this Chamber of the conditions that existed in the banking industry 60-some years ago when most of these laws were passed. As I stated at the time Senate Bill No. 863 was passed, this did not come about because of some hot-shot legislator or legislators who were saying, boy, we are going to make it up with the public, we are going to stop the banks from doing this. No, Mr. President, it was done because it was necessary to do it. I would remind you also that in those days they came up with an act in Congress that was called the Glass-Steagall Act, which precluded banks from doing business on Wall Street as far as stocks and bonds were concerned. Now, that was not an idle thing, Mr. President. I think it is well documented that because of the greed of the banking business in those days in the 1920s, going into the 1930s, that we suffered and most of the people in this country suffered some extremely dire consequences because of some of the banking shenanigans that took place then.

When I talk to a banker today and I make those suggestions to the people from the banking industry, they simply say to me, well, gee, you know what? We have a higher caliber person running the banks today. They will not do this. They will not allow their greed to run away with them. All they want is a fair profit. Well, I say to you that of the $48 billion profit that was made last year by the banking industry, they only increased it. That was in the second quarter of last year. They increased that profit this year by $4.8 billion. I do not know what greed is. I do not know by what color you call greed. In this case, it is becoming increasingly obvious that it is a shade of green.

Now, Mr. President, we owe our constituents something for coming down here and playing this game of Senator. We owe the people of this Commonwealth a fair shake. I do not want to stop banks from making money. But I want to tell you about a situation that happened to a friend of mine, a lawyer in the city of Pittsburgh, an intelligent man -- most lawyers here would probably readily agree that lawyers are intelligent. This gentleman was going to teach his son a lesson. He sent him away to college and he said to him, son, I am giving you this piece of plastic and you can use the ATM machine, but you are going to learn how to handle your money. You are not going to spend more than $15 a day and you are going to have to learn how to live on $15 a day. Now, what I want to you do, son, is when you get up in the morning or when you are in the vicinity of an ATM machine, you can draw out your $15. However, you cannot make another withdrawal until tomorrow. Now, you can do your $15 a day on a weekly basis, no problem with that. You will learn a lot by this lesson. Well, Mr. President, in talking with this gentleman who sent me a letter, he has learned his lesson and he has learned it well. For that month he got 30 ATM charges. He got 30 fees assessed on him by the bank, and he said, my kid did not learn a lesson, I am the guy who learned the lesson. How long is this going to go on?

We have a situation in which I do not think there is a person in this room or in the back of the room or in that audience up above who relishes the fact of going to an ATM machine and making a simple withdrawal of $10 or $15 or $20 and when they get their monthly billing they see that they have been charged $1.34 or $1.50, or in the case of Philadelphia, in excess of $2 for a $20 transaction. It does not take a mental marvel to figure out that they are being charged on an annual basis in the neighborhood of 25 to 50 percent, equated along interest rate lines, for the privilege of withdrawing their own money.

Now, the bank uses that money for whatever period of time it is in there. I do not know what the ratio is now. It is probably in the neighborhood of 4 to 1, 5 to 1 of what the deposits are. But we find ourselves in a situation that for all the money that is invested or deposited in that bank for safekeeping, the banks are making money on it and they are making money on it at the rate of at least three to four times what the various interest rates are.

I ask at what point is enough? At what point does this become greed? It is not fair, it is not fair for the people in this Commonwealth, however well-healed or however little they have to deposit. You know, most of my constituents feel that if they get the money out of their pocket and place it in that safekeeping with the bank, to be drawn out in $10 and $15 amounts, that will help them to contain themselves from spending excessive money out of their meager salaries or moneys coming in. This surcharge, I would say, exemplifies pure profit-motivated greed.

I am sure that you will all agree in this Chamber that when the ATM machines went into effect we were told by the bankers in this great Commonwealth and country that it was cheaper to access an ATM machine by at least one-third of the cost to the bank as going in and talking with a real live teller. We have banks right now that are charging as much as 50 cents as a fee to talk to a person in that bank to make a deposit. To deposit their own money, to withdraw their own money, to talk to that person, to make that transaction, it is costing them money. This is a disgrace, and it is a greater disgrace if we allow it to continue.

We could put a stop to this. We could help our constituents all over. I have letters and I am receiving letters from all over this Commonwealth these days. This surcharge ban is supported by many, many small banks and credit unions across this Commonwealth. We have independent banks in each one of our senatorial districts that are vociferously opposed to this additional charge, this surcharge by the big banks. They view it as an attempt to put them out of business. It is an attempt to put them out of business, Mr. President, because when one calls the bank that assessed the fee, I am sure they will tell the customer, if you belonged to our bank it would not have cost you anything. Now, there is in existence a 34-cent charge that goes between banks. Most banks, most of the independent bankers who do some banking with a heart pick up those costs themselves. They do not assess that cost to their good customer, for whom it takes a heck of a lot of work to go out and earn, should they lose a customer.

I have letters from a couple of banks, credit unions in my district. I think one of the most important ones, Mr. President, is the one that I received from the Pennsylvania Credit Union League from 4309 North Front Street here in Harrisburg. I will tell you all that they represent 900 credit unions in the Commonwealth of Pennsylvania. They have 3 million members, and they totally agree that this is an attempt by the big banks to put them out of business. They say to me, and this letter comes from Mr. Jim McCormack, President and CEO of the Pennsylvania Credit Union League, "As you know, the Board of Directors of the Pennsylvania Credit Union League has taken the firm position of supporting both state and federal legislation that bans ATM surcharging." Now, I am sure that we all have some credit unions in our district that we would like to at least tout to them that we are friends of theirs. He goes on to say, "Because of the Board's decision, the Pennsylvania Credit Union League supports SB 1651"--a bill which I introduced into the Committee on Banking that has yet to see the light of day--"and any other state or federal legislation that bans this practice. In our opinion," he goes on further to state, "this is a consumer issue and not a partisan one." This does not go across Democratic and Republican lines.

"There is no reason for surcharging, except to generate extra income and to force consumers into using large banks as their primary institution. Institutions with ATM machines already earn income from other financial institutions when the other institution's customers use the ATM machine. This practice is called a foreign transaction fee. The ATM surcharge is an additional source of income that is aimed directly at the consumer and is above and beyond any reasonable expense the institution might incur.

"Large banks with ATM machines can make it costly for Pennsylvania's consumers to do business anywhere else. By assessing $1.50 or more anytime a consumer makes a transaction, the consumer begins to realize it's probably cheaper to just move his"--or her--"accounts to the larger bank. This practice will seriously hurt both credit unions and small banks alike. And at a time when large banks are withdrawing from the urban and rural areas of the state because it is not profitable enough, the very last thing we should be doing is reducing competition.

"Pennsylvania's credit unions have refrained from surcharging, even though it would be in the credit union's own best interest to do so. Nationally, 86 percent of credit unions owning ATM machines don't surcharge and only 3 percent are considering the move next year. This should demonstrate that credit unions truly have the consumers' interest at heart."

And my letters from independent bankers, one from Columbia County Farmers National Bank in Bloomsburg, one from my district, the Allegheny Valley Bank in Pittsburgh, another from the Stanton Federal Savings and Loan, all encourage passage of this bill to stop this additional surcharge.

Today, October 1, this is a great day in banking history, because in addition to these surcharges that we are being taken for by the banks of Pennsylvania, Mr. Mac of MAC machines has just come out with an additional 5 cent surcharge per transaction to take place beginning today. You might wonder where it is going to stop. But I say to you, you have a red-hot issue here, you have a red-hot problem, and your constituents are not going to sit still if you allow the banking industry to take them over the coals.

From around the State, we hear from the Scranton Times in the 7-27-96 editorial in support of our surcharge ban. It said the surcharge fees by the big banks are "anti-competitive consumer rip-offs." That is what the newspaper said. They went on to suggest that our proposal to prohibit the double charge on ATMs is a matter of "common sense" that should eagerly "be embraced on both sides of the aisle in Harrisburg to protect consumers from fee-gouging banks." And from the York Daily Record, in an 8-9-96 editorial, they said that the new surcharge has "caused some to say 'enough is enough'. Count us among them." The York Daily Record says, "Let the ATM owners get away with this," the York Daily Record adds "and next year they might tack on a fee for the paper the ATMs spit out reporting your transaction."

All of this, Mr. President, are fees that are charged to us for taking our own money out. Claude Lewis, this is a very good one, from the Philadelphia Inquirer, wrote back on July 31, and I am quoting, "For all the gold being passed out at the 1996 Olympics, none of it compares with the gold being raked in by America's banking institutions." In critiquing the ATM surcharge, Mr. Lewis quotes from a conversation that he had with a Philadelphia area physical therapist by the name of Mary Sandone. Mary Sandone's comments, I believe, are worth repeating. She said, and I quote from his column, "Using ATM machines often has an unreal quality about it. I don't especially like carrying cash with me, so I rely on the machines. But banks are getting ridiculous in how much they charge me for using my own money. I don't like carrying a lot of cash. But soon it may be cheaper to risk being robbed than to be assured I'll be robbed by my own bank." End of quote. And perhaps, Mr. President, that helps to explain why Jay Leno's new description of an ATM machine is simply an "automatic thief machine."

Mr. President, I know the banking industry does not look as favorably upon we Democrats as it does upon the Republicans in this Chamber. I am not going to quote campaign contributions that are made because I do not think it would be fair to do that. I think we have a lot of gentlemen and gentlewomen in this body who know how to receive a campaign contribution, but do not be surprised if that does not enter into the equation at some point by someone on the reporting of what we are doing with the ATM machine fees. Mr. President, there is a ratio of 5 to 1 in those figures that are being ballyhooed around the halls of the Capitol here. I submit to you, once again, this all comes at a time of the greatest profits that are being taken in by the banks in this country in the history not only of this country but of the world.

Mr. President, we must help our constituents. We are asking for help. You can do it on the other side of the aisle, and if you do not do it, there are a lot of people who live around you who are going to say, shame on you.

I thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, there are probably a lot of things that we ought to be regulating in Pennsylvania and, golly, we certainly seem to be doing a heck of a lot of that, but when we are talking about the banking industry and ATM machines, I think maybe we are overstretching our responsibilities.

Just in talking about this today with some of my colleagues at lunch, we were talking about how at the bank where I have a checking account, if I use an ATM machine and I use it in their banks, there is no charge. If I use the machine here in our building, they have a dollar charge, and I have to decide whether, gee, that is worth it so I do not have to carry cash with me and I can get some cash out of the machine here, and make that kind of a decision or maybe not use the machine at all. I found out also from one of my friends that his bank only charges 50 cents for using an ATM machine from a foreign bank, and so, gee, there are some options. I can even switch my account to a different bank, one that only charges 50 cents, and lo and behold, one of my other colleagues who is a Senator here revealed that in his community there is no charge. They do not make a charge when you use an ATM machine from a foreign bank. Apparently his bank decides to eat the difference and not charge their customers.

I do not know about where everybody else lives, but where I live in Centre County I think there are eight banking institutions that I can choose from and I can decide, if I want, to look around at all of them and ask do you charge for ATM usage from a foreign machine? And I will bet some of them probably do not and some of them probably do, and as a consumer I should make that kind of decision. I know some banks at home charge for checks, and maybe we ought to amend this bill to say you also cannot charge for checks, but I do not think we really ought to do that. Some banks charge for checks, some banks advertise in the paper that their checks are free, and that is what private enterprise is all about. You try to attract customers to your institution by providing enticements to bring them there.

Now, if an ATM charge is getting abusive and it is a negative kind of thing, then I do not know why the constituents of the gentleman from Allegheny, Senator Bodack, do not change their banks. Certainly there is not yet only one single bank in the Commonwealth of Pennsylvania, even though every year there seem to be fewer. I think most communities do have an option for people to shop around. I really think that we as leaders in our communities ought to be encouraging people to shop around and not to be done-in by their own single institution, and certainly all institutions want all their customers to believe they are the only one that can be their bank or be their insurance agent or be their person who sells them appliances. But if we shop around, I bet we can find we can do a better job in purchasing insurance at a lesser price, getting appliances at a lesser price, and maybe even doing banking at a lesser fee if we check around on our own.

I do not think we should be passing a law that says you cannot charge any more than X for an appliance or for insurance, nor do I think we should pass a law that says you cannot charge for ATM machines. That is another charge that that bank makes, and then I as a consumer make a decision, do I want to do business with that bank or shop around and find some other bank that will not make the charge?

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Belan.

Senator BELAN. Mr. President, that is exactly what we are talking about. The gentleman from Centre, Senator Corman, just said it. That is what we are talking about.

Mr. President, I rise in support of the amendment offered by the gentleman from Allegheny, Senator Bodack, today, which would basically prohibit the practice of surcharging ATM transactions. And, Mr. President, just yesterday I offered some extended comments relative to this proposal. At that time I said I thought that the surcharge was and is anticonsumer and anticompetitive. At that time I pointed out that the cost of an ATM transaction was already covered by an interchange fee, and that any other charge on top of the fee was in the form of bank profiteering. With the interchange fee, the banks who own the machines are made whole. No one loses. That is until we get into the penalties and surcharges that the big banks impose on their own customers and the customers of other banks who use their machines.

Mr. President, simply put, no one should be charged two or three times for the same service, especially after you have already paid for it once. You and I would scream to high heaven and back if we were charged twice by an appliance repairman for fixing our stove. We would scream just as loud if our dry cleaning charge was three times as much as we would ordinarily pay, and it goes on and on. No one would sit back and say it was okay that the consumer is charged twice when they buy clothes or a hamburger or a ticket to a baseball game. We would say that kind of thing is just plain asinine and refuse to pay.

And in many cases these kinds of cases are luxuries. Banking is not, Mr. President. We need a healthy banking system and competition in the banking community. We need banks to safeguard our money and lend it back so that we can invest and grow. Banks do that for us and get paid for it through their investing of our money. We should not be asked to pay for services from a bank twice. But sadly, Mr. President, if we fail to pass a law that prevents double or triple charging of ATM customers, then we are condoning this kind of anticonsumerism. We are asking the consumer to pay twice, something that we would never do, and that is just not fair.

Federal law has said to States if you can help the consumer with more stringent laws, then go ahead and pass them. We have the opportunity, Mr. President, to do that today. ATM surcharging is all about big banks preying on small banks, just as we heard from our prior speaker about the credit unions, and the consumers. They realize that if they can get away with charging us twice, then they can virtually get away with anything. And, Mr. President, if big banks are able to continue the kind of behavior and force small bank customers to join their banks and face enormous financial penalties, the end result would be even more fees and less competition. The small banks and the consumer will have no choice but to close and surrender.

And, Mr. President, we should adopt this amendment, prohibit the consumer double charge and stop banks from bilking the consumer. It is not the banks' money, it is yours and mine and our constituents'. They work hard for their earned dollars, but that is what we are talking about here today. And, Mr. President, as the gentleman from Allegheny, Senator Fisher, stated in Senate Bill No. 1315, this is a consumer bill. It talks about fraudulent, deceptive acts.

I just heard a word from a good friend, the gentleman from Lancaster, Senator Armstrong, about being fair. Well, let us do that. Let us be fair with our consumers. If you are interested in helping the consumers of Pennsylvania, Mr. President, let us be fair. And what is right is right. Let us vote for this amendment and bring some sanity back into banking. Mr. President, I ask for an affirmative vote on this amendment.

Thank you very much, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, I rise to oppose the amendment before us, and I believe there are a number of reasons that it would be imprudent for us to act and affirmatively adopt this amendment at this time today. Particularly I think in some of the debate that we have listened to this evening, we heard the gentleman from Allegheny quote some various papers as far as the proposal that he has put forth here.

I also would like to just take the opportunity very briefly to also quote some of the editorials, particularly from western Pennsylvania, relative to the proposal on the ATM surcharge. Particularly I guess, Mr. President, the Tribune Review, which I guess is from Greensburg, western Pennsylvania, which basically says, there is no need to legislate what you can walk away from, and indeed in our region you can still find banking institutions that offer no fee use of ATM and tellers. The Valley News Dispatch again says, "It's a little confusing and certainly irritating, but it is not a matter for additional state legislation. Consumers have more than enough ways to avoid paying the extra ATM fee without the help of the state.....Because consumers have plenty of options to avoid paying this new ATM fee, there's no need for the state to step in as protector of the consumer. So far, ATMs are a consumer convenience, and sometimes you have to pay for that convenience."

And finally, Mr. President, I would refer to the Pittsburgh Post-Gazette that essentially says, "Nonetheless, banks are free to capitalize on ATM investments they made, and customers and noncustomers are free to react. The best course of action for an aggrieved-ATM card devotee is to change his habits and use the card wisely....Legislators and regulators may well discuss how the surcharges fit into the full range of banking fees. But knee-jerk legislative responses are not helpful....It is probably not a wise move for legislators to leap headlong into the fray."

Mr. President, I quote those three editorials from three papers in western Pennsylvania because I think it reflects the timing of the consideration of the amendment before us today. I also thought it was interesting, Mr. President, that in the remarks earlier today of the gentleman from Allegheny, Senator Bodack, speaking about some of the larger banks and their acquisition of ATM machines, that the largest ATM holder of machines is not indeed the banks. In fact, the largest owner of ATMs is Electronic Data Systems, which just happens to be Ross Perot's old company, and is the supplier of those machines throughout the country.

I think it would be imprudent for us today in the Senate to consider this amendment, and, therefore, I would ask for a negative vote.

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Bell.

Senator BELL. Mr. President, very seldom do I differ with my colleague from Delaware County, but I am not too impressed with what an editor of a western Pennsylvania paper, who carries a lot of advertising from banks, has to say. I am only here as a representative of a quarter-million people, and I am thinking that the banks are watching this right now, and if this amendment goes down, that means a green light, stick it to them. On behalf of my quarter-million people, very few are bankers, I am going to vote with the gentleman from Allegheny, Senator Bodack.

The PRESIDENT. The Chair recognizes the gentleman from Schuylkill, Senator Rhoades.

Senator RHOADES. Mr. President, I rise to join my colleague from Delaware, Senator Bell. I remember about 10 years ago we talked about deregulating intrastate banking, and I thought we would see the demise of small banks. My community at one time had small banks, so you could go in and talk to the manager. You knew him and he knew you. Today you have become a number, and that is what you are, and if you do not have your number you do not have anything else. I only have two banks in my area and I did change because I was not satisfied with one and I went to the other, and then that one merged and I became just a number again.

And when I look at the fees and what is listed in here and when I listened to the gentleman from Allegheny, Senator Bodack, and he was talking from 90 to over 200, I began to say, now, wait a minute, what is it? I was even sent a card from my one bank that I did not even request and they charged me $1 a month just to have the card that I never used. I think it has gone too far and it is way out of line.

And I wish I did have Centre County. And I will tell you that if I were a banker with 8 banks in there and 40,000 students using them and the dollars they were getting out of it, it is a smart move. But by the same token, I also have a problem of banks giving plastic to kids going to college who do not have jobs and do not have a basis for them, who run up large accounts and then have a heck of a time paying it off or else the parents have to pay for it. I really have some problems with that in terms of other people who go in and have jobs and cannot get credit to buy new homes.

This past Sunday the Reading Eagle out of Berks County ran an article on this. One of the things they mentioned was checking. I think they were referring to the new banking system coming through. If you have an overdraft, it was $22, $25, and now it is $30. And yet in that article they reported that it costs about $1.50 to run that thing through to correct what occurs. So I asked about the difference of the $1.50 to the $30, just how do we explain that? How do I tell my consumers they have to keep paying that? Balance your accounts all the time, fine. But let he who is without fault throw the first stone.

I truthfully think this amendment is really the bell for which we will toll, because there are going to be many more amendments and actions to look at and address this entire issue of over 200 charges and how fair they really are to the consumers whose moneys are in that bank.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Bodack.

Senator BODACK. Mr. President, first of all, I would like to thank my colleagues, the gentleman from Schuylkill, Senator Rhoades, and the gentleman from Delaware, Senator Bell, for their kind words towards the action on this bill. I would suggest to Senator Rhoades that the number that he keeps referring to as 200 charges is, as we speak, in excess of 250 charges. I say to the gentleman that we are already there.

I would like to thank the gentleman from Centre, Senator Corman, for making my point precisely on this ATM charge. I think he proved a point when he suggested that people can simply go to another bank. That is exactly what this legislation is to protect us from, from going to another bank that owns the ATM machine that is making these excessive charges, because if they belonged to that bank they would not be charged those fees.

Just think about it, Mr. President, just think about what we are going to be in here talking about when it comes to the antitrust laws in the Commonwealth of Pennsylvania. Just think about what we are going to be talking about when our consumers are going to be down here wanting to skin us and pull the hair out of our heads for what we are doing to their pocketbooks, in addition to what has already been done to their pocketbooks by us.

Mr. President, I would like to query my counterpart on the other side, the Majority Leader, for a moment, if I may.

The PRESIDENT. Will the gentleman from Delaware, Senator Loeper, submit to interrogation?

Senator LOEPER. I will, Mr. President.

The PRESIDENT. Senator Bodack, carry on.

Senator BODACK. Mr. President, the gentleman has referred to the largest owner of the ATM machines, I guess in the country, one Ross Perot. I would like to ask the gentleman if that is the same Ross Perot who owned and sold for a few billion dollars back to General Motors a computer company with which the Republican Caucus in this Senate negotiated for their computer services?

The PRESIDENT. I guess there is a valid question here.

Senator Loeper.

Senator LOEPER. Mr. President, I think if the gentleman would review the statement that I made on the floor, I said that EDS was Ross Perot's old company. The company has been sold, I assume, by Mr. Perot. Maybe that has given him the resources for the infomercials.

Senator BODACK. Mr. President, I would ask for a clarification from the gentleman, because I happen to know for a fact that H. Ross Perot owned the EDS Computer Services at the time, 6 or 7 or 8 years ago, when the Republican Caucus was negotiating with that firm for what was then to be a $7 million contract that I stood up and opposed, and I had leaders from the other side of the aisle visit our caucus room because it was an exorbitant sum of money. I still think it is an exorbitant sum of money, and we have come to a parting of the ways as far as operating the computers. We have our own system on the Democratic side. Is that not the same firm?

The PRESIDENT. Senator Loeper, I am going to ask you to answer quickly because we are talking about ATM fees, I believe.

Senator LOEPER. Yes, Mr. President. Quite frankly, I am not aware of the contract, the company, or the total amount of it, but I am not aware how that relates to the ATM fee legislation that is before us.

The PRESIDENT. Senator Bodack, I think we are on the verge of dealing with the amendment. Any more questions of Senator Loeper?

Senator BODACK. Yes, I do, Mr. President.

The PRESIDENT. Concerning the ATM fees?

Senator BODACK. I would appreciate it if I would have the permission to--

The PRESIDENT. Concerning the ATM fees?

Senator BODACK. Pardon me, Mr. President?

The PRESIDENT. The Chair is going to encourage you to continue if it is germane to ATM fees. If not, then let us move on.

Senator BODACK. Mr. President, it is not I who brought up the name of H. Ross Perot. It is not I who brought up the name of EDS. It is not I who pointed that gentlemen out as the owner of the EDS firm with which the Republican Party was

doing business for their computers in this Senate. I asked the gentleman, and I respect the fact that he may not remember. I respect that. I have no problem with that because we are all getting older, even Senator Loeper. But, Mr. President, I would ask the gentleman, is it a fact that they did business with EDS for their computer services?

Senator LOEPER. Mr. President, once again, I will answer the gentleman's question to the best recollection I have. However, I believe the question is far afield from the issue that is before the Senate, and that is the amendment dealing with the ATM fees. As far as EDS as a contractor in the Senate of Pennsylvania, that very well may have occurred some years ago. As to what that contract was, the scope of it, or the cost of it, I am not aware of those amounts.

Senator BODACK. Mr. President, it is obvious to me that I am not going to get an answer.

The PRESIDENT. Senator Bodack, the Chair is going to ask you to return to the central question, ATM fees.

Senator BODACK. Okay, Mr. President, I am not going to ask that again. I am not going to ask those questions. I want it made a part of the record that I did not bring up the name of H. Ross Perot or the EDS firm.

The PRESIDENT. Okay, that is fair enough.

On the amendment.

Senator BODACK. I am not finished, Mr. President. Do you want to shut my microphone off?

The PRESIDENT. Without objection, you can comment a third time. If not, the Chair will call the question.

Senator BODACK. Mr. President, this is the second time that I am on my feet for this debate. This is the second time I have the microphone, and I am not yielding it to the chairman or to the gentleman across the aisle, nor to you, Mr. President.

Mr. President, I have concluded my interrogation. I will not ask the gentleman anything further on that subject. I will be here another day, which may be tomorrow, and present those figures and the companies and people involved. But, Mr. President, I think that we are approaching a very fine line here between what is good for the banking industry, what is good for the consumers of the Commonwealth, and also what is good for some other purveyors who have done business with us. If I am wrong, I will wait.

Mr. President, this is an extremely serious issue. We argued from the other side about a minimum wage. We argued about how much it takes for people to live. We have additional charges being imposed upon our people, which I and many other Members of this body and many, many, many members of our constituencies across this great Commonwealth agree borders on usury, if equated with the interest rates that are charged by banks.

Mr. President, I submit one last appeal to the Members. The banking industry is no longer in the business of lending money and making interest. They are in the fee business. Now, I think that the gentleman from Allegheny, Senator Fisher, has made a valiant attempt to do something for the consumers of this Commonwealth. Specifically, as he stated in committee today, he is most concerned about seniors citizens in this Commonwealth. Why is it that we can be concerned about protecting senior citizens from telemarketers, but we are not concerned about what they pay at their local bank for the privilege of withdrawing their own money? These people came by their money the hard way. They worked most of their lives. They paid their taxes over the years. They have paid their bills. They have bought their real estate. They have established doing business with a specific banking institution. Why are we now, at this late date, going to say that all of these consumer corrections that we want to make are great, except let the banks charge them whatever they want?

Mr. President, I appeal to every Member of this Senate to please consider this bill. Think of your constituents, think of the small business, that bank, that independent banker. They may have a lot of money but it is still small compared to the PNCs and the Mellons of this State. Think of those people when you leave here after this vote. Talk to your independent bankers. Get their feel from it. We have it. We have satisfied ourselves that many, many small banks in this State feel that their businesses and their banks are being threatened.

Now, if you have any consideration for small businesses, do not forget that this country was built on the small banker. I can remember the days when you walked in the front door of your local banking institution, you asked for a mortgage and you walked out the back door with a commitment. Is that not funny? If any of you have gone for a mortgage in the last half-dozen or dozen years, you have missed that experience. Now it is a whole different ball game. There are all these fees and everything else involved. Well, a lot of those fees were necessary, and I submit that there are a lot of these fees today that are necessary. This fee on the ATMs is a double charge. There is another charge coming today from the MAC Corporation and, Mr. President, I submit that there is absolutely no end in sight in what this is going to cost us, not only in our dollars but also in what it is going to do to hurt the small banking industry in the Commonwealth.

I thank you, Mr. President, and I ask for an affirmative vote on this amendment.

LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Bodack.

Senator BODACK. Mr. President, I request temporary Capitol leaves for Senator Afflerbach, Senator Stewart, Senator Schwartz, and Senator Fumo.

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, Senator Armstrong has been called from the floor, and I request a temporary Capitol leave on his behalf.

The PRESIDENT. Senator Bodack requests temporary Capitol leaves for Senator Afflerbach, Senator Stewart, Senator Schwartz, and Senator Fumo.

Senator Loeper requests a temporary Capitol leave for Senator Armstrong.

Without objection, those leaves are granted.

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

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

YEAS—22

Afflerbach	Hughes	Porterfield	Stout
Belan	Kasunic	Rhoades	Tartaglione
Bell	LaValle	Schwartz	Uliana
Bodack	Mellow	Stapleton	Wagner
Costa	Musto	Stewart	Williams
Fumo	O'Pake		

NAYS—26

Armstrong	Hart	Madigan	Salvatore
Brightbill	Heckler	Mowery	Shaffer
Corman	Helfrick	Peterson	Thompson
Delp	Holl	Piccola	Tilghman
Fisher	Jubelirer	Punt	Tomlinson
Gerlach	Lemmond	Robbins	Wenger
Greenleaf	Loeper		

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

And the question recurring,
Will the Senate agree to the bill on third consideration?
It was agreed to.
And the amendments made thereto having been printed as required by the Constitution,

On the question,
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEAS—48

Afflerbach	Greenleaf	Mellow	Shaffer
Armstrong	Hart	Mowery	Stapleton
Belan	Heckler	Musto	Stewart
Bell	Helfrick	O'Pake	Stout
Bodack	Holl	Peterson	Tartaglione
Brightbill	Hughes	Piccola	Thompson
Corman	Jubelirer	Porterfield	Tilghman
Costa	Kasunic	Punt	Tomlinson
Delp	LaValle	Rhoades	Uliana
Fisher	Lemmond	Robbins	Wagner
Fumo	Loeper	Salvatore	Wenger
Gerlach	Madigan	Schwartz	Williams

NAYS—0

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

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

SB 1316 (Pr. No. 2308) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 17, 1968 (P. L. 1224, No. 387), entitled "Unfair Trade Practices and Consumer Protection Law," further defining "unfair methods of competition" and "unfair or deceptive acts or practices"; and further providing for unlawful acts or practices, for sales contracts and for civil penalties.

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

Senator BODACK offered the following amendment No. A6441:

Amend Title, page 1, line 9, by striking out "and" and inserting: ; prohibiting electronic terminal surcharges; and further providing

Amend Sec. 1, page 1, line 12, by striking out ", 7(a) and 8" and inserting: and 7(a)

Amend Bill, page 6, by inserting between lines 11 and 12:

Section 2. The act is amended by adding a section to read:

Section 7.1. Electronic Terminal Surcharges.—(a) If a consumer conducts a transaction at an electronic terminal, an electronic terminal surcharge may not be assessed against the consumer if the transaction does not relate to or affect an account held by the consumer with the financial institution that is the owner, operator or lessee of the electronic terminal.

(b) A violation of this section shall be subject to the enforcement provisions and private rights of action contained in this act.

(c) The following words and phrases when used in this section shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Electronic fund transfer." A transfer of funds, other than a transaction originated by check, draft or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer or magnetic tape so as to order, instruct or authorize a financial institution to debit or credit an account. The term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, direct deposits or withdrawals of funds and transfers initiated by telephone. The term does not include any of the following:

(1) A check guarantee or authorization service which does not directly result in a debit or credit to a consumer's account.

(2) A transfer of funds, other than those processed by automated clearinghouse, made by a financial institution on behalf of a consumer by means of a service that transfers funds held at either Federal Reserve banks or other depository institutions and which is not designed primarily to transfer funds on behalf of a consumer.

(3) A transaction the primary purpose of which is the purchase or sale of securities or commodities through a broker-dealer registered with or regulated by the Securities and Exchange Commission.

(4) An automatic transfer from a savings account to a demand deposit account pursuant to an agreement between a consumer and a financial institution for the purpose of covering an overdraft or maintaining an agreed-upon minimum balance in the consumer's demand deposit account.

(5) A transfer of funds which is initiated by a telephone conversation between a consumer and an officer or employee of a financial institution which is not pursuant to a prearranged plan and under which periodic or recurring transfers are not contemplated.

"Electronic terminal." An electronic device, other than a telephone operated by a consumer, through which a consumer may initiate an electronic fund transfer. The term includes, but is not limited to, point-of-sale terminals, automated teller machines and cash dispensing machines.

"Financial institution." A bank, bank and trust company, savings bank, private bank, credit union, national bank, national bank and trust company, national savings bank or national credit union.

Section 3. Section 8 of the act is amended to read:

Amend Sec. 2, page 7, line 10, by striking out "2" and inserting: 4

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

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Bodack.

Senator BODACK. Mr. President, this amendment makes the Unfair Trade Practices Law and Consumer Protection Law work in greater favor for the constituents of this State, and this amendment makes it a violation of the Unfair Trade Practices Law for a bank to assess an ATM charge on noncustomers. Mr. President, I will not address this amendment any further in the name of brevity. You have heard some arguments. We will have more in the future, but I would ask for a positive vote on this amendment.

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, it is essentially the same amendment that was offered on the last bill that we debated to a great extent here on the floor, and I likewise would ask that a negative vote be cast on the amendment.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Belan.

Senator BELAN. Mr. President, may I just rise to go on record that I support the amendment of the gentleman from Allegheny, Senator Bodack, with the same remarks.

The PRESIDENT. Fair enough.

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

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

YEAS—22

Afflerbach	Hughes	Porterfield	Stout
Belan	Kasunic	Rhoades	Tartaglione
Bell	LaValle	Schwartz	Uliana
Bodack	Mellow	Stapleton	Wagner
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NAYS—26

Armstrong	Hart	Madigan	Salvatore
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Delp	Holl	Piccola	Tilghman
Fisher	Jubelirer	Punt	Tomlinson
Gerlach	Lemmond	Robbins	Wenger
Greenleaf	Loeper		

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

And the question recurring,
Will the Senate agree to the bill on third consideration?
It was agreed to.

And the amendments made thereto having been printed as required by the Constitution,

On the question,
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEAS—48

Afflerbach	Greenleaf	Mellow	Shaffer
Armstrong	Hart	Mowery	Stapleton
Belan	Heckler	Musto	Stewart
Bell	Helfrick	O'Pake	Stout
Bodack	Holl	Peterson	Tartaglione
Brightbill	Hughes	Piccola	Thompson
Corman	Jubelirer	Porterfield	Tilghman
Costa	Kasunic	Punt	Tomlinson
Delp	LaValle	Rhoades	Uliana
Fisher	Lemmond	Robbins	Wagner
Fumo	Loeper	Salvatore	Wenger
Gerlach	Madigan	Schwartz	Williams

NAYS—0

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

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

THIRD CONSIDERATION CALENDAR RESUMED

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1292 (Pr. No. 2270) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 3, 1937 (P. L. 1333, No. 320), entitled "Pennsylvania Election Code," increasing the compensation of election officers; and providing for the transmitting of returns.

Considered the third time and agreed to,
And the amendments made thereto having been printed as required by the Constitution,

On the question,
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEAS—48

Afflerbach	Greenleaf	Mellow	Shaffer
Armstrong	Hart	Mowery	Stapleton
Belan	Heckler	Musto	Stewart
Bell	Helfrick	O'Pake	Stout
Bodack	Holl	Peterson	Tartaglione
Brightbill	Hughes	Piccola	Thompson
Corman	Jubelirer	Porterfield	Tilghman
Costa	Kasunic	Punt	Tomlinson
Delp	LaValle	Rhoades	Uliana
Fisher	Lemmond	Robbins	Wagner
Fumo	Loeper	Salvatore	Wenger
Gerlach	Madigan	Schwartz	Williams

NAYS—0

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

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

BILLS OVER IN ORDER

SB 1407, SB 1462, SB 1469, SB 1499, SB 1577, SB 1579, SB 1595, SB 1596 and **HB 1757** -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

SECOND CONSIDERATION CALENDAR

BILLS REREPORTED FROM COMMITTEE AS AMENDED OVER IN ORDER

SB 1128, SB 1448 and **HB 1468** -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILLS OVER IN ORDER

SB 471 and **HB 664** -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILLS ON SECOND CONSIDERATION

HB 682 (Pr. No. 1647) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 27, 1953 (P.L.244, No.34), entitled "An act relating to and regulating the contracts of incorporated towns and providing penalties," further providing for contracts.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

HB 683 (Pr. No. 755) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of February 1, 1966 (1965 P.L.1656, No.581), known as The Borough Code, further providing for contracts.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

HB 684 (Pr. No. 756) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of August 9, 1955 (P.L.323, No.130), known as The County Code, further providing for contract procedures.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

BILLS OVER IN ORDER

HB 685 and **HB 686** -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILL ON SECOND CONSIDERATION

SB 1197 (Pr. No. 2290) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of July 31, 1968 (P. L. 805, No. 247), entitled, as amended, "Pennsylvania Municipalities Planning Code," further providing for contents of subdivision and land development ordinance.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

BILLS OVER IN ORDER

SB 1404, SB 1405 and **SB 1406** -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILL ON SECOND CONSIDERATION

SB 1645 (Pr. No. 2242) -- The Senate proceeded to consideration of the bill, entitled:

An Act repealing the act of May 10, 1871 (P. L. 706, No. 650), entitled "An act for the regulation and government of the Northampton county prison."

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

BILLS OVER IN ORDER

HB 1886 and **HB 2021** -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILL ON SECOND CONSIDERATION

HB 2024 (Pr. No. 4030) -- The Senate proceeded to consideration of the bill, entitled:

An Act establishing grounds upon which innkeepers may deny accommodations, facilities or privileges of a lodging establishment to any person who is unable or unwilling to pay for accommodations and services, to any person who is disorderly, to any person who an innkeeper reasonably believes is seeking accommodations for any unlawful purpose, and to any person who an innkeeper reasonably believes is bringing upon the lodging establishment property which may be dangerous to other persons; allowing an innkeeper to limit the number of persons who shall occupy any particular guest room of a lodging establishment; providing for the posting of notice relative to this statute; and providing for penalties.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

BILLS OVER IN ORDER

HB 2312, HB 2313, HB 2314 and **HB 2511** -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

REPORT FROM COMMITTEE ON RULES AND EXECUTIVE NOMINATIONS

Senator SALVATORE, from the Committee on Rules and Executive Nominations, reported the following nominations made by His Excellency, the Governor of the Commonwealth, which were read by the Clerk as follows:

BRIGADIER GENERAL, PENNSYLVANIA NATIONAL GUARD

June 10, 1996

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Colonel William J. Boardley, 715 Fayette Street, Washington 15301, Washington County, Forty-sixth Senatorial District, for appointment as Brigadier General, Commander, 171st Air Refueling Wing, Pennsylvania Air National Guard, to serve until terminated.

THOMAS J. RIDGE
Governor

BRIGADIER GENERAL, PENNSYLVANIA NATIONAL GUARD

June 10, 1996

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Colonel W. Reed Ernst, 347 Regent Street, Camp Hill 17011, Cumberland County, Thirty-first Senatorial District, for appointment as Brigadier General, Director of Operations, Headquarters, Pennsylvania Air National Guard, to serve until terminated.

THOMAS J. RIDGE
Governor

NOMINATIONS LAID ON THE TABLE

Senator SALVATORE. Mr. President, I request that the nominations just read by the Clerk be laid on the table.

The PRESIDENT. The nominations will be laid on the table.

EXECUTIVE NOMINATIONS

EXECUTIVE SESSION

Motion was made by Senator SALVATORE,

That the Senate do now resolve itself into Executive Session for the purpose of considering certain nominations made by the Governor.

Which was agreed to.

NOMINATIONS TAKEN FROM THE TABLE

Senator SALVATORE. Mr. President, I call from the table certain nominations and ask for their consideration.

The Clerk read the nominations as follows:

MEMBER OF THE COMMONWEALTH OF PENNSYLVANIA COUNCIL ON THE ARTS

September 26, 1996

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Ann M. Benzel, 6 Sylvan Heights Drive, Hollidaysburg 16648, Blair County, Thirtieth Senatorial District, for appointment as a member of the Commonwealth of Pennsylvania Council on the Arts, to serve until July 1, 1998 and until her successor is appointed and qualified, vice William E. Strickland, Jr., Pittsburgh, resigned.

THOMAS J. RIDGE
Governor

MEMBER OF THE COMMONWEALTH OF PENNSYLVANIA COUNCIL ON THE ARTS

July 18, 1996

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Joan M. Kaplan, 154 North Bellefield Avenue, Pittsburgh 15213, Allegheny County, Thirty-eighth Senatorial District, for appointment as a member of the Commonwealth of Pennsylvania Council on the Arts, to serve until July 1, 1999 and until her successor is appointed and qualified, vice Flora Becker, Esquire, Philadelphia, whose term expired.

THOMAS J. RIDGE
Governor

MEMBER OF THE CHILDREN'S TRUST FUND BOARD

June 18, 1996

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Dr. Richard Solomon, 1235 Malvern Avenue, Pittsburgh 15217, Allegheny County, Forty-third Senatorial District, for appointment as a member of the Children's Trust Fund Board, to serve for a term of three years, and until his successor is appointed and qualified, vice Kathleen L. Rodgers, Meadville, whose term expired.

THOMAS J. RIDGE
Governor

MEMBER OF THE BOARD OF TRUSTEES OF CLARKS SUMMIT STATE HOSPITAL

June 28, 1996

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Samuel Cali, 303 West Elm Street, Dunmore 18512, Lackawanna County, Twenty-second Senatorial District, for appointment as a member of the Board of Trustees of Clarks Summit State Hospital, to serve until the third Tuesday of January 1997, and until his successor is appointed and qualified, vice William C. Cole, Sr., Chinchilla, whose term expired.

THOMAS J. RIDGE
Governor

MEMBER OF THE BOARD OF TRUSTEES OF CLARKS SUMMIT STATE HOSPITAL

June 28, 1996

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Theodore J. Giglio, 100 Alirosa Lane, Old Forge 18518, Lackawanna County, Twenty-second Senatorial District, for appointment as a member of the Board of Trustees of Clarks Summit State Hospital, to serve until the third Tuesday of January 1997, and until his successor is appointed and qualified, vice Dominick Touch, Archbald, whose term expired.

THOMAS J. RIDGE
Governor

MEMBER OF THE BOARD OF TRUSTEES OF CLARKS SUMMIT STATE HOSPITAL

June 28, 1996

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Wanda Neyman, 813 Lincoln Street, Dickson City 18519, Lackawanna County, Twenty-second Senatorial District, for appointment as a member of the Board of Trustees of Clarks Summit State Hospital, to serve until the third Tuesday of January 2001, and until her successor is appointed and qualified, vice Charles LeStrange, Scranton, whose term expired.

THOMAS J. RIDGE
Governor

COMMONWEALTH TRUSTEE OF LINCOLN UNIVERSITY-OF THE COMMONWEALTH SYSTEM OF HIGHER EDUCATION

September 19, 1996

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Regina L. Warren, Esquire, 1505 West Venango Street, Philadelphia 19140, Philadelphia County, Third Senatorial District, for reappointment as a Commonwealth Trustee of Lincoln University-of the Commonwealth System of Higher Education, to serve until August 31, 2000, and until her successor is appointed and qualified.

THOMAS J. RIDGE
Governor

MEMBER OF THE PUBLIC EMPLOYEE RETIREMENT COMMISSION

June 28, 1996

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Paul D. Halliwell, 60 Country Club Drive, Pittsburgh 15241, Allegheny County, Thirty-seventh Senatorial District, for reappointment as a member of the Public Employee Retirement Commission, to serve until October 27, 2001, and until his successor is appointed and qualified.

THOMAS J. RIDGE
Governor

DISTRICT JUSTICE

September 5, 1996

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Charles A. Abraham, Jr., 323 Englewood Avenue, New Castle 16105, Lawrence County, Forty-seventh Senatorial District, for appointment as District Justice, in and for the County of Lawrence, Magisterial District 53-1-01, to serve until the first Monday of January 1998, vice Ernest M. Crawford, Jr., resigned.

THOMAS J. RIDGE
Governor

On the question,
Will the Senate advise and consent to the nominations?

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

YEAS—48

Afflerbach	Greenleaf	Mellow	Shaffer
Armstrong	Hart	Mowery	Stapleton
Belan	Heckler	Musto	Stewart
Bell	Helfrick	O'Pake	Stout
Bodack	Holl	Peterson	Tartaglione
Brightbill	Hughes	Piccola	Thompson
Corman	Jubelirer	Porterfield	Tilghman
Costa	Kasunic	Punt	Tomlinson
Delp	LaValle	Rhoades	Uliana
Fisher	Lemmond	Robbins	Wagner
Fumo	Loeper	Salvatore	Wenger
Gerlach	Madigan	Schwartz	Williams

NAYS—0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.
Ordered, That the Governor be informed accordingly.

EXECUTIVE SESSION RISES

Senator SALVATORE. Mr. President, I move that the Executive Session do now rise.
The motion was agreed to.

UNFINISHED BUSINESS
REPORTS FROM COMMITTEES

Senator HOLL, from the Committee on Banking and Insurance, reported the following bills:

SB 1160 (Pr. No. 2312) (Amended)

An Act providing for review procedures pertaining to accident and health insurance form and rate filings; providing penalties; and making repeals.

SB 1650 (Pr. No. 2313) (Amended)

An Act amending the act of December 14, 1967 (P. L. 746, No. 345), entitled "Savings Association Code of 1967," adding or amend-

ing certain definitions; providing for conversion to federally insured status; further providing for refund of capital deposits, for alternate conversion procedures, for dissolution of associations, for appointment of directors and for the dissolution of the Pennsylvania Savings Association Insurance Corporation; and making repeals.

Senator GREENLEAF, from the Committee on Judiciary, reported the following bills:

SB 1071 (Pr. No. 1187)

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for harassment and stalking.

SB 1559 (Pr. No. 2047)

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for arson and related offenses.

SB 1592 (Pr. No. 2111)

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for costs of assigned counsel.

SB 1681 (Pr. No. 2311) (Amended)

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, prohibiting unauthorized administration of an intoxicant.

HB 981 (Pr. No. 4078) (Amended)

An Act establishing the Special Independent Prosecutor's Panel and providing for its powers and duties; and providing for special investigative counsel and for independent counsel.

CONGRATULATORY RESOLUTIONS

The PRESIDENT laid before the Senate the following resolutions, which were read, considered and adopted:

Congratulations of the Senate were extended to the Whitaker Volunteer Fire Company by Senator Costa.

Congratulations of the Senate were extended to Priscilla Kitchens, Edna Weir and to Mary Jane Kaler Johnson by Senator Helfrick.

Congratulations of the Senate were extended to Justin Hornberger and to David Shimko by Senator Madigan.

Congratulations of the Senate were extended to John Greskovic, Jr., by Senator Mellow.

Congratulations of the Senate were extended to Donald Rahn and to Cabrini Academy of Reading by Senator O'Pake.

Congratulations of the Senate were extended to Raymond V. Smith III by Senator Peterson.

Congratulations of the Senate were extended to Phyllis L. Townsend by Senator Robbins.

Congratulations of the Senate were extended to Kevin Kilkeary by Senator Wagner.

BILLS ON FIRST CONSIDERATION

Senator WAGNER. Mr. President, I move that the Senate do now proceed to consideration of all bills reported from committees for the first time at today's Session.

The motion was agreed to.

The bills were as follows:

SB 1071, SB 1160, SB 1559, SB 1592, SB 1650, SB 1681, HB 774, HB 981 and **HB 2380.**

And said bills having been considered for the first time,

Ordered, To be printed on the Calendar for second consideration.

PETITIONS AND REMONSTRANCES

The PRESIDENT. The Chair recognizes the gentleman from York, Senator Delp.

Senator DELP. Mr. President, our opening vote today was Senate Resolution No. 150, of which I was the prime sponsor and many of my colleagues cosponsored, and it marked that October of 1996 will be Sudden Infant Death Syndrome Awareness Month here in the Commonwealth. In light of this observation, I have sponsored the resolution I mentioned which offers the appreciation and support of the Pennsylvania Senate to a pair of organizations that are working tirelessly to educate the public about SIDS and are fighting to find the cause and a cure for this dreaded affliction. These organizations are the Sudden Infant Death Syndrome Network - Pennsylvania Connection, and the Sudden Infant Death Syndrome Alliance - Pennsylvania Affiliate.

SIDS, also known as crib death, is the major cause of death for infants under 1 year old in the United States. Last year SIDS claimed the lives of more than 5,000 American babies. In Pennsylvania alone more than 150 babies died of SIDS last year. In fact, Sudden Infant Death Syndrome claims more babies in one year than all of those children who die of cancer, heart disease, pneumonia, child abuse, AIDS, cystic fibrosis, and muscular dystrophy combined.

The cause of SIDS is still unknown. Most scientists now believe that babies who die of SIDS are born with one or more conditions that make them especially vulnerable to stresses that occur in the normal life of an infant, including both internal and external influences. Researchers are still trying to understand this dreadful disease. They are trying to identify infants who are at risk and are trying to continue the study of the devastating psychological impact of SIDS on the parents, families, and child care providers of children who have died from this condition.

SIDS is unpredictable. It occurs silently and without warning and with no signs of suffering. It occurs in infants of any race, religion, ethnic or economic group. It can happen to anyone's baby, despite the best health care that money can buy. However, the medical profession now believes that the risk of SIDS can be reduced through several measures, including breast-feeding, quitting smoking, and placing infants on their backs or sides to sleep. In fact, the American Academy of Pediatrics, the nation's foremost experts on childhood health care issues, now recommends that babies sleep in the back or side position to help prevent SIDS.

With that in mind, a coalition of Federal, State, and private agencies has launched a national education campaign called

"Back to Sleep." The Pennsylvania SIDS Network and the Pennsylvania SIDS Alliance are currently conducting the "Back to Sleep" campaign throughout the Commonwealth, educating the public about these risk-reduction measures and providing support services to families who have suffered the loss of a baby to SIDS. Public awareness of SIDS and these preventative measures can save the lives of babies and spare many Pennsylvania families needless tragedy.

The resolution we considered today and have now passed offers the support of the Pennsylvania Senate as well as our deep appreciation and praise for the tremendous contributions that these two State organizations have made in the fight against SIDS. It is my hope that my colleagues in the Senate will participate in this observance of SIDS Awareness Month and will offer our best wishes for the continued success of the "Back to Sleep" program and the realization of a bright and lasting future for babies everywhere.

Thank you, Mr. President.

HOUSE MESSAGES

HOUSE CONCURS IN SENATE BILL

The Clerk of the House of Representatives returned to the Senate **SB 1431**, with the information the House has passed the same without amendments.

SENATE BILL RETURNED WITH AMENDMENTS

The Clerk of the House of Representatives returned to the Senate **SB 80**, with the information the House has passed the same with amendments in which the concurrence of the Senate is requested.

The PRESIDENT. Pursuant to Senate Rule XIV, section 5, this bill will be referred to the Committee on Rules and Executive Nominations.

HOUSE CONCURS IN SENATE CONCURRENT RESOLUTION

The Clerk of the House of Representatives informed the Senate that the House has concurred in resolution from the Senate, entitled:

Weekly adjournment.

BILL SIGNED

The PRESIDENT (Lieutenant Governor Mark S. Schweiker) in the presence of the Senate signed the following bill:

SB 1431.

ANNOUNCEMENTS BY THE SECRETARY

The following announcements were read by the Secretary of the Senate:

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

WEDNESDAY, OCTOBER 2, 1996

9:00 A.M.	FINANCE (to consider House Bills No. 168, 2572 and 2579) - POSTPONED TO 11:00 A.M.	Room 461 Main Capitol
10:00 A.M.	GAME AND FISHERIES (to consider Senate Bill No. 1444 and House Bills No. 2186 and 2463)	Room 461 Main Capitol
10:30 A.M.	AGING AND YOUTH (to consider House Bills No. 304, 305 and 306)	Room 8E-B East Wing
10:30 A.M.	TRANSPORTATION (to consider Senate Bills No. 1022, 1521 and 1581; and House Bills No. 1294 and 2091)	Room 8E-A East Wing

THURSDAY, OCTOBER 3, 1996

10:00 A.M.	AGRICULTURE AND RURAL AFFAIRS (to consider Bell Atlantic's request for rate rebalancing)	Professional Dvlpmt Center PA College of Technology Williamsport, PA

TUESDAY, OCTOBER 8, 1996

8:30 A.M.	EDUCATION (public hearing on the issue of charter schools)	Room 8E-B East Wing
9:30 A.M.	ENVIRONMENTAL RESOURCES AND ENERGY (public hearing regarding Senate Bill No. 1587 - The Private Property Protection Act)	Room 8E-A East Wing

WEDNESDAY, NOVEMBER 13, 1996

9:00 A.M.	CONSUMER PROTECTION AND PROFESSIONAL LICENSURE (to consider House Bills No. 1782, 1988 and 2595)	Room 8E-B East Wing
1:30 P.M.	CONSUMER PROTECTION AND PROFESSIONAL LICENSURE (public hearing to consider Electric Generation Competition No. 5)	Room 8E-B East Wing

ADJOURNMENT

Senator LOEPER. Mr. President, I move that the Senate do now adjourn until Wednesday, October 2, 1996, at 11 a.m., Eastern Daylight Saving Time.

The motion was agreed to.

The Senate adjourned at 7:04 p.m., Eastern Daylight Saving Time.