

COMMONWEALTH OF PENNSYLVANIA

Legislative Journal

WEDNESDAY, JUNE 19, 1996

SESSION OF 1996

180TH OF THE GENERAL ASSEMBLY

No. 43

SENATE

WEDNESDAY, June 19, 1996

The Senate met at 11 a.m., Eastern Daylight Saving Time.

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

PRAYER

The Chaplain, Reverend Dr. PAUL D. GEHRIS, of American Baptist Churches - U.S.A., Harrisburg, offered the following prayer:

We will pray.

Almighty and Everlasting God, with whom there is no shadow of turning and no end of creativity, bless this honorable Senate of Pennsylvania in their work today. Be pleased to show Your unmitigated love to them and those close to them. Look with favor as well on our Commonwealth and all Your creation. We confess that too often we take the gift of life and the joy of living for granted. Help us to be more appreciative of our lives, our measure of health, and the challenges which face us.

As we come to our longest calendar day and the promise of summer, growth of crops, vacation and rest, and opportunity to second-guess our weather, help us to appreciate the passing of days and time as an inexorable part of life. Teach us to number our days and apply ourselves to wisdom. Strengthen all Your servants in this body for faithfulness in duty to you and themselves and to our beloved Commonwealth. Amen.

The PRESIDENT. The Chair thanks Reverend Gehris, who is the guest today of Senator Mowery.

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of June 18, 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.

COMMUNICATIONS FROM THE GOVERNOR

APPROVAL OF SENATE BILLS

The PRESIDENT laid before the Senate communications in writing from His Excellency, the Governor of the Common-

wealth, advising that the following Senate Bills had been approved and signed by the Governor:

SB 698, SB 1047 and SB 1172.

NOMINATIONS REFERRED TO COMMITTEE

The PRESIDENT laid before the Senate the following communications in writing from His Excellency, the Governor of the Commonwealth, which were read as follows and referred to the Committee on Rules and Executive Nominations:

MEMBER OF THE MCKEAN COUNTY BOARD OF ASSISTANCE

June 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, Harriane Hannon (Republican), 33 Sanford Street, Bradford 16701, McKean County, Twenty-fifth Senatorial District, for appointment as a member of the McKean County Board of Assistance, to serve until December 31, 1998, and until her successor is appointed and qualified, to add to complement.

THOMAS J. RIDGE Governor

MEMBER OF THE MCKEAN COUNTY BOARD OF ASSISTANCE

June 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, Judith Anne LeRoy (Republican), 16 Gates Hollow Road, Bradford 16701, McKean County, Twenty-fifth Senatorial District, for appointment as a member of the McKean County Board of Assistance, to serve until December 31, 1998, and until her successor is appointed and qualified, to add to complement.

THOMAS J. RIDGE Governor

MEMBER OF THE MCKEAN COUNTY BOARD OF ASSISTANCE

June 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, Bridget Lloyd (Republican), 23 Mill Street, Bradford 16701, McKean County, Twenty-fifth Senatorial District, for appointment as a member of the McKean County Board of Assistance, to serve until December 31, 1998, and until her successor is appointed and qualified, to add to complement.

THOMAS J. RIDGE
Governor

**MEMBER OF THE MCKEAN COUNTY
BOARD OF ASSISTANCE**

June 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, Jeanne Nash (Republican), 303 Interstate Highway, Bradford 16701, McKean County, Twenty-fifth Senatorial District, for appointment as a member of the McKean County Board of Assistance, to serve until December 31, 1998, and until her successor is appointed and qualified, to add to complement.

THOMAS J. RIDGE
Governor

HOUSE MESSAGES

**HOUSE CONCURS IN SENATE AMENDMENTS
TO HOUSE BILLS**

The Clerk of the House of Representatives informed the Senate that the House has concurred in amendments made by the Senate to **HB 220, HB 416 and HB 1823.**

HOUSE CONCURS IN SENATE BILL

The Clerk of the House of Representatives returned to the Senate **SB 1325**, with the information the House has passed the same without amendments.

SENATE BILLS RETURNED WITH AMENDMENTS

The Clerk of the House of Representatives returned to the Senate **SB 1254** and **SB 1323**, 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, these bills will be referred to the Committee on Rules and Executive Nominations.

**HOUSE ADOPTS SURPLUS PROPERTY
DISPOSITION PLAN 1, RESOLUTION A**

The Clerk of the House of Representatives informed the Senate that the House has adopted resolution entitled:

Surplus Property Disposition Plan 1, Resolution A.

**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.

**APPOINTMENTS BY
PRESIDENT PRO TEMPORE**

The PRESIDENT. The Chair wishes to announce the President pro tempore has made the following appointments:

Mr. Gary Miles as a member of the Conservation and Natural Resources Advisory Council.

Mr. Herbert Eric Martin as a member of the Conservation and Natural Resources Advisory Council

**APPOINTMENT OF MEMBER TO
STANDING COMMITTEE OF THE SENATE**

The PRESIDENT. The Chair wishes to announce that the President pro tempore has made the following appointment:

Senator Michael A. O'Pake as a member of the Committee on Aging and Youth, to fill the vacancy caused by the death of Senator Jones.

BILLS SIGNED

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

SB 1325, HB 220, HB 416, and HB 1823.

**SPECIAL ORDER OF BUSINESS
ANNOUNCEMENT BY THE SECRETARY**

The SECRETARY. Consent has been given for the Committee on State Government to meet in the Rules room during today's Session to consider Senate Bill No. 1590 and the nomination of Charles Lieberth to the Civil Service Commission.

REPORT FROM COMMITTEE

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

SB 801 (Pr. No. 2154) (Amended) (Rereported) (Concurrence)

An Act amending the act of June 2, 1915 (P. L. 736, No. 338), entitled, as reenacted and amended, "Workers' Compensation Act," further providing for definitions, for recovery, for liability for compensation, for financial responsibility, for compensation schedules and for wages; providing for reporting; further providing for notices, for examinations, for commutation of compensation, for exclusions, for the Workmen's Compensation Appeal Board and for procedure; providing for informal conferences; further providing for processing claims, for commutation petitions, for modifications and reversals, for pleadings, for investigations, for evidence, for appeals, for regulations, for costs and attorney fees, for the Pennsylvania Workers' Compensation Advisory Council and for insurance policies; providing for settlements and for collective bargaining; further providing for ratings organizations, for rating procedures and for shared liability; providing for employer association groups; further providing for safety committees, for penalties, for prosecutions and for collection of penalties; providing for limitation of actions; further providing for assessments; providing for workers' compensation judges and for transfer of administrative functions; transferring provisions relating to the State Workmen's Insurance Fund and broadening its permissible coverages; and making a repeal.

DISCHARGE PETITIONS

The PRESIDENT laid before the Senate the following communications, which were read by the Clerk as follows:

In the Senate, June 19, 1996

A PETITION

To place before the Senate the nomination of Fritz Bittenbender, as a member of the State Health Facility Hearing Board.

TO: The President Officer of the Senate:

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of Fritz Bittenbender, as a member of the State Health Facility Hearing Board, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

William J. Stewart
Robert J. Mellow
Leonard J. Bodack
Vincent J. Fumo
Patrick J. Stapleton

In the Senate, June 19, 1996

A PETITION

To place before the Senate the nomination of Fritz Bittenbender, as a member of the Pennsylvania Minority Business Development Authority.

TO: The President Officer of the Senate:

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of Fritz Bittenbender, as a member of the Pennsylvania Minority Business Development Authority, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

William J. Stewart
Robert J. Mellow
Leonard J. Bodack
Vincent J. Fumo
Patrick J. Stapleton

In the Senate, June 19, 1996

A PETITION

To place before the Senate the nomination of David Oh, as a member of the Pennsylvania Minority Business Development Authority.

TO: The President Officer of the Senate:

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of David Oh, as a member of the Pennsylvania Minority Business Development Authority, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

William J. Stewart
Robert J. Mellow
Leonard J. Bodack
Vincent J. Fumo
Patrick J. Stapleton

In the Senate, June 19, 1996

A PETITION

To place before the Senate the nomination of Paula Vitz, as a member of the State Board of Examiners of Nursing Home Administrators.

TO: The President Officer of the Senate:

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of Paula Vitz, as a member of the State Board of Examiners of Nursing Home Administrators, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

William J. Stewart
Robert J. Mellow
Leonard J. Bodack
Vincent J. Fumo
Patrick J. Stapleton

In the Senate, June 19, 1996

A PETITION

To place before the Senate the nomination of Leslie Gromis, as a member of the Advisory Committee on Probation.

TO: The President Officer of the Senate:

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of Leslie Gromis, as a member of the Advisory Committee on Probation, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

William J. Stewart
Robert J. Mellow
Leonard J. Bodack
Vincent J. Fumo
Patrick J. Stapleton

In the Senate, June 19, 1996

A PETITION

To place before the Senate the nomination of Nolan Kurtz, as a member of the Advisory Committee on Probation.

TO: The President Officer of the Senate:

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of Nolan Kurtz, as a member of the Advisory Committee on Probation, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

William J. Stewart
Robert J. Mellow
Leonard J. Bodack
Vincent J. Fumo
Patrick J. Stapleton

In the Senate, June 19, 1996

A PETITION

To place before the Senate the nomination of Robert E. Gregory, as a member of the Board of Trustees of Wernersville State Hospital.

TO: The President Officer of the Senate:

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of Robert E. Gregory, as a member of the Board of Trustees of Wernersville State Hospital, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

William J. Stewart
Robert J. Mellow
Leonard J. Bodack
Vincent J. Fumo
Patrick J. Stapleton

In the Senate, June 19, 1996

A PETITION

To place before the Senate the nomination of Pattee J. Miller, as a member of the Board of Trustees of Wernersville State Hospital.

TO: The President Officer of the Senate:

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of Pattee J. Miller, as a member of the Board of Trustees of Wernersville State Hospital, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

William J. Stewart
Robert J. Mellow
Leonard J. Bodack
Vincent J. Fumo
Patrick J. Stapleton

The PRESIDENT. These communications will be laid on the table.

HB 2446 TAKEN FROM THE TABLE

Senator LOEPER. Mr. President, I move that House Bill No. 2446, Printer's No. 3411, be taken from the table and placed on the Calendar.

The motion was agreed to.

The PRESIDENT. The bill will be placed on the Calendar.

CALENDAR

SB 1285 CALLED UP OUT OF ORDER

SB 1285 (Pr. No. 1533) -- Without objection, the bill was called up out of order, from page 2 of the Third Consideration Calendar, by Senator LOEPER, as a Special Order of Business.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1285 (Pr. No. 1533) -- The Senate proceeded to consideration of the bill, entitled:

An Act selecting and designating the square dance as the official American folk dance of this Commonwealth.

Considered the third time and agreed to,

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—45

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

NAYS—4

Heckler	Porterfield	Rhoades	Uliana
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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.

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

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

Senator WENGER. Mr. President, a few years ago a national survey indicated that the safest town in the United States was the borough of Terre Hill in Lancaster County, Pennsylvania. I am pleased that today a contingency of people from Terre Hill, which is in my senatorial district, are here to visit the State Capitol, and they certainly picked a good day.

We have in the gallery the president of borough council, Mr. Fred Morgan, and the vice president of council, Bill Beck. We have council members Bob Wenger and Tammy Adams. The roadmaster is Bob Rissler, and he is in the gallery, as well as Richard Schloesser, borough engineer; Donald Weaver, borough enforcement officer; and Carole Deck. They are all in the gallery, and I would appreciate a fine welcome to the people from Terre Hill, the safest town in the United States.

The PRESIDENT. Would our guests please rise so that the Senate may give you its usual warm welcome.

(Applause.)

GUEST OF SENATOR J. BARRY STOUT PRESENTED TO THE SENATE

The PRESIDENT. The Chair recognizes the gentleman from Washington, Senator Stout.

Senator STOUT. Mr. President, while I do not have as many guests here this afternoon as my friend, the gentleman from Lancaster, Senator Wenger, I am privileged to introduce a constituent of mine who served this week as a Page here in the Senate. He is Mr. Brad Simpson of Waynesburg in Greene County. He is a sophomore at Waynesburg High School and is the son of Fred and Sherry Simpson. His school activities

include basketball, track, soccer, and Spanish Club. I spoke with him earlier this afternoon and I know he has enjoyed the experience of serving as a Page, and he indicated he would like to come back next year. I would like to have him stand and be recognized.

Brad Simpson.

The PRESIDENT. Would our guest Page please rise.

(Applause.)

**SPECIAL ORDER OF BUSINESS
SUPPLEMENTAL CALENDAR No. 1**

**SENATE CONCURS IN HOUSE AMENDMENTS
AS AMENDED**

SB 801 (Pr. No. 2154) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 2, 1915 (P. L. 736, No. 338), entitled, as reenacted and amended, "Workers' Compensation Act," further providing for definitions, for recovery, for liability for compensation, for financial responsibility, for compensation schedules and for wages; providing for reporting; further providing for notices, for examinations, for commutation of compensation, for exclusions, for the Workmen's Compensation Appeal Board and for procedure; providing for informal conferences; further providing for processing claims, for commutation petitions, for modifications and reversals, for pleadings, for investigations, for evidence, for appeals, for regulations, for costs and attorney fees, for the Pennsylvania Workers' Compensation Advisory Council and for insurance policies; providing for settlements and for collective bargaining; further providing for ratings organizations, for rating procedures and for shared liability; providing for employer association groups; further providing for safety committees, for penalties, for prosecutions and for collection of penalties; providing for limitation of actions; further providing for assessments; providing for workers' compensation judges and for transfer of administrative functions; transferring provisions relating to the State Workmen's Insurance Fund and broadening its permissible coverages; and making a repeal.

On the question,

Will the Senate concur in House amendments, as amended by the Senate, to Senate Bill No. 801?

Senator LOEPER. Mr. President, I move that the Senate do concur in the House amendments, as amended by the Senate, to Senate Bill No. 801.

On the question,

Will the Senate agree to the motion?

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

Senator ARMSTRONG. Mr. President, I rise to urge my colleagues to concur in Senate Bill No. 801. As we know, this deals with workers' compensation, and we also know that this area is highly emotional, highly charged, and this has been an ongoing process for the last 2, 3, 4 months, and it has intensified in the last month.

Why are we now changing or amending or modifying workers' compensation as we now know it? For one reason only: We are losing jobs in Pennsylvania. We are losing opportunities in Pennsylvania and it is impacting our families. There are a couple of facts that we should know. A recent study

comparing Pennsylvania to six neighboring competitor States in several categories, including manufacturing and construction, found out that in 40 of 42 categories, Pennsylvania's workers' compensation costs were higher than its competitors.

Fact: For the last 5 years Pennsylvania has been ranked as one of the three most costly States in which to do business. I believe of all those States we also have the highest corporate net income tax of the six adjoining States. Fact: Pennsylvania's rate of job creation is only half the national average, and the State ranks 48th in creation of new businesses. Fact: Pennsylvania's economic growth prospects rank 43rd in the nation. It is estimated that we spend \$500 million a year in litigating workers' compensation in Pennsylvania. Workers' compensation costs our businesses \$2.7 billion a year. In some areas, some industries, for every \$100 you have in payroll, you pay another \$50, or almost 50 percent, in workers' compensation costs. Currently, there are close to 70,000 disputed or petitioned workers' compensation cases in Pennsylvania.

I have a readout of Pennsylvania versus Delaware, Maryland, New Jersey, New York, Ohio, and West Virginia in several areas - manufacturing, construction, wholesale, retail, transportation, and services. In all those areas, I think with a few exceptions where luckily we are just a hair under New York in a few areas, we are substantially higher in almost every category of workers' compensation costs. Perhaps the one that sticks out most sharply is in transportation. In transportation, in Pennsylvania it takes 18.92 percent of payroll for workers' compensation, compared to West Virginia, which has 9.92 percent. Well, what does that mean? Let us transfer that over to the cost of doing business. To give you an example, let us say you are in the trucking business and you do about \$10 million in sales. You may have 100 people and your payroll, let us say, is \$2.5 million. Now, if you compare the workers' compensation costs in Pennsylvania to West Virginia, which is on our border, and if you are in Pittsburgh you are definitely in competition with them, you are seeing a difference of about \$250,000 a year that comes out of your bottom line. That could be the difference between you making money or losing money.

Some people say that Act 44 has not had a chance to get totally into effect. Well, maybe it is not totally but it is mostly into effect. Act 44 addressed mainly the medical side of it, which is 40 percent of the cost of workers' compensation. The indemnity side of it is 60 percent. Initially, it saved about 25 percent on the medical side of it, but with indemnity costs increasing greatly over the years, the indemnity took some of that percentage away, so overall we had about an 18-percent savings. The cost of workers' compensation per case has risen sharply. Years ago it was about \$6,000 per case. Now it is up over \$20,000 per case.

However, I think the best thing that Act 44 did was it brought in competition. Up to that point, insurance companies did not write, it was not profitable. And I know we have some people in the insurance business in the Senate, and they know it was not profitable to write workers' compensation. So if they would come to your business, they would like to have all your business except they would say they would not like to have

workers' compensation because they could not make any money, there was no money in it. Act 44 helped, and as a result we have over 300 insurance companies in Pennsylvania now writing workers' compensation insurance that we did not have before. The free enterprise system works. Competition reduced costs.

Now we must go a little further because we are competing with our neighboring States. In fact, in the United States we are competing with the world anymore as a global economy. Now we must address the other 60 percent, the indemnity side of the formula. Let me say we are not out to hurt any workers, any employees. We want to help those people who need help, and I think everyone in this body agrees with that. Remember, workers' compensation is a safety net, it is not a hammock.

Is it fair to make more dollars on workers' compensation than you would working on your regular job? I think not. But under the current system, you can work for one quarter and get a high quarter and go back to work at a normal wage and actually receive more on workers' compensation than when you normally work. Case in point, an example, maybe making \$10 an hour and for three quarters, four quarters, for the last 5 years maybe you are working and earning about that much. If by chance you go to a prevailing wage job and let us say your rate jumps up to \$20 for a 3-month period, your salary would go from \$400 to \$800 for that week, and then let us say you do get injured. Let us say it is a legitimate injury. Now your payment on workers' compensation would be \$527 a week tax-free. This is an insurance payment. There is no Federal tax, there is no local tax, there is no Social Security tax, there is nothing taken out. It is an insurance payment, whereas before you were making \$400 a week.

Now, how do you get people back to work when they can make \$527 a week by doing nothing, or going back to work and making \$400? I do not think that is fair and I think we should try to change that, and under this bill we are going to level that playing field and use three of the last four quarters to determine your average salary instead of just using one high peaked quarter, and many times on that peak they would use bonuses and vacation time and peak it even higher.

Is it fair to go on workers' compensation a week before you retire and collect more on your pension and workers' compensation and Social Security and you have absolutely positively no intentions of returning to work? I do not think that is fair. This bill changes that. I have an article here. It just came out at the beginning of the month, and it is from the mayor of Pittsburgh. He talks about the double-dipping that is going on in Pittsburgh, which is exactly what I talked about. People are going on workers' compensation right before they retire and they are collecting both, so the mayor says this is not fair and he wants it to cease. He says it costs him \$20 million annually. It costs the city, costs the taxpayers of Allegheny County that much money. I imagine in Philadelphia the rate is far higher.

Is it fair that an employee stays on the job, even though he can return to work, and continue to collect up to \$527 a week tax-free? Well, I do not think we want that to happen, but because it is so great, it is a temptation. Sometimes we have these phantom injuries and phantom pains, and let me give you

an example of that. A friend of mine is a chiropractor, and he had a claimant come to him and apparently he had gone to several doctors, orthopaedic surgeons, M.D.s prior to him and they said let us send him to a chiropractor and maybe the chiropractor can do some good. Well, this person came in and he seemed to be in pain. He was hobbling and it really hurt, and he told the doctor how much it hurt. However, the doctor thought he was overreacting, but he checked him out and there was no redness, no swelling. So he said, what I am going to do is I am going to run this ultrasound test on you and that will help where the pain is, that deep pain in your ankle where the injury is. However, he said, when I turn this ultrasound machine on, where the pain is in your ankle, you will feel a burning sensation of about 4 or 5 seconds, kind of like getting a shot. Immediately you will feel some pain but then the pain will go away. So he asked him, are you ready? And the claimant said, yes, I am. He turned the machine on and, sure enough, the pain started and the guy had pain for 4 or 5 seconds in his ankle. Then it went away and the treatment was okay. The doctor told me he never had the machine plugged in. This guy was milking the system and he did not want to go back to work. He was making more money tax-free than he was when working, so why should he? I do not think that is fair. I think we should get these malingerers off workers' compensation.

Is it fair that a Pennsylvania resident loses his job and all opportunities with the company he is with because that company has now moved out of State because it can do business cheaper in a neighboring State and he is unable to move? I do not think that is fair. This bill will change that, hopefully by reducing rates. A headline just a while back said Frito-Lay is not going to build a facility here in Pennsylvania. High workers' compensation rates blamed for rejection of midstate site. Would create about 1,000 jobs. Somebody else got those 1,000 jobs.

A couple of years back, Hershey Foods was going to build a plant. They decided to go somewhere else and I wondered why, and I asked someone at Hershey Foods what their costs were for workers' compensation. Their total costs in the State where they are now are substantially lower than ours, and I asked, what are your costs in Pennsylvania? And they have worked at it and they have programs in effect and they do have relatively low rates, but it is \$2.10, or 2.1 percent of payroll. When you are talking thousands of people, that is a lot of money. But 2.1 percent versus 10 cents in Virginia, we are 21 times higher than Virginia. Do you wonder why they went to Virginia instead of staying in Pennsylvania and how many thousands of jobs went with them? Is it fair to our working men and women who are working hard and are the backbone of our State? Is it fair to let them work hard and let the malingerers stay off the job? They are milking the system, and I think it is time that we change this.

This bill reduces litigation. It will give workers' compensation benefits to the injured workers, not the high-priced trial lawyers who normally get 20 percent of the settlement. We have ways in there where they can have settlements before they go through this long process that costs a lot of money.

We will set up safety committees in companies, and if they do that, they will not only get a 5-percent reduction, but they will get a 5-percent reduction for 5 years. That is a substantial savings. This bill will let companies with good work records receive added workers' compensation reductions. Now, they say, well, where will these savings go? Well, they will pass these savings on and in this bill we have an independent actuary, not someone in the Insurance Department, but someone who is an independent actuary to make a determination to reduce lost-cost filings.

In some other areas we refer to as, quote, "company docs," unquote. Well, a company doc is not someone who retired 4 or 5 years ago and comes in part-time and really has not been involved in medicine for the last 4 or 5 years and is just stopping by once in a while to pick up a few bucks. Company docs have changed. We are talking CCOs, similar to HMOs, where you get selections of hundreds of doctors, not just one, and they are selected. So, you do not have one or two docs, you have hundreds of doctors which are, quote, "company doctors," unquote. Currently you have to go to the designated doctor for 30 days. Originally in the bill that started in the House, that was going to be changed to 180 days. It was changed to 120 days, and in this particular bill it is 90 days. Sure, it is greater than the 30 days, but in Virginia, which has greater benefits than we do but lower costs, they have total management control of the medical side of it for the people who are injured. They go with the people designated by the company. Hopefully, after 90 days, most of these people will be back to work. However, if you need invasive surgery, an operation, you can immediately go to your doctor. You can also go to a doctor who is referred by one of the doctors or CCOs that are on the list.

I talked about it briefly before, but currently you use the high quarter for determination of your workers' compensation benefits. This particular bill has been amended from the previous bill in which they used 12 months, or four quarters. You used four quarters and averaged that over four quarters. We have changed it. We have amended it to say that of the last four quarters you can pick three of those quarters, and obviously you would pick the three highest quarters. If a bill is ever written that said you will use the low quarter for determining workers' compensation, which would be probusiness, you would hear people yelling and screaming and saying, that is unfair, why would you use the low quarter? Well, conversely, we used the high quarter for many, many years, and that is unfair. Let us use something halfway between, something that is fair, that definitely reflects the average wage.

But I admit when you are trying to appease a majority of 253 people, plus a Governor, you cannot write a bill that is perfect. I do not think we have ever written a bill here that is perfect. Some areas of this bill will probably need to be adjusted, and if they do, I am here to tell you I will work with anyone to adjust them as quickly as possible. But I think Senate Bill No. 801 is a bill that will bring Pennsylvania back, make us competitive, keep our jobs here in Pennsylvania, expand our jobs in Pennsylvania, and bring new jobs to Pennsylvania, and I urge the Members to concur on Senate Bill No. 801.

Thank you, Mr. President.

ANNOUNCEMENT BY MAJORITY LEADER

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

Senator LOEPER. Mr. President, I request an off-the-floor meeting of the Committee on State Government in the Rules room, and the debate on the bill can continue while that committee is meeting for a short meeting.

The PRESIDENT. Senator Loeper requests that the members of the Committee on State Government make their way to the Rules room for a hearing.

SPECIAL ORDER OF BUSINESS GUEST OF SENATOR FRANK A. SALVATORE PRESENTED TO THE SENATE

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

Senator SALVATORE. Mr. President, I am happy to say that we have a guest Page today by the name of Patrick Cleaver, who is the son of Fran Cleaver, an attorney on my staff, and I would like the Senate to give him a warm welcome today. I just want to add that we even made it rain so he did not have to go to his baseball game today.

The PRESIDENT. Would our guest Page please rise.
(Applause.)

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

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

Senator FUMO. Mr. President, there are Members of this Chamber who are far more expert on this bill than I am, and after I have concluded I am sure that they will add much to this debate. However, it is my responsibility at this time to put forth the procedural concerns and legal concerns that we have to the workers' compensation bill, Senate Bill No. 801, Printer's No. 2154, and I am going to read from a prepared statement because I do not want to make any mistakes. I want to make sure that the legislative history is correct for those in the future who may wish to litigate this.

First, Mr. President, Senate rules. The bill that is currently before this body is a bill on concurrence in House amendments. As such, the Majority party refused to allow the Senate Committee on Labor and Industry to consider amendments to the proposal asserting that Senate Rule XIV, subsections 4 and 5, prohibit any committee of the Senate from amending a bill on concurrence in House amendments other than the Senate Committee on Rules and Executive Nominations. In other words, the Majority party used the Senate rules as a shield to prohibit any legislative input into the proposal other than this committee.

Despite hiding behind the cloak of the Senate rules, in an effort to avoid having other Members of the Senate consider amendments to this bill, the Majority party has conveniently ignored the rules of the Senate as they relate to attachment of

a fiscal note. Senate Rule XIII, subsection 16(b), clearly provides that, quote, "No bill which may require an expenditure of Commonwealth funds...shall be given third consideration on the calendar until it has been referred to the Appropriations Committee and a fiscal note attached thereto," end of quote. There is no dispute that the bill currently before this committee will require an expenditure of Commonwealth funds as it places new procedural mandates on the workers' compensation appeal process. In essence, the Majority party's adherence to the rules of the Senate is a matter of convenience, not one of conviction.

Article III, Section 1, of the Pennsylvania Constitution clearly provides that "...no bill shall be so altered or amended, on its passage through either House, as to change its original purpose," end of quote. Pennsylvania Constitution, Article III, Section 1.

As originally introduced, Senate Bill No. 801, Printer's No. 1815, was narrowly drafted as an amendment to the State Workmen's Insurance Fund Act, an act relating to the creation and operation of a State fund for the compensation of injuries to employees and subscribers. Unfortunately, the House bill was amended in the Senate Committee on Rules and Executive Nominations, while on concurrence in House amendments, to remove the entire contents of the provision and replace it with a lengthy 100-page amendment that substantially alters the State Workers' Compensation Act, a distinctly different act than the one originally contained in Senate Bill No. 801.

Throughout this week we have witnessed our Lieutenant Governor and the Majority party assume an extremely narrow view of the germaneness of proposed amendments. Despite this position, we now have before us an unrelated amendment to Senate Bill No. 801, in derogation of Article III, Section 1, of the Constitution, which subjects this legislative proposal to judicial challenge, much like the General Appropriations Act of 1995.

Article III, Section 2, of the Pennsylvania Constitution. There is no secret that the Majority party believes that any constitutional infirmities that Senate Bill No. 801 has suffered as a result of the unconstitutional amendment process may be cured if the bill were to be referred to a committee of the General Assembly and considered on 3 separate days in each House of the legislature. This untested legal theory is premised on the Commonwealth Court's decision in 1989, *Pennsylvania Association of Rental Dealers vs. The Commonwealth of Pennsylvania*. In this case, our Commonwealth Court determined that the General Assembly's consideration and enactment of the Retail Installment Act unconstitutionally violated Sections 1, 2, and 4 of Article III of the Pennsylvania Constitution. However, this body should be aware that the Majority party clearly has misread the holding of the case. The court clearly stated that because, quote, "The Senate neither referred the amended bill to committee nor considered it three times, both Sections 2 and 4 were violated," end of quote. This was in addition to the violation of Section 1 of Article III. In other words, the court did not state or imply that by curing the Section 2 and 4 defects, the Section 1 violation was thereby avoid

ed. The court found all three sections to have been violated independently.

If we were to accept the reasoning of the Majority, Senate Bill No. 801's referral to the Senate Committee on Labor and Industry was devoid of any legislative input or deliberative consideration. The very committee with a specific expertise in the field of labor matters was prevented from offering any amendments or changes to the original bill or, despite the wishes of the chairman of the committee, even the opportunity to conduct a factfinding hearing. The purpose of Article III, Section 2, is to ensure that those Members of the General Assembly with an experienced understanding of specific issues are afforded an opportunity to consider legislation and offer amendments. The unfortunate reality is that most of the Members of this body have been forced to vote on this issue without the benefit of offering amendments to the bill or the contribution of the experienced Members of the Committee on Labor and Industry.

Article III, Section 4, of the Pennsylvania Constitution clearly states that "Every bill shall be considered on three different days in each House." The purpose of this mandatory provision of our Constitution is to ensure that every Member is able to vote on each bill with circumspection and the opportunity to offer input in the form of amendments to the bill. Unfortunately, the Majority party has refused any amendment to the bill other than those offered by the few Members of the Senate Committee on Rules and Executive Nominations. The Majority party purposely selected a bill on concurrence in House amendments so that the Committee on Rules and Executive Nominations of the Senate could be used as a shield to protect Senate Bill No. 801 from the normal amendatory process most legislative initiatives are forced to endure. The constitutional provisions within Article III were enacted as a reaction to these abusive practices of the Majority party, but have been circumvented by the Majority party's maneuvers.

We now have before us a substantial change in the Pennsylvania workers' compensation law. However, because of the tactics of the Majority party, most of the Members of this Chamber will neither have an opportunity to amend the bill nor alter it in any fashion. The intent and purpose of Article III, Section 4, is clearly being violated. As they did last year, it may again be up to our judiciary to correct these abusive practices and rule that the manner in which this body has considered and passed Senate Bill No. 801 is violative of Article III, Sections 1, 2, and 4, of the Pennsylvania Constitution.

Mr. President, that is my statement on procedure. It stands in the record. As to the bill itself, briefly now, this bill, although despite the arguments of my sincerely good friend on the other side of the aisle, the gentleman from Lancaster, Senator Armstrong, returns this Commonwealth back to the days of Charles Dickens, where we no longer care about workers. We treat workers as commodities to be expended when necessary, and woe be they if they get hurt on the job. Throw them away and get someone new.

Mr. President, I heard similar arguments when we were asked to reduce corporate taxes by \$286 million, that it would

inure to the benefit of the Pennsylvania citizens because jobs would be created. In fact, the exact opposite happened. Now, Mr. President, we are being told that was not enough. Now we must take away the human dignity of our workers and submit them to harsh treatment by employers, make them servants and slaves and serfs, if you will, to the rich, and that will bring jobs back to Pennsylvania.

Mr. President, I submit it will not. People want to locate businesses where there is a happy, intelligent, and well-motivated work force. The days of slavery are gone. We have seen that these procedures do not work in other countries, yet we here continue to penalize the Pennsylvania worker because big business is more affluent, has more money, can give more money to campaigns, and can control the legislative process.

Mr. President, I know that this bill will help greedy employers. It will do nothing to help the working men and women in Pennsylvania, and I hope now that they have begun to see the reactionary policies of this Governor, that they will be very sorry for what they did 2 years ago in electing him, and that in the next election the issue will no longer be the release of a convicted felon, but it will rather be the health of the economy of the State and so many other important issues that are not kneejerk, sexy, volatile issues but are the bread and butter of what human life is about. I hope that you will see a revolution in this Commonwealth of working men and women rising together with the poor and the people who have been denied health care and the people who are going to lose their jobs, not only as a result of this but as a result of the other legislation that has been enacted by this Republican administration, and they will revolt and drive you from your seats and install into this government Senators and House Members and a Governor who care about people and not just the wealthy.

Thank you, Mr. President.

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

Senator LOEPER. Mr. President, I think the bill that we have before us today, House Bill No. 801 as amended by the Senate Committee on Rules and Executive Nominations, contains many important provisions to help to further along the effectiveness of Act 44, which was passed in 1993, to try to curtail the spiraling costs of workers' compensation insurance in Pennsylvania.

Clearly, Mr. President, Pennsylvania has been in a very uncompetitive position with its neighboring States as far as this particular issue is concerned. I think we have talked many times on this floor that anywhere we go in any part or any region of this State and talk to groups of people as to what is their major concern in Pennsylvania, it is being able to survive in doing business in Pennsylvania and having a job in Pennsylvania. When we asked them what is their number one concern, many times, Mr. President, it used to be we would hear about the Department of Environmental Resources and the overregulation of that department, it would be about the high tax structure in Pennsylvania, but the number one issue that we heard, before Act 44 and since Act 44, has been the cost of doing business in Pennsylvania, the cost of trying to compete to cre-

ate jobs in Pennsylvania. We have heard over and over again about companies that may have locations in New Jersey, Delaware, and the State of Maryland, and their workers' compensation costs combined in those three States are less than what it costs for their premiums in Pennsylvania.

As I mentioned earlier, I think that Act 44 was certainly a step in the right direction and the gentleman from Bradford, Senator Madigan, and the gentleman from Lackawanna, Senator Mellow, who persevered for several years in trying to bring Act 44 to a successful conclusion, worked very hard. But, Mr. President, it is my view that the legislation that is before us today helps to enhance what already is in place in Act 44. It will actually try to create a much better atmosphere in order to conduct business in Pennsylvania.

I think it is important, Mr. President, that we look at some of the components of the compromise before us today. I think that the key, Mr. President, to all of the debate concerning workers' compensation legislation is that we do not want to hurt the legitimately injured workers, but we believe that there are certain provisions that have to be strengthened in order to make our system more secure and more responsive not only to the injured worker but certainly for those who foot the bill for the injured worker. I think, Mr. President, that one of the main, key components that we want to look at in the legislation before us today is to provide the payment of benefits only to legitimate claimants.

And I think many times we have heard about the various stories of fraud and abuse in the system, and I would like to just take a moment, Mr. President, to enter one of those that came to my attention from a small company in my district that basically deals in tile and marble. Mr. President, the following is a case history of an individual who was employed by this company. He was 39 years old and his occupation was a tile helper. While installing tile, his right middle finger became swollen, and that was the extent of the injury. Doctors' visits and reports ranged from infection due to foreign object in finger, possibly a fungus, or, third, it may have been rheumatoid arthritis. Mr. President, this gentleman was advised to attend physical therapy two to three times a week for hand therapy, range of motion, and massages. On September 25, 1995, and this is from May 26, 1994, the final bill was submitted for physical therapy. The gentleman, during that period of time from May 26, 1994, until September 25, 1995, was receiving \$493 weekly in benefits for a swollen finger. And, Mr. President, once he was finally examined and the doctor stated that he was fully and completely recovered and that no further medical treatment, medication, or physical therapy was necessary, the doctor's opinion was that the previous work-related injury, that is a fungus or an infection in the one finger on one hand, now has been rehabilitated and therefore he can go back to work. However, he now appears to have rheumatoid arthritis, which was not work related.

Mr. President, the point of this example is that the cost of that rehabilitation, the medical bills for that treatment were \$30,363. The compensation benefits paid for that injured finger were \$60,146, or a total cost of \$90,509 for a swollen finger.

Mr. President, those are some of the costs we have to bring under control. These are some of the issues that we are addressing in the bill and legislation that is before us today. I think, Mr. President, one of the other components that we want to make sure of is that the benefits are commensurate with the pre-injury earnings. That is that you not be compensated more for an injury while you are being rehabilitated on workers' compensation than what you would for your actual wage while you were working. I think the goal also, Mr. President, is to try to reduce costs associated with litigation and the administration of workers' compensation claims.

And finally, Mr. President, I believe that the amendment before us demonstrates trying to facilitate a prompt return of injured workers to the work force. Again, Mr. President, I believe that this represents a reasonable compromise. It represents legislation that can enhance Act 44, which is already in place, and, Mr. President, I would ask for an affirmative vote on the legislation.

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

Senator BELL. Mr. President, I heard my friend, the gentleman from Delaware, Senator Loeper, say this is a compromise. It reminds me of the old Russian story: We will compromise; we will only cut off one of your arms instead of two.

I do not know with whom the compromise was made. But I sat through a couple of hours this afternoon in a meeting of the Committee on Rules and Executive Nominations. We had Senate Bill No. 801, which had 88 pages of amendments. Then they had more amendments, 12 more, 100 pages of amendments. Do you know what? In my district, my small businessmen say they want lower workers' compensation rates. That seems to be the theme that was here today. But in 100 pages of new law, at no place is there a mandate that the profits made by the insurance companies by these 100 pages of new law, there is no mandate that they will go 100 percent to reduce workers' compensation rates. I do not know who is fooling whom on this, but this legislation is going to put more money into the deep pockets of the insurance companies.

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

Senator BODACK. Mr. President, I rise to oppose this bill, and in doing so, I have to say that most of my sentiments lie with our Governor's comments of May 22, when he sent us a letter and he asked us to be careful about what we do with this bill, that it should not be a political issue. Well, Mr. President, as hard as I tried to make this a bipartisan thing in my mind, I keep getting shut out. I was in the meeting of the Committee on Rules and Executive Nominations today and discussed at length the fact that we are no longer dealing with early 20th century politics, we are about to go into the 21st century, we are dealing with an 81-year-old law that went in in approximately 1915. It is about time that we bring ourselves up to date in this great Commonwealth and we start to address matters such as workers' compensation with a little more of an intelligent approach.

I do not think that this should be a political situation, but I find myself today looking at this amended bill, Senate Bill No.

801, which has 100-some pages in one amendment that the gentleman from Delaware, Senator Bell, described, and 14 more pages in today's amended version of the bill, yet being told that I do not have the opportunity to place an amendment in this bill. No Members, at least on this side of the aisle, had an opportunity to place an amendment in this bill. We heard the gentleman from Philadelphia, Senator Fumo, prior to the conversation of the gentleman from Delaware, Senator Loeper, tell us why and how this is deficient as far as legislative procedure is concerned in this Commonwealth.

In this 81-year-old bill, what we are about to do today with this amended version of the bill is we are about to mandate an insurance premium increase for any business that has two work-related injuries in 1 year. Now, in all of these years that this 81-year-old bill has been in place, nobody has ever mandated an increase for business. My friends on the other side of the aisle will tell you that they are the party of business and we are the party of labor. Well, that has been true for the greater part of the 20th century. It started out in the 20th century that something had to be done for working people, and at the time that the bill was made into law approximately 81 years ago, it was a compromise. It was the taking away of a worker's right to sue for the coverage that one would receive from a work-related accident. This is not a political issue. This does not belong here with the kind of party bickering that we have been doing over this bill.

I made a genuine attempt in committee today to go along with the Governor. A week ago, June 13, when we first got this bill in the Senate and started working on it, I sent a letter to Timothy Lyden of the National Federation of Independent Business. I also sent a copy to the Pennsylvania Chamber of Business and Industry, as well as the Pittsburgh Chamber of Commerce and the Philadelphia Chamber of Commerce. It seems, Mr. President, that I was getting calls from businesses in my district that I like to feel that I represent. I am not just on labor's side, and I have a lot of my friends, my colleagues on this side of the aisle, who would like to do something for business, if given the opportunity, rather than to have people posture themselves in a position of taking the high road and paying just lip service to those things that are going to happen to help business.

I asked callers, as my staff asked callers from business, what specific guarantee do they get in the bill that will result in a reduction of the workers' compensation premiums? Not one person could tell us one of those provisions. We went on and we further asked, how does this bill help the small businessman? How do you as a small business person stand to benefit from this bill? No one could tell us. Not one caller of the many, many calls that we received could tell us how this bill would benefit them as small business people.

Now, Mr. President, I have not yet received an answer to my letters to all of the chambers and to the National Federation of Independent Business, so I asked some of these questions in the meeting of the Committee on Rules and Executive Nominations this morning. I must tell you that the answers I got ran from little to none. I could not understand what was being done and what specifically was being done to help the

small business person. Nobody discussed how much the rates were going to drop. They could not even tell us, let alone discuss the rates, they could not tell us what constituted a 50-percent injury.

Well, Mr. President, I believe that the Governor is right. I believe that this should not be politicized, as is being done now. After all, if you take a look at what has happened to us here, we bypassed the committee of jurisdiction by running roughshod over the constitutional rules which govern this body and the consideration of legislation. I think that our friends on the other side of the aisle are shooting themselves in the foot over this bill, and I think that the only way that we will ever achieve a meaningful and lasting solution on the issue would be to bring both business and workers to the table in this Commonwealth, and through bipartisan cooperation show them the way to sit and work this thing out.

After all, we have done it before on other acts and laws that have been passed. We did it with the prevailing wage bill here not too long ago and another half-dozen other issues. There is no reason why business and labor cannot work together on this thing and come up with a solution, instead of placing it before the public. The very people we are trying to help consider us to be political hacks. Why do they want us to come up with a solution to this, however temporary it is going to be? Let us let business and labor sit down together, let us let them work out in a win-win situation just how this might be done. They know better about their workplace, they know better about the workers who are performing in their workplace.

Mr. President, I suggested further this morning in committee—I put it in the form of a motion—that we move to have this thing done in a win-win situation, and, of course, that was from my side of the aisle, and from the other side of the aisle we did not receive a second. We did not have time to draft any amendment with the way the skids have been greased to get this bill through. I think it is time that we really look at trying to get a genuine and sincere solution to this kind of problem and to get cracking and working on it with a lot more knowledge and intelligence on the subject than I am afraid we may possess and show in this body.

I still cannot understand it, and if someone on the other side of the aisle, and I understand I am not to interrogate anyone, but maybe somebody in their speaking today can tell us how this benefits the small businesses. I want to see the small businesses in my area taken care of because I really believe firmly, as do many Members on this side of the aisle, that business cannot function in this Commonwealth without workers, and the workers cannot work without business. So once again, here we go down the path of taking the high road and saying, well, this is not political, we are doing this, we are doing that, and it is exactly not true. I find in a quick reading of this bill that if one of our businesses experiences as much as two losses, two claims within a year's time, that their insurance rates go up. Well, that is not some way to help business. I think that is just a scam, and I think it is unfortunate that our businesses are going to suffer, especially our small businesses, because it seems to me in reading this that the only ones that will benefit

are the ones who are pooling their interests and, of course, big business.

Mr. President, I urge a "no" vote on this bill as amended.

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

Senator BELAN. Mr. President, I rise today in opposition to Senate Bill No. 801 because today we are considering legislation that does nothing to solve the problems in the workers' compensation system. It is legislation that does nothing to promote trust between employer and employee. We are considering legislation that has been brought to this floor without fair hearing, fair consideration, and fair study. The legislation has been brought to this floor in a fashion which prevented change, input, or discussion of the real issues.

And, Mr. President, in spite of what may have been said, the Democrats on this side of the aisle - and we are Democrats, strong Democrats - support workers' compensation reform as long as it is the right kind. And we are talking about a fair and balanced approach, one that promotes getting people out of compensation and back into the work force without jeopardizing those who are truly hurt. So we are talking about comprehensive reform of a system that needs structural change, change that streamlines dispute resolution, provides quality care, promotes workplace safety, stops runaway costs, and helps businesses grow. Unfortunately, what is before us is a proposal that stinks with a stench of special interests who desire nothing better than to get through another so-called reform without an examination of what is really wrong.

Let us just stop for a minute and think what we are really doing. We are considering a bill that says basically if you are injured on the job and you manage to survive the injuries for 2 years, you will be cast out into the work force and have income attributed to you which lowers your benefit. The advocates of this bill are saying, sorry, you may be permanently disabled, but there is a job somewhere for you. We do not know where, we do not know with whom, or what you will be doing, but surely there is a job for you out there somewhere. I ask, is this fair? Not by my standards, that is for sure.

And just what does this system get in exchange for this new, cruel standard? Under this bill, not much. No guaranteed savings, that is for sure. No certainty of premium reductions, no examination of insurance company reserves, no requirement that forces insurance companies to disclose their profits in a mandated system. No job training for injured workers so they can get back to work doing something productive given their injuries, or no fairness for older injured workers. There is no incentive that rewards employers who offer health insurance as a benefit in addition to workers' compensation. In short, there is no innovation, no new ideas, no compromise, and no negotiations, and because of the way this bill was brought to the floor, no opportunity for real change.

Why was this done in this way? What are the proponents of this legislation afraid of? Is it new ideas, is it better ideas? Is it just the Democrats, or what? No, Mr. President, this bill does not offer anything in the form of guaranteed rate relief. Mr. President, the only guarantee in this bill is that the life of

an injured worker will get much more difficult. Let us just stop and understand that what we are doing here today is not going to help. The new standards of evidence will not hurt the trial bar, they will help. Injured workers will simply have to hire more and better attorneys. Will that solve the problem of 2-year delays in workers' compensation case resolutions? Of course not. It will just add another dimension to the problem, increase costs, and put more trial lawyers to work. Will the new requirement that an employee stay with the company doctor for 3 months help? Of course not. It will build resentment, distrust, and disregard for the system.

How about the fraud section that only applies to injured workers? Are we to believe that it is only the injured worker who abuses this system and that the insurer is the victim? Well, the new back-to-work maximum medical improvement requirements, they help. Perhaps if you are in the insurance company because they will pad the insurance company's bottom line. They will reduce an injured worker's benefit by assigning wages for a job that may not exist. This will help cut costs, but at what price? Is it fair that we accept a system that allows injured workers to be sacrificed for the bottom line? Because if this bill is signed into law, Mr. President, that is exactly what it will do.

Mr. President, there is no guaranteed pass-through of any premium reduction from this bill. There is a hint and a hope, and a wink that maybe some relief is in sight, but certainly there is no guarantee. And, Mr. President, I am sick about this bill because, as you know, I have worked in serious hazardous jobs, and I have seen people seriously injured on the job. These people are not bums, Mr. President, they are not lazy and they are not out to beat the system. They are the people whom we represent, people who get up every day to go to work and do a job and contribute to their community. I have seen men and women who have been injured on the job lose their sense of who they are and where they fit into society. When they lose their work, they have lost a good part of themselves. And, Mr. President, these are good, strong, honest people who would not take a handout because they are just too proud. They are not the slackers they have been made out to be.

Let us stop it right here and now, Mr. President, because if we pass this bill and it is signed into law, we will be back 2 years from now and we will once again have to tackle this problem the right way, by sitting down and talking about the real ailments in the system. That is the only way you can find a solution, not with rhetoric, fast talk, and sleight-of-hand political moves that serve no purpose. Let us defeat this bill here today and sit down and talk as mature men and women do when they want to really solve a problem.

Mr. President, just yesterday I heard from the other side about public hearings on Senate Bill No. 165. It was mentioned by the gentleman from Mercer, Senator Robbins, that we have public hearings before we vote on Senate Bill No. 165. Is that bill more important than this, that we cannot have public hearings on this bill before we vote on it here today? Can we not go throughout the State of Pennsylvania and have hearings to see how serious this bill really is, and let us work

with the businesspeople, let us work with the labor people, and the insurance federation. Mr. President, I think that is more important than having public hearings on Senate Bill No. 165.

Again, Mr. President, I ask for a negative vote, and I thank you very much.

The PRESIDENT. The Chair recognizes the gentleman from Cumberland, Senator Mowery.

Senator MOWERY. Mr. President, I do not think that there is anyone in the Chamber today who is interested in taking advantage of our workers. You know, I think we must understand that one of our problems today is the fact that we have one of the most lenient workers' compensation plans of any State surrounding us. Back in 1972 there was a provision, a very simple change in our workers' compensation law, that stated very simply that instead of on-the-job accidents, it would be job-related accidents. Checking with the State of Maryland, I found that the definition for workers' compensation claims in the State of Maryland, which has rates today in many of the categories of approximately one-third of the rates in Pennsylvania, that their definition is still on-the-job accidents.

You know, there are a lot of things that tend to get out of hand over the years. There are a lot of people who tend to find that their neighbor is taking advantage of a more lenient system and feel that if they can do it, we can do it. And I think both sides of the aisle know of areas where this has happened, and the only thing we do not know is how often it happens, how frequently it happens, and who really pays for it is the business community. I think the business community would be very happy if they had all their workers working 100 percent of the time. I think the workers would be extremely happy as well as business, because that would be productive. But we know particularly in the manufacturing area where we have our highest workers' compensation rates, particularly in our steel mills, et cetera, that the employer is paying a tremendously high rate for workers' compensation. I know of one situation where there is a gentleman who let me know that the rates for miners, and that is not necessarily underground mining, the rates are 125 percent of payroll in the Commonwealth of Pennsylvania.

You know, I think all of us in this room would love to see a lot of jobs, a lot of people being employed, a lot of people finding that when they are back from a workers' compensation claim that a job is still there, or if the job in the current company is not, that there are a lot of other opportunities for them, and you know we do not have that in Pennsylvania. I would tend to think that instead of finding fault in the way it is done, we should be looking at what, hopefully, this bill might do to reduce some of those high costs.

I just had a very personal experience in my district where a company that had been there for many, many years which happened to be in the processing business, which has one of the higher compensation rates, found that it was better to move the company to the State of Maine than improve the company where it is now in Pennsylvania, and we just lost 300 jobs. You know, we tend to get off the track, and I understand that is politics. But you know, really, if we are all here trying to create a State, a Commonwealth that is interested in truly being

a place where our kids and our grandkids can stay home and find good employment, good jobs, opportunities, we have to begin to make some kind of tough decisions and haul in a system that when you say "job related" brings in a whole arena of situations whereby people have been able to take advantage of the system, and I really think all we are trying to do is to do that.

As I read the bill and looked at the amendments that were put in recently, there is not a whole lot there that I think is against the worker who is truly hurt. I think it does do a lot for those who are taking advantage of the system, and so I ask that we take a look at this bill in the positive light that it is being offered. I know it is just like our kids, if you never give them candy, they do not miss it, but once you give it to them and say no, you have a problem, and I think to a certain degree that situation applies here. We have been able to do it in the past, but we really cannot afford to give away anymore, and when you take away it is obviously a problem, and I think I understand that. I think we all do here today.

But I ask that we support this bill and give the opportunity for competition once again as it did under Act 44, bring competition into the State among those carriers who provide this coverage, and certainly take a look in a couple of years to see whether the bottom line has come down and that workers have the same opportunity for those truly hurt and needy to be taken care of 100 percent and that employers are able to reduce some of their costs and, hopefully, make a decision to come and stay in Pennsylvania.

Thank you, Mr. President.

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

Senator TARTAGLIONE. Mr. President, I, too, rise in opposition to Senate Bill No. 801, the workers' compensation bill of the gentleman from Allegheny, Senator Fisher. As we all know, Senate Bill No. 801, a bill on concurrence from the House, was amended June 11, 1996, in the Senate Committee on Rules and Executive Nominations. Placed into Senate Bill No. 801 at that meeting, despite the objection of Democratic Members of that committee, was a comprehensive amendment making drastic changes to Pennsylvania's workers' compensation law. Debate on the amendment was limited as Democrats were presented with a 46-page document at the meeting. Republican Members provided assurances that the amendment was, in fact, House Bill No. 2216. Democratic opposition centered on that pretense and the fact that the Committee on Rules and Executive Nominations was in violation of the Constitution by not first having the bill properly referred to the standing committee of jurisdiction, the Senate Committee on Labor and Industry.

To protect against a constitutional challenge, Mr. President, Republican leadership rereferred Senate Bill No. 801 to the Senate Committee on Labor and Industry on June 12, 1996. On June 17, 1996, less than 48 hours ago, the Committee on Labor and Industry held a hearing to discuss Senate Bill No. 801. Once again, as in the previous Committee on Rules and Executive Nominations, Democrats raised concerns about Senate Bill No. 801 but were stymied in their attempt to amend this bill.

Senate Bill No. 801 was reported from the Committee on Labor and Industry on a party-line vote, which amounted to no more than a futile attempt at preserving the political process.

Just today, Mr. President, that same Committee on Rules and Executive Nominations further amended Senate Bill No. 801, again over the opposition of Democratic Members of that committee. This bill was in the hands of the Committee on Rules and Executive Nominations twice, and twice it was amended by the Republican Caucus, while avoiding the debate and input of this entire body. It is shameful that this very important piece of legislation has been rammed down the throats of the citizens of Pennsylvania through a closed and manipulated political process that is being prostituted by the very individuals elected to uphold its integrity.

As my colleague, the gentleman from Philadelphia, Senator Fumo, previously stated, Senate Bill No. 801 may be one of the most important pieces of labor-related legislation that this body deals with during this legislative Session. What is wrong with the process when we circumvent the standing committee charged with the deliberation of pertinent legislation and ramrod bills through the Committee on Rules and Executive Nominations without giving them the thoughtful consideration they deserve? Mr. President, the political process deserves more respect, and the citizens of Pennsylvania also deserve more respect.

Mr. President, opposition to this legislation was expressed within the Committee on Rules and Executive Nominations and within the Committee on Labor and Industry. These are arguments that bear repeating so that this entire body and the people of Pennsylvania can hear both sides of the story before a vote is taken on this bill.

Senate Bill No. 801 will have a devastating effect on the lives of not only Pennsylvania's working men and women, but it will equally devastate the families of any worker who may become injured on the job from this day forward. Those could be Republican workers, Democrat workers, Independent workers, or workers who have no political interest in the political system. This bill is not bipartisan. It is not an issue of Republican versus Democrat or labor versus management. It will adversely affect all Pennsylvanians. Senate Bill No. 801 is an abomination. It is yet another cruel and heartless attack on Pennsylvania's workers and their families. Why is it cruel and heartless? Because it attacks workers and their families when they are most vulnerable - when they are injured. There are many provisions within Senate Bill No. 801 which are particularly disturbing to me.

Section 204 of Senate Bill No. 801 proposes to offset workers' compensation benefits by the amount received from pension and Social Security benefits. How much do we propose to save with this proposition? Eighty percent of our workers return to the work force after 6 weeks. Of the remaining 20 percent, only a portion are permanently disabled. Why would anyone want to deny a worker the compensation benefit the law allows and deny the worker the full benefit of pension and Social Security he or she contributed to? Why instead do we not just direct the employer to continue to pay the injured worker's pension plan while he is unable to work? Why do we

not institute an annual cost-of-living increase for injured workers?

Another section of Senate Bill No. 801 which, despite amendment today in the Committee on Rules and Executive Nominations, also remains objectionable is section 306(B)(2), which deals with earning power. Today we added a section which reads: "Earning power' shall be determined by the work the employe is capable of performing and shall be based upon expert opinion evidence which includes job listings with agencies of the department, private job placement agencies and advertisements in the usual employment area."

So, Mr. President, in essence, we are telling a skilled craftsman who is unable to perform that craft, due to workplace injury, that there are plenty of jobs for dishwashers in the local paper. Take one of those jobs. Never mind that you can no longer practice your craft. Never mind that this job pays a fraction of what you earned in your craft. Just take the job in your usual employment area, wherever that may be.

I ask you to read section 306, which deals with the determination of the degree of impairment. Before any of you vote in favor of this legislation, I recommend that you familiarize yourself with the American Medical Association's "Guides to the Evaluation of Permanent Impairment" and then make a valued decision. I will point out to the Members that the AMA guides states that it:

...may help resolve (impairment issues) but it cannot provide complete and definitive answers. Each administrative or legal system that uses permanent impairment as a basis for disability ratings should define its own means for translating knowledge about an impairment into the estimate of the degree to which the impairment limits the individual's capacity to meet personal, social, occupational, and other demands or to meet statutory requirements.

It must be emphasized and clearly understood that impairment percentages derived according to the Guides criteria should not be used to make direct financial awards or direct estimates of disabilities.

And if you think that the amendment placed in bill takes care of my concerns, let me share with you a statement made by Christopher R. Brigham, an M.D. who is regarded as a leading expert and the foremost trainer on the use of the AMA guides. Dr. Brigham performed several thousand impairment evaluations and states that, in his experience, "most work-related injuries result in impairments between zero and twenty percent."

It is important to realize that impairment and disability are not interchangeable. Impairment is the loss, loss of use, or derangement of any body part, system or function. Disability is an alteration of an individual's capacity to meet personal, social or occupational demands, or statutory or regulatory requirements, because of an impairment. In other words, a disability which results from an impairment could be much more severe than an original injury. And remember that the issue of impairment is a totally new provision. It does not matter whether the Republicans lower the standard from 75 percent to 50 percent. Current law does not set such standards.

Today in the Committee on Rules and Executive Nominations there was a lot of talk about a 5-percent savings to business, specifically section 707 of Senate Bill No. 801. This bill

contains no mandate. What is to prevent an insurer from increasing premiums for whatever reason and, for the sake of argument, let us say 20 percent. An employer who qualifies for a 5-percent savings due to his lack of claims then would see his premium rise only 15 percent. I guess you can call that a savings.

Mr. President, Senate Bill No. 801 contains other equally harmful sections, sections dealing with a change in evidentiary standards, changes in the computation of compensation requiring income averaging, and changes in the section addressing fraud. All of these sections put additional burdens on the employee.

Despite the Governor's attempt to salvage some respectability for this ill-fated legislation by having the Republican Caucus offer what they feel are compromise amendments in the Committee on Rules and Executive Nominations, this legislation remains cruel and heartless. Senate Bill No. 801 is designed to enable employers to remove all currently injured workers from workers' compensation rolls and make it virtually impossible for future injured workers to receive compensation and medical care benefits. It is unquestionably cruel and heartless and reminds me of another piece of legislation that was recently run through this legislature in a strikingly similar manner.

Mr. President, Senate Bill No. 801 is the result of a workers' compensation crisis hysteria contrived by the Pennsylvania Chamber of Business and Industry and the Ridge administration. I know my Republican colleagues would have us believe that businesses are leaving the State in droves. Granted, some businesses have left. We have always had businesses leave. But if we are in a workers' compensation crisis, how do you explain the fact that businesses are coming into the State and businesses are also expanding in the State? Show me the numbers of businesses that have left this State due to the workers' compensation costs versus the number of businesses that have come into Pennsylvania or expanded in Pennsylvania. And please do not pad the figures with the number of businesses that have left for all the other reasons that businesses relocate. Certainly there is more than testimonial rhetoric. Certainly there are statistics that bear out these claims.

Does workers' compensation need to be reformed again? Maybe so. But we would have a better idea if we would wait for the full effects of Act 44. Do we need Senate Bill No. 801? There have been studies conducted which tell us we do not. A recently completed study conducted by the Pennsylvania Economy League paints a brighter picture for Pennsylvania businesses. The Central Penn Business Journal reports that:

Despite an economic climate long rebuked as anti-competitive for its high taxes and repressive workers' compensation costs, Pennsylvania's business community may have discovered a competitive advantage in an unexpected place: health care costs.

A new study made public during the week of June 3 by the Pennsylvania Economy League reports that far from being the expected corporate budget-breakers, the health care costs borne by Pennsylvania employers are lower than similar figures in most of the 13 states studied.

Pennsylvania businesses (have) gained control over the once-skyrocketing costs of health care and created one of the more business-friendly environments among the states sampled."

Pennsylvania ranks 9 out of 13; that is 1 being the highest cost and 13 being the lowest cost. That is good news for Pennsylvania and for any employer wishing to locate here.

I have another example. Tillinghast-Towers Perrin, one of the world's largest independent consulting firms, which provides management and actuarial consulting to the insurance and financial services industries and risk management consulting to the public and private sectors, recently published a study assessing the performance of workers' compensation cost management initiatives. Towers Perrin reports that their data revealed:

A significant majority of respondents say their workers' compensation costs have decreased or leveled off. They attribute their success primarily to their own workers' compensation cost-containment initiatives rather than to changes in state regulations or general economy.

According to recent Cost of Risk Surveys published jointly by Towers Perrin and The Risk and Insurance Management Society, the cost of workers' compensation fell 10% between 1992 and 1993, and 18% between 1993 and 1994.

Why are employers' costs stabilizing or going down? Because many of them have realized the positive effects of their own cost containment initiatives.

Employers realize that true, lasting and effective change in their workers' compensation program must come primarily from their own efforts.

The Perrin report concludes that: Given the generally improving workers compensation landscape, (employers) whose costs continue to grow should ask whether they are missing opportunities to better manage their workers' compensation program and garner the financial rewards these cost-management programs generate.

Mr. President, why is Pennsylvania's Chamber of Business and Industry not doing their part in lowering workers' compensation costs through such initiatives? Why has the Pennsylvania Chamber of Business and Industry declared war on Pennsylvania's workers, when it is one of their own that is taking them to the cleaners? Why is the Chamber not demanding more accountability from insurance companies? And why is Senate Bill No. 801 silent on the issues of the employer's responsibility and insurance companies' responsibility in controlling workers' compensation costs? There are no provisions in Senate Bill No. 801 that guarantee savings to businesses. Make no mistake, and the only winners in the issue are the insurers who will continue to see profits rise.

Many have said that workers' compensation was only meant to be a temporary situation, that it is not meant to be a lifelong remedy. Well, I submit to you that workers' compensation is temporary 80 percent of the time. Yes, 80 percent of injured workers return to gainful employment within 6 weeks. The other 20 percent take longer and, yes, some of the workers never return to their jobs. Some injuries sustained on their jobs are indeed permanent; tragic, but true. And for those few individuals who become permanently disabled, for those individuals who have no legal recourse against their employers, we have the Pennsylvania Workers' Compensation Act. We have in place a law which was enacted to provide for those individuals forever, if need be. We cannot, and I will not, take that away from them.

Mr. President, we need more study and debate on this issue. Let us get all the facts, not just the ones the Governor and the Chamber want us to see. Mr. President, I ask for a negative vote on Senate Bill No. 801.

The PRESIDENT. The Chair recognizes the gentleman from Chester, Senator Thompson.

Senator THOMPSON. Mr. President, I rise in support of Senate Bill No. 801. We heard a lot about how Senate Bill No. 801 would harm innocent workers. We have heard about it rewarding greedy employees. We talked about the loss of jobs from companies moving out of Pennsylvania. But there is another group of employees who have not been thought about, and they are the public employees of the Commonwealth of Pennsylvania - the 67 counties, the 501 school districts, the 2,571 municipalities, and the hundreds of hospitals and health care facilities throughout this Commonwealth - who cannot move because their costs are going up. Those costs have to be passed on to each and every one of us, the taxpayer. So this is not a bill that will help private business, although it will, not exclusively, but rather will enable all of us to have lower costs for government services as the economies are realized, and I would support the bill.

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

Senator AFFLERBACH. Mr. President, it is almost foolhardy for those of us on this side of the aisle to debate this bill for a number of reasons, not the least of which is the fact that we have had approximately 3 hours to try to digest the amended bill as it came from the Committee on Rules and Executive Nominations, and for those of us who could not get into that overly crowded room to hear the debate at that time, it has been somewhat more difficult to digest the changes that were made.

In fact, as an aside, Mr. President, I could not help but wonder what would have happened in that overly crowded room, which surely exceeded fire safety regulations, if indeed someone had been injured on the job in this Capitol building. Would they have been able to, in fact, claim workers' compensation benefits or would they have been denied under this bill because the room surely exceeded the legal number of individuals who were permitted to be there at a given time?

But be that as it may, we heard speakers talking about the need for workers' compensation reform in order to restore competitiveness to the Commonwealth. We heard them talking about workers' compensation reform in order to get the malingerers off the rolls, and indeed I think every Member of this Chamber applauds those goals and would in fact support legislation that truly could achieve those goals. I was a cosponsor of the original Senate Bill No. 801, because as it was introduced it was a highly targeted attempt to address a workers' compensation problem that exists among longshoremen and dock workers.

We now have in the bill, however, something considerably different. We have in the bill, I think, nothing short of an attack on injured workers or those who may become injured. Mr. President, I believe that we can achieve legitimate workers' compensation reform, but I do not believe that we have to

launch an attack upon injured workers or those who may become injured to do it. The fact of the matter is that if we truly want to accomplish workers' compensation reform and if we truly want to bring down the rates for our employers, then we need to direct our attention to those mechanisms that can in fact do that, and those mechanisms are missing from this bill.

I am not surprised that the final bill continues to be an attack on injured workers and those who may become injured. In fact, the principal language of this bill was introduced in the House of Representatives in House Bill No. 2216 and was applauded by the Chamber of Business and Industry in this Commonwealth with loud and bold headlines proclaiming, "We are declaring war on the AFL-CIO." We are declaring war. Now, is that a position for an interest group to take? Not let us resolve the problem, not let us come together and see where we can agree and move forward, but let us declare war on workers and those who represent them. And indeed, earlier this week I, and perhaps other Members of this Chamber, received this tape recording from Deputy Secretary Don Smith of the Department of Labor and Industry, and Deputy Secretary Smith reiterates in the opening of that recording that Act 44 addressed one part of the equation, and that was the medical services part, but it did not address the other part of the equation necessary to address if we are to bring workers' compensation reform truly to Pennsylvania and contain costs, and that part, identified by Deputy Secretary Smith, is the benefits side.

Now, Mr. President, if in fact this bill were to be anything else other than the launch of an attack upon injured workers or those who may become injured, then why does Deputy Secretary Smith and why did not the individuals who contrived this bill in the first place address those areas where true reform needs to take place? Why did they not address the insurance industry weaknesses that are inherent in the workers' compensation process? Why did they not address the litigation weaknesses that are inherent in the workers' compensation process? This bill is a bill to further protect insurance companies. It is a bill to further enrich insurance companies. It is a bill to further promote the largest HMOs, many of which are owned by insurance companies in this Commonwealth. And it is a bill that will pay for these protections and these enrichments at the expense of workers.

But, Mr. President, it will also be a bill which will require employers to pay for these protections and these enrichments of the insurance industry. For example, we are told that this bill will help to hold down litigation costs, but I ask you, I ask any Member of this Chamber, to tell me if they seriously believe that when we change the standard of evidence, when we change case law that has been gathered over the years, when we put contradictory and conflicting language into the law, when we use double negatives, when we use less than artful terms, how is that going to decrease litigation?

Mr. President, let me give you one example in the bill as it is now drafted, where we open the door, in my opinion, to a significant amount of litigation. Let us turn to page 58, lines 14 through 20, where the language states, "When faced with conflicting evidence, the workers' compensation judge must adequately explain the reasons for rejecting or discrediting

competent evidence." No problem so far. Now listen to the next sentence. "Uncontroverted evidence may not be rejected for no reason or for an irrational reason." The use of double negatives, Mr. President, makes this sentence anything but clear. Evidently what the drafter of the sentence meant was that if the judge can in fact put forth a plausible reason, uncontroverted evidence may be rejected, whatever uncontroverted evidence is. It may also not be rejected for an irrational reason. Now, just who is going to determine what is an irrational reason?

Are we going to do away with litigation by using language such as this in an amendment to an existing act? I think not, Mr. President. I think we will see case after case after case appealed into the courts on the basis of the double negatives and what is irrational and the change of standards of evidence and the change in how an individual qualifies for workers' compensation, to what extent they qualify, and for how long they qualify, because all of the case law has been thrown out the window with the changes of these bills.

Now let us move on to the idea of what I mentioned earlier with protection of insurance companies and enrichments of insurance companies. Let us again look to the bill as it is now drafted. Let us start with pages 30 and 31. The bottom of page 30 begins as follows: "A provider shall not fragment or unbundle charges imposed for specific care except as consistent with Medicare. Changes to a provider's codes by an insurer shall be made only as consistent with Medicare and when the insurer has sufficient information to make the changes and following consultation with the provider." Again, that language is fine as far as it goes. But what has been done in the Committee on Rules and Executive Nominations? The penalty for the insurer failing to do that has been taken out. The insurer has been protected. There is no mechanism to force the insurer to, in fact, adhere to the Medicare codes.

What does that mean? It essentially means that many providers of the health care services to the injured worker are going to be short-changed on what they should receive from the insurer because they are going to continue to be permitted to bill only in bundled codes. When we took out the enforcement language which read as follows: "Failure by the insurer to make changes to a provider's codes consistent with Medicare or to consult with the provider with regard to changes to a provider's codes shall result in a penalty of three times the amount awarded by the department following the department's determination as to the applicability of the penalty. Penalty amounts shall be paid to the provider. Assessed penalties pursuant to this subparagraph shall not be reported by the insurer as loss costs or loss cost expense." Talk about protection, talk about indemnification, talk about permitting insurance companies to shortchange providers without any mechanism to bring them to control.

Now let us also talk about how we further enrich the insurance companies in this bill. Let us take a look at the portion of the bill which is on page 25. This section, beginning with line 9 and continuing down through line 25, deals with the requirement for an employer to post a list of at least six designated health care providers. The language goes on to say that "four

of whom may be a coordinated care organization and no fewer than three of whom shall be physicians, the employe shall be required to visit one of the physicians or other health care providers so designated" on this list "for a period of 90 days from the date of the first visit."

There are several problems with this paragraph, Mr. President. First of all, the list shall be a minimum of six, not more than four of which shall be coordinated care organizations, CCOs, and no fewer than three of whom shall be physicians. Now, when I went to school, 4 and 3 equaled 7, not 6. So the net result of this paragraph essentially means that an employer must post at least six, at least three of whom shall be physicians, thereby limiting the employer to three CCOs instead of four. Now, of course, they could expand the list voluntarily to 7, 8, 9, or 10 providers, but what is the net result for the insurance company? Who can qualify to be a CCO? Ask the Department of Health, Mr. President, how many applications they have for CCOs and who filed those applications. And incidentally, the bill also shifts that responsibility from the Department of Health to the Department of Labor and Industry, and I can understand why, because the Department of Health has yet to license a CCO in the Commonwealth.

Why? Because there are only a very few organizations which can qualify. The largest HMOs are the only ones who can qualify as a CCO in this Commonwealth - Keystone Health Plan and others. What, in fact, then does this paragraph do? It gives greater control of providing health care services to the wealthiest HMOs, the wealthiest insurance companies in this Commonwealth at the expense of all other health care providers. Furthermore, it gives those organizations the patient for a captive 90 days instead of 30 days, which is present law.

Now, Mr. President, Mr. Smith also said on the tape that he sent over to us that the treating physician is key to determining the ability of the injured employee to return to work, and I could not agree more with that statement. That is absolutely correct. And that is why the majority of States that surround this Commonwealth long ago decided to do away with employer lists and to permit the employee the complete freedom of choice to choose their health care provider from the first moment of injury. Now, Mr. President, we have heard a lot of comparisons with the State of Maryland, the State of Virginia, and the State of New Jersey as it relates to Pennsylvania workers' compensation. Why in the world are these people who are willing to compare us to these three States not willing to compare us to the other surrounding States? Why are they not willing to say that Connecticut, Massachusetts, Rhode Island, New York, Delaware, Ohio, and West Virginia all do not have a mandated employer list for health care providers, all do not have a minimum captive time period during which the injured employee must go to one of those providers, all have found that they are able to control their workers' compensation rates and still provide employee freedom of choice for provider.

And indeed, if the treating provider is the key to determining the ability of an injured employee to return to work, it is extremely important that that employee have confidence in that provider. It is extremely important that that employee be able to be treated by a provider who may have been the family

physician, who may well know things about that employee's medical history that someone on that employer's list does not know at the point of that injury. And in fact, any number of studies have demonstrated that the most important health care to traumatic injury occurs within the immediacy of that injury; not 30 days, 60 days, 90 days later, but within the first 72 hours of that injury. Mr. President, I suspect that is why the majority of other States surrounding this Commonwealth have done away with the antiquated idea of employer lists and captive employee treatments. This bill, however, retains them and in fact makes it worse by extending the period of captivity from 30 days to 90 days.

We have heard that workers' compensation is not profitable in Pennsylvania, and again, Deputy Secretary Smith says on his tape, to suggest that the insurance companies are reaping profits simply is not accurate. Mr. President, I suppose we can debate that from time to time on both sides of the issue, but I would only suggest this: We have between 350 and 400 insurance underwriters in this Commonwealth that are providing workers' compensation insurance. In the past 12 months, 40 new companies have entered the workers' compensation insurance market in the Commonwealth. Now, it would seem to me that if this were not a lucrative market, we would have workers' compensation underwriters leaving the Commonwealth, we would have workers' compensation underwriters refusing to write coverage, but we do not have that. We have 40 new companies in the past 12 months that have come into this market specifically to write workers' compensation insurance. And why not? And why not? Because it is a lucrative market in this Commonwealth, and this bill makes it even more lucrative and adds protections that the insurance industry has not been able to enjoy up to this point.

If, indeed, we wish to truly address those items that were most responsible for increasing the costs of workers' compensation premiums, then I suggest we bite the bullet and we attack the item of litigation where it can be most seriously attacked, and that is by indemnifying physicians who will review the injured employee, the case, and determine at what level that employee is able to return to work and how soon and for what duration. Today we have physicians who are frightened to death to use their best medical judgment in these cases because they know that no matter which way they decide, they are likely to be sued, whether their medical judgment is accurate or not. If they decide on behalf of the employee, they are accused of being in cahoots with the employee to keep him out of work. If they decide against the employee, the employee finds an attorney to turn around and sue the physician. What a terrible situation under which to have to use your best medical judgment.

But there are States in this nation that have addressed that issue, and what they have simply done is this: They have used the full faith and power of the Commonwealth or the State to indemnify two physicians who review that employee's injuries to make a determination, and that is the determination, and further suit is not permitted. And those physicians are not paid on a case-by-case basis, they are paid a flat annual fee so that there is no initiative whatsoever for them to do anything but

render what they believe to be the best medical decision. Now, if we want to bring litigation under control, Mr. President, that is the way to do it. The trial lawyers are not going to like it, but that is the way to attack the cost of litigation in the system.

Let us talk about the cost of insurance in this system. We are the only one of 50 States that does not have an adequate mechanism for reallocating the reserve set aside under a category that is euphemistically known as temporary total disability. Now, for those of you who do not know what that is—I am hardly an expert on it—but as it has been explained to me, it works in this fashion: When an employee is injured and is initially diagnosed as having total disability, he goes on a list that is called temporary total disability, and the insurer immediately begins to reserve an amount of money necessary to cover the cost of that disability, ad infinitum, so long as the employee may live. At some point down the road, perhaps 6 days later, 6 months later, 6 years later, it is determined that the employee no longer has total disability but is in fact partially disabled. I am told and am presently continuing to research that this is the only one of 50 States that does not have an adequate mechanism in place to reallocate that total disability reserve to a lesser reserve.

And why would the insurance companies want to do that? Reserves are not taxable. They can squirrel as much money away in reserves as they want to. It makes their books look good, and it is not taxable. Now, if we want to drive rates down, then let us bite the bullet, take on the insurance industry, and get in line with the other 49 States to address that issue. When we have the courage to do that, then we can talk about really reducing rates in this Commonwealth.

Mr. President, 30 years ago Governor Scranton signed into law a bill that radically changed the unemployment compensation system in Pennsylvania, and I said unemployment compensation. That became euphemistically known as the Scranton ripper bill, and in the decade of the 1970s, this General Assembly and this Senate had to come back and undo that damage. Mr. President, passage of this bill establishes the Ridge ripper bill for workers' compensation. And should this go to the Governor and get his signature in its present form, I have no doubt that in the next decade this Senate and this General Assembly will come back and undo the damage. I ask for a negative vote on Senate Bill No. 801.

ANNOUNCEMENT BY MAJORITY LEADER

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

Senator LOEPER. Mr. President, before you recognize the next speaker on the issue, at this time I request an off-the-floor meeting of the Committee on Education and I request all Members of that committee to report to the Rules room for a short meeting, but it would be my recommendation that debate on the measure before us continue.

The PRESIDENT. In light of Senator Loeper's remarks, an announcement will be made about the meeting of the Committee on Education.

SPECIAL ORDER OF BUSINESS ANNOUNCEMENT BY THE SECRETARY

The SECRETARY. Consent was given for the Committee on Education to meet imminently in the Rules room to consider House Bill No. 1031.

The PRESIDENT. All Members of the Committee on Education are requested to report to the Rules room for a meeting.

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

The PRESIDENT. The Chair recognizes the gentleman from Blair, Senator Jubelirer.

The PRESIDENT pro tempore. Mr. President, obviously there has been substantial debate on this issue, as well there should be, because it is a significant piece of legislation and one that has some historic challenges attached to it. The meeting in the Committee on Rules and Executive Nominations today certainly sparked some spirited and, I thought, excellent not only debate but questions of what are the goals, what are the reasons, what are the ramifications of Senate Bill No. 801. Mr. President, let me state at the outset, this is not the first time, not the second time, I do not know how many times this bill has been amended. It has not always been by this General Assembly.

The significant part of workers' compensation, and the gentleman from Lackawanna, Senator Mellow, correctly stated this morning that we often use the word "reform," and I have said many times and I do not disagree with anybody that reform is in the eyes of the beholder, and what is reform to one may indeed not be reform to someone else. I believe Senate Bill No. 801 brings about true reform. When I say that this bill has been amended many times, Mr. President, I say that because it has been amended far more times by the courts of this Commonwealth than it has ever been amended by the General Assembly, courts that have interpreted language of the General Assembly far differently than I believe was the intent. This bill has been with us, this concept, this constitutional amendment, over 80 years. And since that time, the time that the General Assembly and the people of Pennsylvania then said that there would be no fault in the system and that an employee could indeed sue his employer without proving fault if he was injured on the job or she was injured on the job, has far changed over the years.

Mr. President, we have been called upon as Members of the General Assembly to amend the legislation several times, but not nearly the amount of time that the courts have involved themselves in determining what we have said. A few years ago Act 44 came into being. I believe if the record were searched, I spoke on that bill and at the time said this is only the beginning. The job has started. It is not finished. That was the best we could do at that time, recognizing that the Governor, at that time Governor Casey, had indicated he would veto any more changes in the Workers' Compensation Act, an act which was opposed by many of the groups that oppose this legislation

today. Amid all the facts, amid all the studies, amid all the contentions, the boiled-down reality is that costs are way out of line. It is impossible to defend that and still hope to be competitive for jobs.

What this bill does today, and if the unemployment compensation bill was the ripper then, I believe that the reputation of the Governor at that time was that he tried to do what was right and his reputation, I believe for the last 30 years or so, is well respected, as I believe this Governor who came to Harrisburg and said that he wanted to change Pennsylvania honestly and make change, that he is going to try to do the right thing, too. This is not just Tom Ridge's bill, this is a bill that many of us believe has been long overdue. Many of us who wanted to do more in Act 44 have said that the time would come when we would have an opportunity to finish what was begun by the gentleman from Bradford, Senator Madigan, and the gentleman from Lackawanna, Senator Mellow.

Mr. President, we cannot compete. We cannot compete with our sister States, we certainly cannot compete with our neighboring States. One goes to the States of Ohio, Maryland, West Virginia, New Jersey, perhaps not New York and I hope we are never compared with New York when it comes to our tax structure, we just cannot compete. There are businesses today that have choices to move across the line, that have businesses in other States that say very, very clearly that they cannot afford to continue to pay the high cost of workers' compensation in Pennsylvania when in other States it is so much less.

And for the information of the gentleman from Allegheny, Senator Bodack, and I thought I had pointed it out to him in the meeting of the Committee on Rules and Executive Nominations this morning, there are indeed savings for small businesses, and it is the small business person who is the most desperately in need of help. It is the little guy, the guy with 5, 10, 15 employees, who is getting hurt very badly, who cannot continue to keep those employees, if indeed the system is not reformed.

If we do not continue to move ahead from where we were a few years ago, the abuses, the delays, the added costs are going to continue to be persistent problems. Problems cost money. Delay costs money. The problems drive out jobs. The perception of Pennsylvania in the area of workers' compensation is that we are one of the highest rated States in the nation, and that the cost of doing business, because of workers' compensation, is a hindrance. Problems are also faced by other employers and local governments. Taxpayers pay for those problems. It is not just businesspeople, but it is employers, it is professionals, municipal governments which continue to have to bear the costs of higher workers' compensation. And who pays for that? Taxpayers pay for that, and that really sends a message across the Commonwealth of Pennsylvania that the cost of living in Pennsylvania is more onerous because of this.

Mr. President, the measure is prospective, meaning that the stories, the rallies, and demonstrations of all the involved people who fall under the existing system, that is not going to change. This legislation is not tearing up anybody's contract that workers with legitimate injuries have. The primary goal is

to get people back to work, back to work on their job or another job instead of staying on workers' compensation. And for the most part, people indeed want to do that. But there is a system that we have in place that precludes that and, frankly, encourages people not to do that.

Let me, as I stated in the Committee on Rules and Executive Nominations this morning, tell you of a very clear instance of a contractor who employs a basic laborer's job at \$8 an hour. If that contractor does a prevailing wage job in my area, that \$8 cost is now \$21 under prevailing wage. If that worker is injured not on the prevailing wage job, has had only one quarter on the prevailing wage job, but injured on the regular job, it is that \$21 an hour that is used as the base. Two-thirds of that, which is what the employee would get, is \$14, nontaxable dollars, not the taxable \$8 that the employee would get. Why in the world would the employee ever want to go back to work when we encourage them to stay off work with that kind of a system?

It is these kinds of things, Mr. President, that we have heard evidence of a system out of control, a system that does not work, a system that raises costs and costs Pennsylvania jobs. There are sacrifices all through this bill because no player or aspect of the system is without fault. Is it a perfect bill? Of course not. It is a compromise in many different ways. It is intended to try to reform a system, keeping the integrity of what workers' compensation is supposed to be for - workers injured on the job.

There have been concerns expressed about the savings. Obviously, there are going to be savings, Mr. President. The Governor has made the issue an economic development priority, and certainly his commitment and the commitment of the administration and the department is going to squeeze every dime out of savings and pass them back to employers, and, as I said, most of those savings are going to come to the small business people and to the municipal governments. The last administration stopped at the point where Act 44 could not move forward, and we need to move forward here. We can talk about the studies, we can talk about delays, we can talk about more time for savings, but frankly, if we continue to do that, there is going to be more of a huge disincentive and more opportunities are going to continue to be lost.

As I talked to businesses that are in my district or around this State, and the gentleman from Delaware, Senator Loeper, alluded to the fact that we have done that, the number one issue that comes to their lips is clearly the issue of workers' compensation. Before they want to talk about anything else, they will tell us, you have to do something about our workers' compensation costs. They are going out of control. We could go to Ohio, we could go to New Jersey, we could go to Maryland. We do not want to. We want to stay in Pennsylvania, or we want to locate in Pennsylvania but your workers' compensation costs are out of control.

Mr. President, I respect the fact that other people have different opinions. I respect the fact that there are different perspectives on this. But the one consistent thing, and as one of the previous speakers said, this is Republicans versus Democrats and workers versus employers, I do not believe that for

a moment. Injured people are not Republicans and Democrats, they are people. We respect that. Employers are not Republicans and Democrats, they are Pennsylvania employers, and they are both parties. And, Mr. President, people of both parties are suggesting and asking and begging us, please do something. Help us. It is a jobs issue. It is an economic indicator for the Commonwealth. It is an albatross of costs around our neck, one that we must indeed free ourselves from. If we do not take the opportunity to do this, and today is that time, Mr. President, it is going to be more difficult as we see more and more employers either leaving the Commonwealth or not expanding their business or laying off workers.

It is a jobs issue, Mr. President, pure and simple. It is a taxpayer issue, Mr. President, pure and simple, and it is an issue that must be resolved and must continue to bear the scrutiny of this General Assembly as courts continue to take advantage of what we have tried to do here and erode what reforms have been enacted in the past in the legislation that was intended by this General Assembly.

Mr. President, I think today is an opportunity to make a difference, to make a change, to send a message across this State, across this nation, that Pennsylvania is going to certainly take care of those who are injured on the job, as they should, but make sure that there is a balance and a fairness to the system that is completely out of control at this time. Mr. President, I urge a positive vote and a signal that we are indeed prepared to compete with any State to bring business into the greatest State in this nation.

The PRESIDENT. The Chair recognizes the gentleman from Erie, Senator Andrezeski.

Senator ANDREZESKI. Mr. President, it is a great day in Pennsylvania if you are at the top of the pile. It is a great day in Pennsylvania if you are at the top of the heap. It is a great day in Pennsylvania if you are at the top holding the controls, holding the controls of the insurance industry, holding the controls of government. It is a great day in Pennsylvania.

But it is not a great day in Pennsylvania, Mr. President, for a lot of different groups. It is not a great day if you are a member of the working poor, because we managed to take away Medicaid. It is not a great day if you are a single working mother working for minimum wage, as 60 percent of minimum wage earners are, because we refuse to address increasing the minimum wage. It is not a great day in Pennsylvania, Mr. President, if you were on welfare, because we are taking a lot of people off welfare and we are denying those people medical attention. You know, it is not a great day in Pennsylvania if you are in a wheelchair here either or happen to be over at Soldiers' Grove sitting there in a wheelchair or happen to be down in the Rotunda, trying to make sure that you have attendant care with moneys placed in the budget. Just as a sidelight, they do not have a big law firm lobbying for them or anything, and I think those people will end up being arrested. It is not a great day, Mr. President, if you are old.

The PRESIDENT. Senator Andrezeski, the topic is workers' compensation.

Senator ANDREZESKI. Okay, Mr. President. It is not a great day, Mr. President, if you get hurt on a job.

The original Workers' Compensation Act of 1915 spoke of the right of an injured worker in Pennsylvania to receive compensation for an injury sustained in the course of his employment. Under the reforms contained in Senate Bill No. 801, workers all across Pennsylvania stand a very good chance of losing this longstanding right. Now, I stood here and I heard people tell about the guy with the swollen finger who got a year's worth of compensation. Yeah, he probably should not have received that. I stood here and I heard about the guy who was injured on a job and did he take the system because he was making 21 bucks an hour when he was working because it was prevailing wage, and he should have only been making \$8.50 an hour.

I challenge any of you to go out and work on a construction job for \$8.50 an hour and see what a great time you are going to have. I challenge any of you to go work in a boiler shop and have a foreman tell you to move a 350-pound grate with another guy and start carrying it over the floor and feel your spine compress, and if you take a wrong step, one side of your spine is going to compress more than the other and you are going to either damage, crack, or completely destroy one of your vertebrae. I do not think these people are saying, yahoo, it is time to retire.

I challenge you to go out and do these jobs. I challenge you to go out and live the lives of the people we are now saying for some reason are cheating and abusing the system. I did it. It is not that bad. You get to work overtime, you get time-and-a-half. Of course, that might be gone. And I stood here and heard about all these claims. We make it sound like everybody is dropping like flies. Guys are getting jobs, going on jobs, falling over, they are injured, it is time for them to retire.

Well, the overall number of reported injuries in 1994 was approximately 6,700 less than in 1993. In 1993 reported injuries were approximately 6,500 less than in 1992. According to the director of the Bureau of Workmen's Compensation, workers' compensation injuries have decreased 25 percent and fewer new petitions have been filed while more decisions have been rendered. This has resulted in the first decrease in the petition inventory since 1989. Now, insurance industries have enjoyed a thriving business in Pennsylvania since the passage of Act 44. In fact, as one of my colleagues stated, 40 new insurance companies have begun writing comp in Pennsylvania.

Senate Bill No. 801 contains no guarantee that savings are going to be passed through to employers in the form of reduced premiums. The only guarantee that Senate Bill No. 801 gives is that life will be much more difficult for any working man or woman who is injured on the job. Senate Bill No. 801 contains no substantial litigation reform and nothing that would expedite the processing of claims through the workers' compensation system. Now, benefit changes, changes in calculating the average weekly wages, and the lack of any meaningful insurance reform in Senate Bill No. 801 do not make this a reform bill. It makes it a bill that goes after people. The section of Senate Bill No. 801 related to a workers' earning power and the application of what is called the maximum medical improvement is an absolute disgrace to anyone out there who

is disabled on a job. It is my opinion, and it is the opinion of many, that what we have created is if you get injured, no matter what the injury is, it is only a 2-year maximum. Any cost savings by this legislation is extracted from injured workers who will be denied compensation and will receive substantially reduced workers' compensation benefits.

Mr. President, I cannot remember a time in this Chamber when a so-called reform bill deserved the title of "reformless." When my constituents urged me to support meaningful reforms here in the Pennsylvania Senate, they expected to see an improvement that makes things better, not worse. Unfortunately, this so-called reform bill makes things a lot worse for working men and women across our Commonwealth, and I would like to ask, how many times are we going to keep punching working men and women across Pennsylvania? How many times are we going to keep saying they are paid too much because it is prevailing wage? They should not make more than \$4.25 an hour if they are the working poor. They should not receive medical benefits if they are the working poor. And if they are old and in a nursing home, they should not receive a lot of hours of medical care.

This bill makes things worse. Along with all those other things, this makes things worse. And not only does it make things worse, it destroys the right that Pennsylvania workers have had since 1915 to fair and just compensation when they are injured on the job through no fault of their own. This is not reform. This is going after people. We keep—not "we," my colleagues on the other side of this aisle—keep going after people. They are going to find out this is not a monolithic society. They are going to realize there are a lot of different groups. They are going to realize there are a lot of poor people, injured people, old people, and people of different races out there, and they are not going to put up with this. But I am sure on the other side, in some comfortable office far removed from the reality of the shop floor, from the reality of a construction site, I am sure that this bill is making some lobbyist or corporate lawyer proud.

Perhaps we might be better off to call this the final-insult-to-injured-workers bill of 1996. This bill seems to be about putting insurance companies and profit above the lives of men and women who sustain legitimate injuries on job sites that prevent them from returning to work and denying them a quality of life, sometimes for the rest of their lives. I would like to repeat, and I said this before, there is no hardworking man or woman who deliberately goes on the shop floor or on a construction site to hurt themselves, and there is no hardworking man or woman who wants to be laid up collecting a benefit check smaller than their paycheck, not when they have a family to support, and no one out there who is legitimately injured thinks of workers' compensation as a lifetime of leisure or the easy life.

For every anecdotal story about the injured worker who shovels snow in the winter, puts a new roof on his house in the summer, there is an anecdotal story about the company doctor who would rather deny the existence of an injury than be denied his paycheck, or the injured worker who loses his house to foreclosure while waiting for 2 years for his appeal to be

heard. But these anecdotes on either side are not going to reduce the high cost of workers' compensation, anecdotes are not going to prevent price-fixing, anecdotes are not going to prevent high rates, anecdotes are not going to prevent the rating bureau from changing classifications around that should be changed around which helps small businesses and helps some of these companies. What we have is a bill that pits workers against employers. This bill does not have to extract every nickel of cost savings from the benefit checks of injured workers, who will see comp claims denied, reduced, and in the end, I believe in every case, terminated. But this is the path down which the Governor and his party have chosen to take workers' compensation reform. Now, this path is going to truly satisfy those who view us as having a monolithic society where there is a sameness and blending of genteel regularity. Well, we do not live in a monolithic society. Those who tried to define those societies in the past are no longer here.

This bill is mean-spirited. It will do nothing but punish injured workers all across Pennsylvania, and I urge my colleagues to cast a negative vote.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Chester, Senator Gerlach.

Senator GERLACH. Mr. President, maybe it is an appropriate time to get away from a little bit of the hot rhetoric and partisan demagoguery and maybe take a commonsensical kind of view of what we are trying to accomplish here today.

We have heard throughout the debate here on the floor of numerous studies and of numerous statistics that are cited both by proponents of this legislation and opponents of this legislation, and certainly it is important to take that information and that data into account when you are looking at the complexities of this legislation. But of equal importance, and perhaps even more so than that information, is to try to gain the personal experiences of the people of our districts whom we serve, to see what they are experiencing under the current system and therefore what, hopefully, will be accomplished under a reformed system.

I received numerous telephone calls and letters from workers in my district who are very fearful that Senate Bill No. 801 unfairly and unreasonably reduces the benefits they are receiving or impairs their ability to collect future benefits. At the same time, I have heard from a trucking company in Chester County that is considering moving its operations across the State line into Delaware because of the oppressive workers' compensation rates it has to pay. And I have talked to the owner and president of a small home health care company who has, in fact, moved from Chester County to Delaware because of the very high cost of workers' compensation in Pennsylvania.

So as a result of this constituent contact that I have had, it has occurred to me that ultimately the objective of this legislative effort, and really its test of success, is whether this workers' compensation reform bill will result in reducing the overall costs within the workers' compensation system and thereby bring down the oppressive rates that our job creators must face and deal with, and at the same time continue to

allow a fair and reasonable medical, wage loss, and specific loss benefit system for those injured workers out there across Pennsylvania. It is that rather simple standard that I have applied in deciding whether to support this reform, and that standard I believe is met under Senate Bill No. 801.

Rarely, if ever, do we imperfect legislators draft perfect legislation. Ultimately, our efforts come down to whether the passage of legislation improves or betters the condition or the situation we are dealing with or creates more harm. Most major bills contain elements that separately we might not like and others that we do. But we must consider this bill, Senate Bill No. 801, in its totality. Will enactment of this legislation meet the objective of reducing the rate burden that our job creators have so that we can thereby expand job opportunities in Pennsylvania rather than extinguish them? Will enactment meet the objective of continued availability of fair and reasonable benefits for injured workers?

I believe, on balance, that Senate Bill No. 801 meets these objectives, and when these objectives can be met, it becomes our responsibility to act. And, Mr. President, that time has come. I would urge the adoption of Senate Bill No. 801 by our colleagues.

The PRESIDENT. The Chair recognizes the gentleman from Fayette, Senator Kasunic.

Senator KASUNIC. Mr. President, I rise today to ask that we reject Senate Bill No. 801. It is once again a rainy day in Pennsylvania and, quite obviously, it is raining, it is storming on the working men and women of this Commonwealth.

Mr. President, never in my 14 years here in Harrisburg have I seen such blatant disregard for the rules of this body. What I am referring to, Mr. President, is the procedure through which this bill has traveled and made its way here to the Senate floor. I think the Members of the Committee on Labor and Industry should have had input, should have had the opportunity to craft and structure a piece of legislation. After all, we are a standing committee, and I feel as a member of that committee that I was assigned to that committee to partake and to participate in issues concerning working men and women. As a member of that committee, I am embarrassed and I am angered, and I think that every member of that committee should feel the way that I do, because the message that I get is that we, as members of that committee, were not capable of putting together and structuring and crafting a bill.

I myself have the utmost respect and faith for the chairman of that committee, the gentleman from Lancaster, Senator Armstrong, and the Minority chairman, the gentleman from Allegheny, Senator Belan. I was willing to work with them, to have input, to have public hearings. The gentleman from Chester, Senator Gerlach, who is a dear friend of mine, and I served with him in the House, talked about this not being a perfect piece of legislation. He is right. He is right. It is not. And the reason it is not is because it was one-sided, very one-sided. All of the parties were not brought to the table to negotiate and to talk about a compromise.

Several years ago as a member of the House Committee on Labor Relations, we had a very serious problem with our unemployment compensation program. We were able to sit down,

bring business and labor to the table, along with the legislative delegation, and we hammered out a compromise that solved that problem and solved it quickly. I believe that could have been done here today. We could have done that.

Mr. President, I want to talk about a few aspects of the bill now. One of them is about the earning power. There are many aspects that need to be addressed, but I am just going to touch on a few of them. First, the bill changes partial disability benefits after 2 years to include income that may be earned by some sort of hypothetical job. This means that benefits for an injured worker will be reduced by that amount that may be earned from income from a job that the injured worker can work at. Now, that job may or may not exist, but this bill is going to take the amount of income that a worker may earn. This provision in this bill particularly hurts areas of the State with high unemployment, particularly southwestern Pennsylvania. There simply may not be the jobs there for these injured workers to work at. Yet their benefits will still be reduced.

Another issue I want to talk about is fraud. Mr. President, this bill will be extremely penalizing to injured workers relating to fraud, and I believe, as we all do in here, that it should be. After all, we need to go after those people who are filing the fraudulent cases. In fact, workers who are caught trying to defraud a company or an insurance company or business will be fined up to \$5,000. But nowhere in this bill do I see any penalties for anybody else who commits fraud. What about the employers who commit fraud or insurance companies that may commit fraud? What about the unscrupulous attorneys or doctors out there? Why are not all parties involved in this?

Are there any rollbacks? Is there any guarantee? What guarantee do we have that rates are going to be reduced? Are there any rollbacks built into this bill? I do not see any, but one thing I do see is that if an employer has two people injured, and this is a lost-time injury, we are now statutorily going to have these rates increased for these employers. Is that what we really want to do? Is that why we are here today, to increase rates?

Mr. President, this is more than an issue about high insurance rates, pension offsets, earning power, and eligibility standards. It should be an issue about fairness. And I have heard that said, that is what this is all about. But where is the fairness to the injured workers? This legislation before us is anything but fair today because we did not have all people at the bargaining table. Very few people were there.

It reminds me of when I was a young boy back in the coal mining community of Monarch, Dunbar Township, when I used to sit around and listen to my grandfather, my uncles, and others talk about the way things were in the coal fields when they worked there, and it meant nothing to people like H. C. Frick and J. V. Thompson when a worker was crushed, when he was killed, when he was maimed. It meant nothing at all. But do not dare do anything to hurt or maim that mule or that horse, because there were going to be big problems. But what they could do with that person, they could just cast him aside. It was not costing them anything, because they could replace that worker very easily, but it was going to cost them to go out there and replace that mule.

What I see happening here is that there will be increased profits for insurance companies, make no mistake about that. During the 14 years that I have been up here we have gone through many different changes in terms of the insurance industry, and we have always been told about the savings and the rates going down. Whether it be workers' compensation, whether it be auto insurance, we were always promised that and told that, but have we really seen any decreases? The people I have talked to, and I know what the statistics are and what is going to be said about the savings that will take place, but the people I have talked to in my district when I ask them about their rates, have they seen rate reductions, they tell me, no. And I do not think they are going to see much of a reduction now. What I see is more profits for insurance companies, more profits for doctors, more profits for attorneys because of the increased litigation that we are going to have.

The concept of workers' compensation, which was started and founded in 1915, was known as the great compromise at that time. I wonder what the bill before us today is going to be called in years to come.

Thank you, Mr. President.

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

Senator RHOADES. Mr. President, today I had hoped to rise to say that I support workers' compensation reform in Pennsylvania. However, I cannot, at this particular point, vote for Senate Bill No. 801. In my view, the legislation still has a way to go to reduce the cost to the employer and to protect the employee.

As I look at the bill before us today, I must note that it is a vast improvement over the original House version. I was privileged to work with the gentleman from Lancaster, Senator Armstrong, and Secretary Butler and members of their staff on some of the changes included in the amended bill. I had 24 specific recommendations or concerns, and I will admit many of them were agreed to and included in the amendment, but I would also note that I had about 21 amendments.

I think it is most important to acknowledge that through Senator Armstrong's and Secretary Butler's efforts, we see that the earning power definition is better, the impairment percentage required to determine total disability is far more reasonable, the time period in which employees must visit an employer-designated physician is vastly improved, and the calculations through which the average weekly wage of building and construction tradespeople is determined are a step in the right direction. And once again I applaud them for those particular changes and the efforts in those areas.

However, there are still issues that I am concerned about that I think must still be addressed, and many of those issues can be attributed to the fact that labor, business, and other interested parties never sat down together to work through their common problems and priorities. There are definitely excesses and abuses in the system. Many are acknowledged by both business and labor, but they can only be resolved once and for all by addressing them through mutual cooperation between the affected parties. And I assure you this can be done.

During the last few weeks I convened a group in my district that represented business, labor, hospitals, medical providers, and injured workers. We went through House Bill No. 2216, went through the analysis and even the bill line by line, and we actually agreed on a large number of issues. Surprisingly, what I saw was more cooperation and a consensus to do the right thing, the fair and equitable thing, than what I had envisioned. These meetings showed me that we can come together and agree on even the most divisive issues, and in coming together, agreeing to cooperate, and moving toward a goal we all share, we can reform workers' compensation in Pennsylvania. I think the aim is to reduce workers' compensation rates to the employers and to protect our employees.

I still face a concern over *Eck and Eck*. It is a court case that says no decision can be made until all the information is in. Yesterday in a meeting Secretary Butler assured me that will be addressed, that will be taken care of because he is going to make sure that every judge is going to perform the way they should. I have the greatest confidence in his ability to do that, but I also have the greatest concern that when Secretary Butler is not there anymore, how is the system going to ensure that the trials, the hearings are held on time, that everyone does their job - employer, employee, medical, insurance, lawyers, and even referees? And if you want to see where the costs come down, take the maximum of \$527. Now, if I use that in a week, in a month's time we are talking about \$2,108. If someone within that group ends up not addressing or holding up or not submitting a paper, that hearing continues to go on and on. Over a 6-month period that is \$12,648 that has to be paid in workers' compensation, and an injured worker goes on without a case solved.

What I think we need in this bill is a process that consists of a procedure, fines, reprimands, whatever it is, to force all the parties to act deliberately but fairly and equitably to move these decisions along. Even the Workers' Compensation Appeal Board takes 6 months to 18 months to decide. Now, if I have to take that workers' compensation claim and the insurance company is going to pay it, whom are they coming back on? The employer to pay more. Our biggest obligation is to address this and ensure that hearings will be held on time, and it cannot be by administration to administration.

I have a concern on expert witnesses. Why pay them up to \$1,500 to testify? Now, that may be more, and the lawyers would know that better than I, but for similar cases they may only get paid half of that. Who assumes or who pays for that additional cost? Where is that built in? If we are talking about reducing costs, is this not one of the ways to reduce costs to the employer?

I have grave concern about independent medical examiners. Who picks and pays these people? And on terms, what do they get paid? Do they get the 113 percent of Medicaid that the injured workers' physician gets? Look at the numbers and you are going to find out it is greater than that. Well, if I equate it and put both of them in the same area, would I not be able to save some money there and should I not be able to pass that money back onto the employer?

I have another concern in terms of just competition. When I found out through my hearing that an employer from outside the Commonwealth can come into this Commonwealth, bid on a job, come into the job in this Commonwealth and never pay workers' compensation, not unless they hire a Pennsylvania citizen as an employee, is that fair for our people who have to compete? In *The Morning Call Sunday* newspaper a week and a half ago there was an article about a dry wall plasterer out of the Lehigh Valley area who does not do any jobs in Pennsylvania. He goes to New Jersey because people from New Jersey are able to come in here and take all his jobs away. If we are talking about competition and creating jobs, level the playing field out. Anybody who comes in here has to pay our workers' compensation. You say ours is higher. Level the playing field and our rates will go down.

Another thing I am concerned about is that real estate brokers, corporate executives, and now insurance agents are able to get exemptions for workers' compensation. Tied to that, too, are religious sects that also do not have to pay workers' compensation. You see the kind of unfairness built into the rest of our employers.

We are also going to use the American Medical Association's "Guides to the Evaluation of Permanent Impairment." I say the "Encyclopedia of Occupational Titles" would be a much better guide when properly administered through a physical therapist who can find out what impairment or disability really exists. And I will also add this, that the title page of the AMA guides specifically states that it is not to be used for the determination of impairment in workers' compensation related cases. Of course, I would not say that is unusual for us. The only thing I would say is 44 other States are using it, so I do not know how much we take heed of things and try to do what is the best thing.

I am also concerned about the coordinated care. Who sponsors them? Who operates them? What kind of service are we going to get out of them? I am concerned also that an employee now who does not terminate his workers' compensation claim but only suspends it and continues to roll it over from time to time, his employer is still obligated to pay. Why can we not build in here something that protects that employee to reopen the claim if they have to so that the employer does not have to continue to put that money in reserve, money that they can use?

I am also concerned because in our meeting a chamber member told me that the NLRB has a ruling that you cannot put these safety committees together. Well, I think it all depends on how you work it, because a United Mine Worker at the same meeting told me they had a labor/management committee and they were told they could not do it. I think we have to be extremely careful how we put this together to ensure that these safety committees are legitimate and can get that deduction. I do not want to see that fall through. I also do not want to see the State Workmen's Insurance Fund, or any fund, used for anything except what they are intended to do. Lastly, I would like to add that those refunds should always go back to the employers who are paying those premiums.

Those are just some of the reasons why at this particular point I cannot support Senate Bill No. 801. I acknowledge its positive attributes, but I also recognize its faults. What is more, I will predict that this General Assembly, just as we did for Act 44 and I did at that time, will revisit and reopen this issue in the not-too-distant future. We will only reach a final agreement when all parties come together and hammer out a compromise that will last us for years, a compromise that balances the interest of employers, employees, and the providers that serve them. Until that time I stand ready to work with anyone who agrees to participate in such negotiations. But until that time, I cannot, in good conscience, vote for this proposal. I look forward to the day when I can.

Thank you, Mr. President.

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

Senator WAGNER. Mr. President, I rise to make some comments in regard to Senate Bill No. 801, and first and foremost it is important for me to talk again, and I wish I did not have to say this about the process, the fact that we were incapable today to make any amendments to this legislation, and it is important that the public knows that. Because I do not think there is anyone in this Chamber who does not think that there needs to be some improvements in terms of workers' compensation in the Commonwealth of Pennsylvania. However, the process does not permit me anyway, as a Senator on this side of the aisle, to offer any amendments to this legislation to make it better or more sensitive to the needs of Pennsylvania. And I think that is a very important point because I do not think this legislation is perfect. And maybe no legislation is ever perfect, but when you have a piece of legislation that is 100 pages long, certainly some improvements can be made.

Mr. President, I have some other concerns and if I were permitted to make any amendments, my concerns would be voiced through amendments in this area: I have received the bill in the state it is in today, as the people on this side of the aisle have. True, we have known some of the items that would be in the legislation, but we did not know totally until 11:30 or 12 o'clock today on this very complex piece of legislation what would be in it. And I have listened to the discussion here on the floor today and I have listened to people lobbying on behalf of this legislation. And interestingly enough, I have never heard the issue speak to any great degree about accident prevention. And let me repeat the simple term of accident prevention. And, Mr. President, I can tell you the only absolute way to reduce workers' compensation rates is to reduce work-related accidents. Let me repeat that. The only absolute way to reduce workers' compensation rates is to reduce work-related accidents, in terms of the frequency of accidents and in terms of the severity of the accidents, because we all know that rates are a direct result of the number of accidents and the severity of those accidents. So if in fact we want to have a significant impact on workers' compensation rates in the Commonwealth of Pennsylvania, our number one objective should be to reduce accidents. And I challenge anyone to show me anything signif-

icant in this legislation that has an impact on reducing accidents, on reducing human suffering in the workplace. And if there is anything, I ask anyone on the other side of the aisle, please get up and show me. Now, I know of one item in the legislation and I am going to refer to it right now and I believe it is on page 73, under section 1002, line 19, and it reads as follows: "An insured employer may make,"--and I repeat--"may make application to the department for the certification of any established safety committee operative within its workplace developed for the purpose of hazard detection and accident prevention." The words are "may make." Not "must make" or "must have," but "may make." And if they do that and it is approved, a 5-percent reduction will occur in their workers' compensation rates for that year. And the amendment that I understand was made in the meeting of the Committee on Rules and Executive Nominations today is that if they keep that safety committee in existence for 5 years, they can qualify for that 5-percent rate for 5 consecutive years. I do not know why it does not continue beyond the 5 years, but if they have a safe program, a safety committee, the work accidents are going down each consecutive year, after 5 years, forget it, you do not get a reduction, we gave it to you for 5 years. But again, the key language is here, there is no mandate in terms of workers' compensation other than the paragraphs that I just read to require employers and labor groups to do more to reduce the frequency and the severity of accidents. And my question is why? Why do we not as a General Assembly have the courage to mandate to employers, maybe not with 5 employees or 10 employees, but manufacturing employers, construction companies, steel firms, that they must have safety programs in existence, they must have safety committees in existence, they must be complying with all regulations, they must have the top executive within the company as an active participant within the safety program. Again, if we are serious about reducing the cost of workers' compensation, I say to everyone in Pennsylvania that we will not have an impact--yes, Senator, we will not have an impact--unless you reduce the number of accidents. And if all we are going to talk about today is saving dollars, when in essence we should be talking about saving lives, saving limbs, and saving people from having silicosis and asbestosis and black lung disease and disabling occupational injuries, and injuries in the workplace that have literally wiped people out and their lives, even though they may survive, if all we are going to talk about is saving dollars, I say to all of you we are not talking about enough. This legislation, Mr. President, can go much farther and it needs to go much farther, and if we have any courage we will permit it to be amended. And if we have any courage we will mandate that employers, particularly those working in hazardous industries, have sophisticated safety programs. And we will become a leader in America out of all 50 States in terms of mandating that employers have accident prevention programs, so that employees first and foremost are not hurt on the job, and that really should be the initiative of this body, and I would suggest, Mr. President, that we still try to do that. Now, it is my understanding we cannot amend this legislation. It is my understanding that if it passes today and it goes to the

House of Representatives they also cannot amend this legislation. But I firmly believe that we are missing a big element here in the legislation.

One of the reasons why Pennsylvania's workers' compensation rates in certain areas are higher is that we have had traditionally more hazardous industries in the Commonwealth of Pennsylvania. That is no secret. Steel making is a very hazardous industry and it has a high degree of potential for accidents. Coal mining is. Construction is. In western Pennsylvania you have more bridges than you do in Ohio or in Minnesota when you build roads. There is a greater potential for accidents when building bridges. There is a greater potential for accidents when building tunnels and road construction. It is one of the reasons why the rates are high in certain industries, in comparison to other States. We cannot change that. That is our God-given terrain and they are our industries, and we want those industries. But what we can do as part of a government mandate is that we can require employers to instill more sophisticated safety programs. And I say to all of you today we have virtually done nothing in the area of accident prevention in Senate Bill No. 801. And if we ever want to get serious, if we ever want to get serious about truly reforming workers' compensation in Pennsylvania, we will address the issue of accidents. And again, we have not done that today, and I suggest we go back to the drawing board and we do it and we do it right.

Thank you, Mr. President.

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

Senator CORMAN. Mr. President, there has been much just said about accident prevention and we have not done anything to try to prevent accidents. It seems to me in much of the dialogue I have heard many people believe that the employees are not important to business, and they are very important to business. In fact, the employee would not be on the job if there was not an important job for that person to perform. If there was not an important job for that person to perform, the employer would not hire that employee. Now, when that employee is injured, it costs the business money because they have to get a replacement worker, who probably will not be as good as the one who is injured, to continue the job that the injured worker was doing. And now they have to deal also with the problems of that injured employee and the employer certainly wants to work very diligently to try to get that injured employee back on the job, because that is the number one person in that job or that person would not have been there in the first place. So I think many, many years ago employers considered employees expendable, but I do not think they do today. And I do think that the feature that my colleague spoke of on page 73 where it talks about a 5-year program of getting a 5-percent reduction in premiums for a proper safety program put in place by industry is a very good incentive to tell employers we too agree you need to have a good, safe workplace, and in fact we will encourage you by giving you additional discounts on your workers' compensation premiums. So I think there is something in there.

It was also stated by one of my colleagues that this bill is slanted only with penalties for fraud for the employee who perpetrates a fraud, but there are no penalties against the employer, and that is not true. If my colleague who said that would look at page 61, section 435, it speaks about, "The department shall establish and promulgate rules and regulations consistent with this act, which are reasonably calculated to:" and it lists the things that they must do. And if you turn over to page 62, line 9, it says: "Employers and insurers may be penalized a sum not exceeding ten per centum of the amount awarded and interest accrued and payable: Provided, however, that such penalty may be increased to [twenty] fifty per centum in cases of unreasonable or excessive delays. Such penalty shall be payable to the same persons to whom the compensation is payable." So it seems to me there are penalties on both sides, as there properly should be, and if we have an employer or an insurer who is in fact fraudulently trying to take from this injured employee, there shall be penalties sought for them the same as that fraudulent employee who seeks to receive compensation when he or she is not injured.

Mr. President, I think this is a good bill that is a good step forward. It will justly compensate injured employees, as they properly should be justly compensated, and hopefully will reduce one more burden on Pennsylvania business and industry so they can continue to create jobs in Pennsylvania.

Thank you, Mr. President.

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

Senator HUGHES. Mr. President, I would like to speak briefly but directly. I thought when I said the word "briefly" I would get a round of applause here from my colleagues. But let me try to sum all of this up of what is a very complicated issue, but try to make it plain and look at the environment that we are creating in this Commonwealth within the last 18 months. Obviously, it may not be a surprise to my colleagues that I am opposed to this measure we are about to vote on, and my opposition stems obviously from the substance of the bill but also the long view of what it is we have been doing, as I said, for the last 18 months, and let me try to make it plain.

We have in Pennsylvania in the past 18 months really stuck it to working people, low-income individuals, and folks on the bottom end of the economic scale in this Commonwealth. Look at the record. Our first effort in the last 18 months at welfare reform eliminated 40,000 or so people off of the welfare rolls. Our second effort, Mr. President, in the last 6 months eliminated 220,000 individuals off of Medical Assistance. Also in the last 18 months, Mr. President, we have provided no help, no support, no increases for individuals who are trying to move themselves up the economic ladder. What are we doing for individuals who are working in this Commonwealth and trying to make their way through? Especially injured workers. We are creating a climate in this Commonwealth, Mr. President, that is not friendly to working people, to injured workers, and now in this case to the injured working population in this Commonwealth. An environment that chooses to turn the other way and chooses to focus, as in this case and as has been the history, Mr. President, of siding on the side of the corporate com-

munity that has already done extremely well. If you look at the lion's share of the measures that are being presented to us in Senate Bill No. 801, all of that falls on the side of the top end of the corporate community. But that is no different than what the history has been. A \$286 million tax cut, another proposed \$60 million tax cut, and now workers' compensation reform that solely falls on the side of the high end of the business community. Poor people getting jammed. Working people, no opportunity to increase their minimum wage. And now injured workers being left out. This is the Commonwealth that is being created by the acts that are being taken on this floor and that will be taken on the floor of the House of Representatives.

This is the wrong direction, Mr. President. We must not support this measure. We must look to the people who are most important. I talked to a business owner earlier today, this afternoon, in my district, and I was talking to her about this measure and I talked to her about workers' compensation and I said to this female business owner, well, tell me what your thought is. And she said, yeah, Senator, I pay a lot of money in my workers' compensation rates. But you know, you have to do the right thing for working people. You have to make sure that they are taken care of, and if they are injured, they need the help to get through. That is a business owner in my district trying to make it through for herself and for her employees.

This is the wrong direction, but it is in the context of being the wrong direction for so many measures we have done in this Commonwealth, Mr. President, and we cannot sit idly by and look at this in isolation. This is wrong. This is bad for Pennsylvania's people, and I urge a "no" vote.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Washington, Senator Stout.

Senator STOUT. Mr. President, I will not be long here because the hour grows late and we have heard both sides of this important issue, but I guess I kind of have to respond. I feel like Yogi Berra and "deja vu all over again." About 3 years ago many of us were here in this Chamber and supported legislation which became Act 44 that was put together largely by the leadership of Senator Mellow and Senator Madigan, and I was one of the few Members from my side of the aisle from southwestern Pennsylvania who was supportive of that legislation at that time, because I definitely felt that workers' compensation had to be addressed in order to help the business community, to help the job climate in our region, in our Commonwealth, that we had to take action to become competitive. And unfortunately, what has occurred in the remaining 3 years, all those great expectations with Act 44 really have not come to pass. I have had many people in the business community complain to me while there is supposed to be significant reductions in their rates for workers' compensation, they did not realize, they did not have the benefit and did not see that and wondered what had happened. I have had other people from the business community who were very appreciative because they had significant reductions in their rates and it has helped them be competitive. What is before us today, and I think many speakers who spoke on Senate Bill No. 801 this evening

have said that there needs to be more work done. We need to really clarify some of these areas and try to have improvement not only for the workers, injured workers within our Commonwealth, but also for the businesspeople, the people who end up paying the premiums.

I represent a corner of the State and I am really much closer to Charleston, West Virginia, their capital, and to Columbus, Ohio, than I am here to Harrisburg, so I know what it is to deal with the situation of the competition from neighboring States. And unfortunately today for the workers and for our economy and our society, we seem to see not only from the workers' point of view but from other people from government being totally whipsawed by people. Well, if you do not change this immediately, we are going to move offshore. We are going to go to South America. We are going to go to Mexico, like they are doing under NAFTA. We will take our jobs off because wage rates are lower and the costs for employees and benefits is considerably lower than what you have here, and you do not have all the labor laws and different safety laws that you have here. Or I am going to go to Ohio or Maryland, or some other State, because they offered me a bigger package of State benefits, loans, grants and certain improvements to infrastructure in order to get them. Recently, Alabama gave a tremendous price to get a major steel producing factory, also to get an automobile manufacturing plant. How can you compete when all 50 States are bidding against each other?

But in the meantime, we see that workers need to be covered. I have always firmly believed that workers' compensation, an injured worker, legitimately injured in the workplace, should be made whole for medical expenses and lost benefits. But unfortunately this legislation does not totally protect the workers. I know there have been problems with workers' compensation. I think we need to take this bill back into committee, have public hearings, hear from people in the business community and the labor community, from the local governments and other people paying the premiums, to try to craft a bill that better represents the needs, meets the needs of Pennsylvania.

Act 44 did not get fully implemented, in my opinion. I think many other Members agree to that. We need to know what went wrong, what we can do to improve those areas that did not deliver the reduction in rates that should have occurred. And that is why I cannot support Senate Bill No. 801 at this time because I supported it in the past. I have always been supportive of trying to meet the needs of the business community to be competitive in Pennsylvania with surrounding areas and to safely protect the interest of the injured workers. So Mr. President, I think we would be much better served this evening if we took Senate Bill No. 801 back in committee and tried to put together a bill that meets the needs of this Commonwealth.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Franklin, Senator Punt.

Senator PUNT. Mr. President, I think I am one of the few who has not spoken yet.

The PRESIDENT. Well, carry on.

Senator PUNT. Mr. President, Senator Stout said something just a moment ago that really prompted me to speak. As you know, I rarely do on the floor, but Senator Stout said something that struck something with me, and that was when he said that he was one of the few on that side of the aisle who supported Act 44, 3 years ago. I was one of the few on this side of the aisle who opposed Act 44, 3 years ago. I opposed it because I did not believe it would do the job. I thought it was somewhat of a sham, and I believe an effort was made but it was so watered down and so weakened, we would not see the results many touted that we would realize and we would see. And we have not seen those results.

During the last several hours I have been reading Senate Bill No. 801. I believe, correctly or wrongly, that Senate Bill No. 801 will go a long way in addressing the overall issue of workers' compensation. Is it a fair balance between employer and employee, insurance company, medical provider? Hopefully it will be. I believe there is a balance. It does not reach the full 100 percent balance that I would prefer in all aspects, but I do believe it will go greatly in curbing costs, it will achieve greatly in retaining and the ability to create jobs and job expansion, and it will provide full coverage for those who are in need of that coverage.

Living on the border of Pennsylvania and Maryland, I have a company that could easily locate 1 1/2 miles south of where they are. Currently, they are paying \$1.3 million a year in workers' compensation costs. If they would relocate, which they are looking at doing, we would lose over 400 jobs because they could reduce their workers' compensation costs by 60 percent. That is significant. In job fairness and job creation, that is a very, very real issue.

And insurance companies are not to get off scot-free either. Some of our companies who provide the coverage are way out of line. I have a company, business, which is located in Littlestown. They received a notice from their workers' compensation carrier. In that notice they cited their record. In 1989, they had a \$417 claim under workers' compensation. In 1990, no claims. In 1991, they had two claims. One claim amounted to \$1,213, and the second claim amounted to a little over \$700. They had no claims in 1992, 1993, 1994, and 1995. Over the course of those 6 years, that business, small business, paid over \$139,000 in workers' compensation insurance premiums. They received a notice that they were being cancelled. And the reason: They were high risk. That was appalling. So when I see examples like that, and when I see an insurance carrier committing an atrocity such as that, that is wrong.

In reviewing Senate Bill No. 801, I do believe, unlike 3 years ago, this is a responsible and a very fair approach, and I do believe that it will result in the objectives that many purport it to be, and hopefully, those who profess that it will, will not be wrong.

Though nothing said on the floor by anyone is going to change one single vote on this issue tonight, I have tried to look at this and do what I believe to be the right and the responsible thing to do, and I believe supporting Senate Bill No. 801 is the right and the responsible thing to do.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I listened with great interest to the last speaker, and I would have to comment that his accuracy existed, in my opinion, only in the last comment that he made, that is the fact that nothing that will be said on this floor this evening will change a vote. And we know that, Mr. President. We are quite aware of the fact that the gentleman has been given his marching orders, and we are quite aware of the fact that he will march as a good soldier to what those orders may be.

But I am a little offended, and I am sure so would the gentleman from Bradford, Senator Madigan, be offended, about the comment that Act 44 was a sham, because if the gentleman individually knew what was in Act 44—and I am not questioning the fact that he does not—but if he knew what was in Act 44 and the way Act 44 has performed, he would never say that Act 44 in this great State of ours was a sham. And furthermore, when the gentleman from Washington, Senator Stout, said that he was one of the few who voted for Act 44, he did not say that he was one of the few Democrats who voted for Act 44, because I believe 18 Democrats did and 17 Republicans did, or some variation. He said he was one of the few Senators from southwestern Pennsylvania who voted for Act 44.

So when he wants to talk about Act 44, Mr. President, I wish he would talk to me about it, or perhaps maybe he should share with Senator Madigan what some of his feelings are in his own Caucus, because Act 44, Mr. President, was not a sham on the people of Pennsylvania. And as we talk here tonight, Act 44 brought about an 18-percent reduction in the overall workers' compensation rates in Pennsylvania since it was instituted on July 2, 1993. The problem and the reason that it has not worked fully is because it has not been implemented properly and fully, if you will. And that, Mr. President, has been done by a number of different individuals.

Mr. President, I really did not know how I wanted to approach the remarks prior to my standing on the floor here this evening, but I think the gentleman from Franklin, Senator Punt, brought it full circle for me as to how I do want to approach my remarks, because anytime there is a characterization made that Act 44 was a sham and it did not work, it is quite obvious that the proponents of Senate Bill No. 801, which unfortunately was sponsored by the gentleman from Allegheny, Senator Fisher, but I do not really believe in my heart it is his bill, do not totally understand what is happening in Pennsylvania and the working individuals with this particular proposal.

And is it not unfortunate and is it not a sham, if you will, that the private nonprofit organization in Pennsylvania that is designated with the opportunity and with the charge to promote business in this great State of ours instead has decided to spend somewhere near \$1 million to tell people how bad Pennsylvania is and to tell people how expensive it is to do business in Pennsylvania? Mr. President, I am referring to the Pennsylvania Chamber of Commerce, and I wish there was some way that they could come down on the floor and debate

the bill, or that they could have appeared today in our meeting of the Committee on Rules and Executive Nominations--although they were there--and properly debate Senate Bill No. 801, because when we had a problem back in September of 1991 and the Pennsylvania Compensation Rating Bureau, which is a nongovernmental agency, wanted to bring about on the Pennsylvania employer a 52-percent rate increase, we in this great Commonwealth, on a bipartisan basis, said no, that shall not happen and we will do everything that we can within our power to make sure that does not happen. That was September, Mr. President, of 1991.

In October of 1991, there was a bill that was introduced that was referred to as a workers' compensation reform bill. That passed the House, and I am going to go through it in chronological order because I think it is important that we have an historical presence of what has taken place here, especially for those Members here today who were not Members of the Senate back in 1991. On December 11, the House passed House Bill No. 2140, and on May 18, Mr. President, the Senate amended House Bill No. 2140 and passed it on the next day. The House nonconcurred in the amendments, and then in September of 1992, Governor Bob Casey called for a Special Session on workers' compensation, and that Special Session convened the next month.

But, Mr. President, nothing was done during that intervening period of time to exclude or to preclude any Member of the General Assembly from being able to offer amendments to try to make a good bill better or to try to address the issue of a bill which some people may have felt went too far and to bring it back a little bit. Mr. President, since there was no compromise on that proposal and the Special Session expired and did not work, I was only too happy to be able to work with my good friend, Senator Madigan, in making the top priority of the 1993-94 legislative Session the acknowledgment that workers' compensation in Pennsylvania was indeed a problem. We worked on it and we worked at it, and we spent a lot of time in very open debate. We never shut one individual off from debate. We held open meetings through the Committee on Labor and Industry at which anyone who wanted to offer an amendment had the opportunity to do it.

Senate Bill No. 1, Mr. President, was taken to the floor of this Senate. When I differed with my own Democratic colleagues who were not in favor of the amendments that were being offered, we discussed those amendments and we tried to the best of our ability to come up with an agreement. And after much discussion and much debate and the formulation of a conference committee, we passed that bill. In June of 1993, we passed a proposal. Oh, perhaps it was not the greatest thing that ever took place. Perhaps it did not correct all the evils that might have happened with regard to workers' compensation, and perhaps it did not roll back the rates the way some people would have wanted them to be rolled back, because I quite honestly believe there are individuals in this body who think there should be no protection for the injured worker in Pennsylvania and that employers should in fact not have to pay one dollar in workers' compensation.

Mr. President, on July 2, then Acting Governor Mark Singel signed Senate Bill No. 1 into law, and that became Act 44 of 1993, which Senator Punt referred to as a sham. What did Act 44 do, even though it has not been fully implemented as we talk here today? Well, Mr. President, it took 2 1/2 years before the regulations were finally adopted on Act 44. It was not until November 11, Armistice Day, if you will, of 1995, that the regulations to implement many of the provisions of Act 44 that deal with the medical cost savings, it was not until then that they were finally printed in the Bulletin and finally took effect.

The major part of Act 44, Mr. President, and the implementation in comparison to what we are now discussing with Senate Bill No. 801 was that Act 44 addressed the issue of the runaway medical costs and how we could possibly curb those, and how through the proper type of implementation of regulations we could address that issue to save the employer money in Pennsylvania. The difference between Act 44, which addressed the real need of the issue of the runaway escalating medical costs, and Senate Bill No. 801, which addresses the issue of too much money being paid to the injured worker, is Act 44 would save money based on the cutting back of medical services as far as the expense would go and Senate Bill No. 801 will save money by cutting benefits to the legitimately injured worker, and any way that you want to sugarcoat that, Mr. President, you cannot do it.

Now, if we can, let us talk about what has happened since Act 44 was passed. You do not have to be a rocket scientist, Mr. President, to be able to understand these figures, and I am going to give them to you. There was a 2-percent reduction mandated by Act 44 for the initial filing in 1993. There was a 4-percent reduction for the loss cost multiplier in the additional filing in 1993. There was a 1.3-percent reduction from the subsequent loss cost multiplier in that filing, and there was a 9.7-percent reduction from the November 1, 1995 filing, which brought about a savings to the employer of Pennsylvania of 18 percent overall. It is granted that some employers had an increase in their workers' compensation, as it was even suggested on the floor of this Senate, but the majority of employers had a reduction in their workers' compensation probably for the first time in 25 years.

Furthermore, who made some of this money? Because we honestly believe that the 18-percent reduction without the implementation of the regulations should in fact have been much greater. And this particular year in the hearings of the Committee on Appropriations, the question was asked of the Insurance Commissioner, Linda Kaiser, what percentage of money that is paid in in premium to the insurance companies must be used for the loss cost to pay back the benefit? And Linda Kaiser said to us in that hearing that "...80 cents of every dollar taken in by insurance companies is paid in claims to injured workers and expenses with 20 cents"--or 20 percent of every dollar--"as profits of the insurance companies."

Maybe that is an indication why some 40 new companies have come into Pennsylvania since the enactment of Act 44 to do business. Maybe that is the reason why there has been a reluctance on the part of the Insurance Commissioner to ask for a new filing of rates to further reduce the premium, and

maybe that is the reason why the insurance companies have been lobbying the Chamber, the halls of this Chamber, for the past 2 weeks, to make sure that, number one, there is no mandated rollback in premium, which there is not in this proposal, and, number two, to make sure that Senate Bill No. 801 in the form that has been presented today to the Members of the Senate is in fact enacted, because from the standpoint of insurance companies in Pennsylvania, workers' compensation is very, very lucrative. And it is lucrative, Mr. President, at whose expense?

Well, if we can, let us look for a moment at Senate Bill No. 801, and I am going to try to take, if I can, a little different approach, although I know a lot has been said on the floor here today about Senate Bill No. 801. First of all, it is important again to repeat the fact that the Democratic Members of the Committee on Rules and Executive Nominations did not receive the comprehensive amendment to Senate Bill No. 801 until 11:30, the prescribed hour that the meeting of the Committee on Rules and Executive Nominations reconvened in Room 461. We did not have an advance copy, we did not have an opportunity to have our staff prepare amendments to the proposal. We did not have an opportunity to fully discuss Senate Bill No. 801 with its new amendments within our structure of our staffs so that we would be better prepared in the Committee on Rules and Executive Nominations to debate the issue. So we had to do that study at the same time that we were trying to debate the issue in the Committee on Rules and Executive Nominations.

Mr. President, Senate Bill No. 801 should bring about a significant reduction in workers' compensation rates in Pennsylvania, and if you add what has taken place with Senate Bill No. 801, and what I am sure will take place later on, and you piggyback that on top of what is going to happen with Act 44 with the final implementation of the medical regulations and the savings after the 1-year period of time that should be realized by the employer, I believe, Mr. President, that there should be a significant savings to the employer next year in the workers' compensation premium. But why will that happen? Well, it will happen, first of all, because there is an offset on Social Security and pension, so that if the injured worker is given a particular benefit because of an injury, that benefit, Mr. President, once that injured worker has himself or herself in a position to start to collect Social Security -- you know that old age benefit that each and every one of us hopes someday we will be able to live to collect, that we have contributed to all of our life, all of our working life, into the Social Security fund so that when the good Lord spares us and it is our time to reap some of the benefit, that we will be able to collect? Well, Senate Bill No. 801 says now wait a minute, Mr. Worker, Ms. Worker, you have worked all your life and paid into the Social Security fund, as has your employer as a benefit to you, but the only amount of Social Security retirement that you are going to collect is basically the amount that you have paid, not the amount that the employer has paid on your behalf. That will be offset by the amount of money that you are going to receive because you were injured at the workplace.

Also, Mr. President, I believe there is a provision there on an offset on pensions, and that the same thing basically will hold true, that the individual injured worker's workers' compensation disability payment will in fact be reduced by the amount of money that individual will collect because of a retirement. So let us be honest with people. Let us not mislead anyone. Let us not have people believe that they are going to walk out of this body tonight, vote for Senate Bill No. 801, and think for one moment that we have not reduced benefits to the injured worker, because we have substantially reduced the benefit to the injured worker.

Let us look at what has taken place with the average weekly earnings and how you compute the benefit based on average weekly earnings. Mr. President, to me there is no question that the average weekly earning that is received by the trades individuals, the trades workers in Philadelphia and Pittsburgh and in Scranton and Wilkes-Barre and Allentown and every other city in this great Commonwealth of ours, they are going to suffer because of the amendment that was put in this bill that the gentleman from Philadelphia, Senator Salvatore, took credit for in the meeting of the Committee on Rules and Executive Nominations today. But I do not see anything in this bill that addresses the problem of a part-time employee working 5 days a week, and I asked the gentleman from Lancaster, Senator Wenger, the question in committee today and I really was not given an appropriate answer, so let us not say that we are reducing costs and at the same time we are not reducing the benefits to be paid to the injured worker.

And I would like to ask the question, but there is no one there who I can really ask the question of because I am really not certain who drafted this amendment, about how do you define "invasive surgery" for the purpose of this act? We now have found a new word that has been added into that 12-page amendment which talks about invasive surgery. What is invasive surgery, Mr. President? Can someone tell us? I am going to tell you what the Webster definition is of invasive surgery, because if an individual is injured at the workplace and the company doctor, if you will, says that person must have invasive surgery, then it is the responsibility of that individual to hire his or her own health care provider to try to help the injured employee fight off the company doctor for having invasive surgery.

Now, invasive surgery is not defined anywhere in the bill, but the dictionary definition of invasive surgery is this: It says, "of, relating to, or characterized by military aggression,"--that would concern me--"tending to spread; tending to invade healthy tissue." Is that what we are saying, that the company doctor wants an injured worker to have invasive surgery, and the invasive surgery is tending to invade healthy tissue? Or "involving entry into the living body (as by incision or by insertion of an instrument) (\sim diagnostic techniques)."

Is that what this is all about? Is this what we have come to in this Senate of Pennsylvania that we, in an amendment, are not even given an opportunity to look at, that there will probably be 26 votes on the other side of the aisle without a whimper to pass because this is the party line, this is the company line, if you will, and they are prepared to add invasive surgery

into this particular proposal which talks about the invasion of healthy tissue into a human being's body? That human being could be your son or daughter or mother or father.

And then the other thing I believe that we have to look at, Mr. President, is to what extent is disability necessary for an individual to be considered 50-percent disabled, or as what was stated by my good friend, the gentleman from Erie, Senator Andrezeski, as the MMI, the maximum medical improvement? Mr. President, this is something new in Pennsylvania, we have never had this before. The State of Oregon has had it for a number of years, I understand, but we have not had it in Pennsylvania before, and I asked the question, how injured does an individual have to be to be 50-percent disabled, a 50-percent impairment, based on the AMA guidelines? Originally, Mr. President, the bill did not talk about a 50-percent disability or impairment, it talked about a 75-percent impairment. And when I asked that question, I did not get an acceptable answer. When I asked the question today about 50 percent, Mr. President, I did not get an acceptable answer.

However, in some of our own research we have been able to try to ascertain what some acceptable provisions may be. There is a renowned expert on this, Mr. President, by the name of Christopher Brigham, a medical doctor, who talks about how important it is on the AMA guidelines to be absolutely certain what types of impairments we are dealing with, and in his testimony he talks about the fact that with the AMA guidelines, he has never seen anyone with a 75-percent disability. So when the amendment came out of committee today reducing the 75 percent to 50 percent, you did not have to be a rocket scientist to understand why. No one receives a 75-percent disability. They might be 100-percent disabled from work, but they are not 75-percent disabled, Mr. President, as far as an individual would go. And he gives some reasons and some examples about what it would take to be 75-percent disabled, what it would take to be 64-percent disabled, what it would take even to be 84-percent disabled.

But he talks about, in all of his practice in which there are hundreds and hundreds of cases, most of the disabilities that he sees are disabilities that do not exceed 25 percent. So if we take the provisions of this proposal under the MMI, which deals with the disability to individuals that must exceed 50 percent, that after the 104 weeks or the 2 years, if the individual who has been injured in the workplace does not maintain or have a disability in excess of 50 percent, then that particular injured individual now would only be subject to a partial payment on workers' compensation.

Mr. President, I also asked this question in the committee meeting today and I really did not get much of a response, and I am going to ask the question again. It is a rhetorical question. Nobody has to answer it, but I am sure somebody on the other side of the aisle, either Senator Fisher or Senator Loeper, will probably want to get up and clarify the issue. And I do not blame them, I would want to clarify the issue if I were they to the best of my ability, too, because anytime you are asking an injured worker to go from 30 days of visiting the company doctor to 90 days of having to visit a company doctor, which is 3 full months before they go to their own physician, I think

you have to answer some questions. I think there are some very important questions that the other side must answer because of the way they are pushing this issue.

But I would love to know what would happen to this gentleman from Allegheny County. We talked about it in the meeting of the Committee on Rules and Executive Nominations. What would happen to a man by the name of Tony Ambroffi? Tony Ambroffi lives in Penn Hills. Penn Hills is in Allegheny County. There was an article about Tony in the paper, Mr. President. It was the Pittsburgh Post-Gazette and it is dated 5-31-96. It talks about how Labor and Industry are locking horns over workers' compensation and it shows a photo here of Governor Ridge and it says, "Governor Ridge aims to cut costs of workers' comp, which businesses say is strangling them." I realize that this is part of Governor Ridge's proposal, but then this is what appears in the paper.

It talks about what happened to Tony. Tony fell at work, Mr. President, when a coworker holding the ladder that he was working on some 35-plus feet up in the air walked away from the ladder. The ladder was not equipped with rubber stops, as required by law, and slipped on a gymnasium floor. His employer, an asbestos company, has since gone out of business. Like any other injured worker, Tony had no right to sue the employer for the damages that he received. He realized that was what workers' compensation was for. Tony was once a very strong and physical man who now spends most of his time in a reclining chair. He will never regain full use of his foot. He worries about what may happen and how he may be forced to take some type of a phantom or phony job that in fact may not even exist for him. His concern, Mr. President, is that he cannot perform in what he used to do because of his fall at work where there was negligence on the part of the employer, which, in my opinion, would be fraudulent, and he has had a number of operations over the past 5 years. He is concerned because of what took place with the, quote, "company doctor."

The article appeared in the paper and I hope that each and every Member would have the opportunity of reading it. It talks about "After this accident, I can't walk for more than 15 minutes without sitting down for the rest of the day," because of the tremendous pain that the gentleman has and how he must keep his foot elevated. But it further talks, Mr. President, about how after he had surgery, a company doctor said to him that he was complaining about the surgery because a pin broke away from the bone and was causing him pain and the company doctor stated to him, you are complaining too strongly about the type of pain you have from the pin breaking off.

Or, Mr. President, some of the letters I received from my district. The gentleman from Delaware, Senator Loeper, talked about an individual who hurt a finger in his district and how there was a tremendous amount of money paid to that individual, through medical costs, I guess, for that finger to be repaired. And the gentleman from Blair, Senator Jubelirer, talked about some others, and other Members in here talked about their constituents. Well, let me talk about a few of my constituents. Jermyn, Pennsylvania, Mr. President, a phone call that just came into my office and a letter that followed. Actually,

the phone call came in last week. It said, "I was injured in '89 and had five operations on my knee. I am a prisoner in my own home. They are refusing to pay for doctor bills and medicines."

The next one, Mr. President, comes from Carbondale, Pennsylvania. I am sure some of you who have run statewide might know where Carbondale is. It says, "I have gone to 45 plus doctor visits—over 900 miles on my car. No compensation. No work. I spent over \$1,500.00 for a doctor deposition to prove what the company...already knows. The company doctor screamed at me. No cooperation with health care and no payment of medical bills."

Another one, Mr. President, and this individual says, "I got injured on the job in April of 1993. The insurance company said I was not injured on the job. I had to hire an attorney, fight for payments and medical. I did this until October of 1995. My injuries got worse as months went by. We were on welfare at \$316 a month" for the past 13 months because we have not been able to receive the proper type of benefit of workers' compensation. "The stress is very bad" for me and for my family. That is from Tobyhanna, Mr. President. That is in Monroe County.

Mr. President, here was one that was very touching from Jessup, Pennsylvania, from a Vietnam veteran. There is at least one Vietnam veteran that I know of in this room, and probably more than one. "I went to a war that was not declared a war and received no benefits. I have worked and paid taxes for the 24 years. A ladder rung broke while I was carrying shingles, and I badly injured my knee and back. I had 3 MRIs, a long operation." I currently have "a non-fixable back." Now I am fighting for my workers' compensation the same way I had to fight for our freedom in Vietnam so that each and every one of us could enjoy the freedom that we have today.

Finally, there is one more that I want to read, and this one comes from Factoryville, Pennsylvania. It reads, I have been trying to get compensation reinstated since November 10, 1993. My employer fired me after I tried to return to my job. I have been trying to reinstate benefits after I found I can no longer work. I was granted compensation from July through November of 1993. It was cut off because I tried to return to work. My wife is disabled and we have a tough time running our home and paying our bills. Doctors do not want to give me any depositions because I cannot pay for them. That violates my rights and keeps compensation from me when I deserve it.

Mr. President, I know full well there is not one thing that I could say on this floor that is going to change a vote, and that is exactly what the gentleman from Franklin, Senator Punt, said earlier. But I also know, Mr. President, that I have had the opportunity of working on these types of proposals since 1991. I have also had the opportunity of going through the propaganda that was first put out by the Ridge administration I believe in March of 1996, because to me it is quite amusing, the propaganda that was put out by the front office. It was probably done in concert with the Pennsylvania Chamber of Commerce, and maybe even some of their money that they spent on both radio and television ads. And I am sure you have all seen the television ads where an actor is dressed up as a

worker with a hard hat turning around and trying to show what type of pain he was in because of his job, not because of an injury.

But the Governor did send out to most businesspeople, in fact it is listed on March 20, "Dear Pennsylvania Business Leader," and he talks about on March 4 how he announced his plan to reform Pennsylvania's noncompetitive workers' compensation system. And in his plan, Mr. President, he talked about workers' compensation facts. One fact, he said, is that it is estimated that over \$1 billion will be spent this year in litigating workers' compensation cases in Pennsylvania. I submit to you, if Senate Bill No. 801 passes the way it is, if in fact we are spending \$1 billion today to litigate workers' compensation cases, Senate Bill No. 801 is going to increase the cost of that litigation because the litigation, I honestly believe, will go up. That part is a bit disconcerting, especially coming from the Governor, whose direction it is to lead the Commonwealth. The Governor, elected just a couple of years ago to give us what he called a new direction, took office in January of 1995 to be the spokesperson for the Commonwealth, to be the salesperson for the Commonwealth, not an individual who is out there trying to destroy the image of the Commonwealth. In fact, with some of the things that he has put out with regard to workers' compensation, he definitely is trying to do that.

And what he did, Mr. President, which I think is very, very interesting, he shows in the table, table 1, and every Member has a copy of this, it says, "Pre-Act 44 - 1993 Rates in Pennsylvania." And then he compares those to effective rates December 1, 1995, in Pennsylvania, Delaware, Maryland, New Jersey, New York, Ohio, and West Virginia - the States that everyone in this room tonight has talked about. And it kind of upsets me when they talk about Ohio, because the gentleman from Blair, Senator Jubelirer, on several occasions talked about the State of Ohio, and the State of Ohio has a system where you buy your workers' compensation from the State of Ohio. If you want to follow what takes place in Ohio, we will remove the free enterprise system in Pennsylvania of purchasing your workers' compensation from an insurance company in this State and purchase all of our workers' compensation from the State Workmen's Insurance Fund, which has assets today that exceed \$1 billion, and we can reduce rates dramatically to the Pennsylvania employer because there will be no greed on the part of SWIF and there is no obligation on their part to make money to return back to their stockholders, such as what must take place in Pennsylvania in private enterprise through insurance companies. So if you want to use Ohio as an example and compare Pennsylvania rates with Ohio rates, I have no problem doing that, but let us make sure we are on the same playing field.

What is important to note here on Act 44, if you follow it to 1995, you will find out that the only State among those States that has had a reduction in workers' compensation rates is Pennsylvania. They have had a reduction in the manufacturing part of it, they have had a reduction in the transportation part of it, and every one of those States, except one, has had an increase in those areas. I have heard about the State of Maryland, and I guess the State of Maryland could in some

way be compared with Pennsylvania, but they certainly do not have the same type of industry in the State of Maryland that we have in Pennsylvania, and if you look at 1993 and compare it with 1995, Mr. President, you will find out that in the State of Maryland workers' compensation rates are increasing. The premium to the employer is going up.

In Pennsylvania, in every case - manufacturing, construction, wholesale, retail, transportation, and service - at least the rate is going down. Let us not be so dishonest with the people of Pennsylvania and try to compare other States and not mention the fact that the rates in Pennsylvania have dropped and the rates in those States have increased. And, Mr. President, they have dropped in spite of the fact that both the past administration and the present administration did everything that they both could possibly do to make sure that the bill that the gentleman from Bradford, Senator Madigan, and I worked on and spent a tremendous amount of time on would not in fact be successful. There is enough blame to go around as to why those rates were never implemented, and it is quite offensive to me as one of the individuals who spent a lot of time to try to bring about a very positive effect from that bill.

Mr. President, I have a great fear of what could take place. Senator Jubelirer said in our meeting of the Committee on Rules and Executive Nominations in the Rules room last week when the first amendment was reported out sponsored by the gentleman from Lancaster, Senator Wenger, which talked about a 75 percent disability, which nobody could qualify for because there was really no such category as being 75 percent disabled, he said that you must give tax reductions an opportunity of time to be able to work in Pennsylvania. And the reason he said that, I believe, is because we have been very critical of what has taken place and will continue to be critical. We have talked about the fact that there has been well over \$300 million spent over the last year and a half on tax reductions to corporations, and even though they have been given those reductions, we have lost over 25,000 jobs in Pennsylvania during that same period of time. There is no correlation in Pennsylvania between the Ridge administration's projection of how we can reduce taxes and his assertion that by doing so we then will be able to maintain and increase jobs in Pennsylvania. The facts just do not bear it out.

But the facts will bear this out, Mr. President: If we would give Act 44 an opportunity to work, if for the next 7 or 8 months, because it has now been in effect since November, give the medical cost savings an opportunity to work without stripping the poor worker of some of the benefits they have here today, you would find that there would be significant reductions in workers' compensation in Pennsylvania.

Mr. President, I would be only too happy to yield to the gentlewoman from Allegheny, Senator Hart, if she would like the floor. I think Senator Hart is talking, and if she would like the floor, I will yield to her.

The PRESIDENT. Senator Mellow, you may continue.

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

Mr. President, I am very concerned about what is going to happen to the legitimate injured worker. I come from an area of hard-coal mining. I come from an area where 100 years ago

or 80 years ago the owner of the coal company dictated to the coal miner what should be done, and that is the reason why 81 years ago there was a contract that was initiated legislatively between the injured worker and the owner of that coal company, so if that person was injured at the workplace, that individual then would be taken care of by the operator of that industry.

Mr. President, I do not ever want to see us return to the days of the coal baron. I do not ever want to see us return to the days of the company store when that coal miner had to go to the company store to purchase his goods, when he had to live in a company home, because the only ones who could afford the homes were the companies, when he had to go to a company doctor. And this bill mandates that the injured worker cannot go to his own doctor as he can today after on 30 days, but in fact must wait 90 days before he or she can go to their own doctor. Mr. President, if the worker, prior to the enactment of workers' compensation in Pennsylvania, if that person was injured or if that person died or was killed in the mines, they literally were taken home, thrown on their porch, and it was up to the family to try, to the best of their ability, to provide whatever they could provide.

Mr. President, there is a beautiful museum in Scranton, and we do provide for a very small amount of State money through a nonpreferred appropriation, but unfortunately if Governor Ridge has his way, those particular types of appropriations also will be cut. But as I stand here tonight, I cannot help but think about some of the photos in this museum, because I have been in there on a number of occasions. What they do, Mr. President, is depict the difficult times and the difficult working conditions that my ancestors faced, and I am sure many of your ancestors faced too. I know most people in this room came up the hard way and their families came up the hard way. But, Mr. President, the photos represent what the people in northeastern Pennsylvania are all about. They are hardworking people who worked in anthracite coal mines. They also depict the many injuries that our ancestors received from their work in the coal mines, and the worker and his family had nowhere to go and no means of survival, no means of survival whatsoever. Mr. President, what greatly concerns me is that we could be returning and heading backwards, not forward, to those particular days.

Mr. President, when Tom Ridge ran for Governor of Pennsylvania, he stood in front of his home where he grew up in Erie, with his mother standing in the doorway waving goodbye to him as he left his home in Erie on a very cold, snowy day. I think each and every one of us can recall the ad. I was quite impressed by the ad, and I have mentioned it on the floor several times before. I am reminded that the people of Pennsylvania also felt very comfortable with that because they felt that he grew up in a working-class family, in a working-class State, in a working-class neighborhood in the city of Erie. Today, Mr. President, with this bill, and with the support of the Governor, Governor Ridge has really proven to the people of Pennsylvania and to the people of his hometown of Erie that I guess you really cannot go back home, that I guess you really cannot remember what it is like to be brought up in a work-

ing-class household. I guess it is hard to remember what it is like to be brought up in a town that has a great work ethic, even though you can advertise and you can campaign on that and you can try to mislead people.

Several weeks ago, Mr. President, we destroyed one working group of individuals by taking from people who work, the working poor, the possibility of receiving Medical Assistance. Today, Mr. President, we are getting to another all-time low. We are winning the race to the bottom, because today we are going to deprive the injured worker, the legitimate injured worker, the opportunity to receive the benefits that were guaranteed to him and to her under that contract known as workers' compensation some 81 years ago.

This is a deplorable piece of legislation, Mr. President. It is something that we should not be considering. I know that I can ask for a negative vote, and I realize that there will be 20 negative votes on the Democratic side of the aisle, and maybe 2 or 3 on the Republican side of the aisle, but I realize that the Governor has done his job, and as we have said over and over, the Minority will have its say, but the Majority will have its way. But it is a sad night tonight, Mr. President, for the working men and women in Pennsylvania for what they are going to be confronted with if Senate Bill No. 801 is finally passed and the Governor signs the bill.

The PRESIDENT. The Chair recognizes the gentleman from Bradford, Senator Madigan.

Senator MADIGAN. Mr. President, I rise to urge support for Senate Bill No. 801, as amended. Mr. President, as father of the workers' compensation reform in this decade, today is indeed really *deja vu* in many ways. Certainly, the gentleman from Lackawanna, Senator Mellow, and I just 3 years ago were here arm-in-arm supporting the legislation that became Act 44, and I commend him for his efforts, our ability to work together, and I regret that we are not working arm-in-arm on this legislation this evening. As my staff and I worked for a number of years developing workers' compensation reform legislation, and as Senator Mellow pointed out as we amended House Bill No. 2140 in the Committee on Labor and Industry, as I look at Senate Bill No. 801, much of what was in my original proposal is indeed in Senate Bill No. 801 tonight. And I thank the Members of my Caucus who 4 or 5 years ago did not support my proposal at that time, but this evening have seen the light and are willing to support the reforms that will provide savings to employers in this Commonwealth and save jobs for the workers of this Commonwealth.

At the time Act 44 passed this Senate, passed this legislature, and was signed into law, I said it was a major first step in workers' compensation reform, but that it was only a first step. Mr. President, Act 44 was good public policy. The savings in Act 44 have been significant. Today we have the opportunity to expand the savings for employers, and we have the opportunity to protect further the jobs of our workers. I believe that this legislation will be a significant second step in workers' compensation reform. I agree with Senator Mellow, as he pointed out in his remarks, that there will be additional significant savings under Senate Bill No. 801. There will be addi-

tional savings under further implementation and allowing Act 44 to work, as those of us who were the authors intended.

Mr. President, workers' jobs are at risk. Jobs are provided by employers, and as employers leave this Commonwealth, and those of us who live on the borders see it perhaps more than other parts of the State, but as they leave, workers' jobs go with them out of the Commonwealth of Pennsylvania. Mr. President, these amendments reduce costs to employers, whether or not they carry insurance or whether they are self-insured. It saves dollars for the self-insured employers. As I have said many times to workers in my district and to those with whom I have discussed workers' compensation reform, my final advice to them is: Remember, the job you save may be your own.

Mr. President, I urge Members of this Senate to join in taking this significant second step in workers' compensation reform and vote "yes" on concurrence in Senate Bill No. 801.

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

Senator LOEPER. Mr. President, earlier in today's debate, a point was made that Senate Bill No. 801 violated the procedural directives on passage of legislation contained in Article III of the State Constitution. Senate Bill No. 801 is before the Senate in a fashion consistent with the requirements of Article III of the State Constitution, and any challenge to the process should be viewed as frivolous. Article III, Section 1, provides, in part, that, "...no bill shall be so altered or amended, on its passage through either House, as to change its original purpose." The original purpose of Senate Bill No. 801 related to workers' compensation by authorizing expanded coverages under the State Workmen's Insurance Fund. That purpose has not been changed and, in fact, remains intact in the current version of Senate Bill No. 801 and may be found on pages 82 to 101.

The Commonwealth Court, in a 1988 decision, which has been affirmed by the State Supreme Court, recognized the broad deference which must be granted to the General Assembly in determining issues such as germaneness and found the amendatory procedure to be constitutional so long as amendments are germane to and do not wholly change the general subject of the bill.

In the *Parker* case, Mr. President, the Commonwealth Court upheld, and the Supreme Court affirmed, the constitutionality of Act 30 of 1985. Act 30 of 1985 had its genesis as a bill creating and empowering the Agricultural Product Development Commission and making an appropriation. The entire title and body of the bill was deleted and replaced by amendments which amended the Unemployment Compensation Law insofar as it related to seasonal farm workers. The Commonwealth Court concluded that the general subject of the legislation was agricultural business in the Commonwealth, with the general purpose being the increase of the impact of said business. The court held that amending the bill to provide for an unemployment compensation tax break to companies engaged in canning and freezing of fruits and vegetables did not change the subject matter of the bill.

The Commonwealth Court, Mr. President, used the *Parker* test in its review of the amendments to the Goods and Services Installment Sales Act in the "Rent to Own" case, where it found that the amendments passed by the House wholly changed the original bill as approved by the Senate, thereby violating Section 1 of Article III.

The Common Cause case dealt not with an issue of germaneness, per se, but the unique characteristics of a General Appropriations bill under Article III, Section 11. Article III, Section 2, provides that no bill shall be considered unless referred to a committee. Senate Bill No. 801 was referred to both the Committee on Labor and Industry and the Committee on Rules and Executive Nominations since it was expanded, and again is in strict conformity with the requirements of Article III, Section 3. In fact, Mr. President, a case can be made that the bill's referral to both the Committee on Labor and Industry and Committee on Rules and Executive Nominations was not absolutely necessary since the Pennsylvania courts have stated the rule to be that, quote, "an amended bill need not be referred to committee or considered on three separate days in the house from which the bill which was amended originated if the amendments are germane to and do not wholly change the general subject of the bill," unquote. As noted before, the general subject of the bill has not been changed. It is workers' compensation and, in fact in this case, the specific purpose, which was to authorize broadened coverages for the State Workmen's Insurance Fund, has likewise not been changed but has, in fact, been retained.

Finally, Mr. President, Article III, Section 4, requires in relevant part that every bill shall be considered on 3 different days in each house. Senate Bill No. 801, in its expanded form, has been before the Senate on its Calendar on 4 separate Session days. As the *Parker* case states, the rule is that an amended bill need not be referred to committee or considered on 3 separate days in the house from which the bill which was amended originated if the amendments are germane to and do not wholly change the general subject matter of the bill.

Mr. President, the key issue is germaneness, and the amendments in the Committee on Rules and Executive Nominations to Senate Bill No. 801 did, in fact, deal with workers' compensation, the subject of the original bill. Out of an abundance of caution, the bill has been referred to and reviewed by both the Committee on Labor and Industry and the Committee on Rules and Executive Nominations subsequent to its expansion, and it has been before the Senate on 4 separate days.

The bill, Mr. President, meets the standards set forth by the Commonwealth Court in *Parker vs. The Department of Labor and Industry*, a decision which was affirmed by the State Supreme Court, as well as the test used by the Commonwealth Court in the *Pennsylvania Association of Rental Dealers vs. The Commonwealth*, a decision which was not appealed.

And consistent with a Commonwealth Court opinion in *Common Cause vs. The Commonwealth*, the amendments are germane and do not wholly change the general subject of the bill, and since the general subject of the bill has not been changed, referral to committee and Calendar consideration are not required.

However, Mr. President, if the court were to determine that the amendments were not germane, the constitutional requirements still have been met by the referral of the bill to the Committee on Labor and Industry and the Committee on Rules and Executive Nominations subsequent to its expansion and its consideration on the Senate Calendar for at least 4 Session days. The constitutional requirements, Mr. President, have been scrupulously adhered to.

Certainly, this procedure is much more regular than the procedure utilized in many issues during recent years, including, for example, the process used in November of 1992 when a Philadelphia Clerk of Orphans' Court fee bill, House Bill No. 627, was converted in the Senate Committee on Appropriations to a bill increasing costs in judicial proceedings, and, most importantly, increasing judicial salaries. Needless to say, Mr. President, we have not heard from the Commonwealth Court on that legislation, and we should not on this bill.

Thank you, Mr. President.

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

Senator FUMO. Mr. President, I am glad that the gentleman finally responded to the remarks I made when we opened this debate. I recognize that those people who, if they have more intestinal fortitude than I do and have watched this continuously on PCN, have been wondering why it has taken so long, I now know the answer and can tell them that the Majority legal staff had to go out and do some research to try to respond to my initial remarks. And Mr. President, I commend them for their effort, but I think they missed the ball and they certainly missed the mark. Mr. President, the remarks I made initially concerning the improper and unconstitutional manner in which this bill is currently before us still hold true, and despite the brief but eloquent argument of the gentleman from Delaware, Senator Loeper, this will ultimately be decided in a court of law, probably in the Pennsylvania Supreme Court.

Mr. President, we believe our position is correct, and I know we can stand here for hours and hours as lawyers and try to espouse technical, esoteric legal arguments, but the basis upon which the Constitution rests is the very idea that there is a Senate of Pennsylvania made up of 50 men and women sent here from their individual districts to deliberate, to consider, to debate, and to ultimately make the laws of this Commonwealth. And the Constitution is there not to protect the majority, but as it is in every honest, God-fearing Constitution in the world, Constitutions are designed to protect the minority. The majority, by its very mass, needs no protection.

And, Mr. President, what the Founding Fathers wanted when they devised this Constitution for Pennsylvania and what was reaffirmed continuously over subsequent Constitutional Conventions throughout our history, was that there be an honest and open debate. But what happened here was a bill passed the Senate, went to the House, was amended, came back, and then only in the Committee on Rules and Executive Nominations, which is basically a leadership committee composed of Members, usually with seniority, only in that committee was it permitted to be amended. It was taken out because

in that committee I raised similar arguments. So on the other side they said, well, we better err on the side of caution here.

I heard somebody earlier say that the last workers' compensation bill was a sham. Well, this process was a sham. The bill was taken out, placed on the Calendar, given to the Committee on Labor and Industry. I watched on PCN the hearings of the Committee on Labor and Industry. I watched the gentleman from Allegheny, Senator Belan, try to amend, and I watched the argument put forth that you are not allowed to amend. You may not touch this bill. It comes back here now, gets reported out before the floor, we may not amend. The concept of a Senate, the concept of a legislative body, is that each and every Member, no matter how senior, no matter how new, no matter how powerful or how weak, should have the right to stand up and say I do not like what this bill says and I want to change this bill in this fashion. That is the basis of a representative democracy. That is why you have the Constitution. We do not have to stand here hour upon hour upon hour and talk about, gee, well, we sent it to the committee and it came back and it was on the Calendar for 3 days. But the very basis and the concept and the reason why those rules are there was violated.

In this particular Chamber, the gentleman from Allegheny, Senator Wagner, could not amend this bill if he wanted to because he is not on the Committee on Rules and Executive Nominations. And I could go the whole roll call of everyone in this Chamber except Members of that Committee on Rules and Executive Nominations, and their rights as a duly-elected Senator have been violated by this process. That is what is unconstitutional about it. It does not take a law degree to understand that. It does not take a master's degree in law, in constitutional law, to understand that Senator Wagner, who was sent here by his constituents, has the same right as the gentleman from Delaware, Senator Loeper, to offer an amendment. Is that complicated for people to understand? I do not think it is. It is certainly not complicated to the citizens watching tonight on television. I think they think it is elemental. I think they think that is what we do here. But we hide behind the mumbo-jumbo and all the words that we use in this glorious Chamber, and what you are really watching here, Mr. President, is a freight train steaming down the tracks at 1,000 miles an hour, being driven by a Republican Majority without the courage or the guts to allow for an open process.

You know why, Mr. President? The reason why is that in order to pass this piece of trash, they sat down for hours, those people over there--those people, Republicans--and said, okay, I only need 25 votes, how do I get the 25 votes? They went to the first person, what do you want in this bill that we could do to get your vote? And he said what, and they put it in. They went to the next one and the next one and the next one until they hit the magic number. Then, God forbid, they should open it up on this floor for honest debate, because we might offer a good amendment that might knock off one of their 25 votes. Would that not be a headache to a machine-oriented party? It certainly would. And in blatant contrast to the Mellow-Madigan bill, which was worked out through com-

promise, debated here day in, day out, day in, day out, that was really a compromise, that was really the product of democracy. What a difference this is. This whole thing was kept secret. We were not allowed to see it. They kept saying, well, we will show it to you when we are ready, and then they dump it on your desk in the meeting of the Committee on Rules and Executive Nominations and expect you to read a 100-page bill.

For those of you who watch this daily and the reporters here, if you recall, I tried to read the welfare bill in there and I got through the title and was ruled out of order. I was not allowed to read it. This was just as bad. I just hope that the news media prints the truth about this, but the problem with that might be that reporters are workers, they may be worried about this, but the people who own the presses are employers. They may not want the truth to get out. Thank God for the cameras that are live in this Chamber. I only wish, I only wish that they had a higher Nielson rating.

Mr. President, I do not know what the press is going to write about this. Certainly the Governor has the bully pulpit. He is going to say what a wonderful day it is in Pennsylvania, I have kept another campaign pledge to my fat cat friends. We are going to have thousands of jobs here, and when they do not get delivered, next year there will be another reason. It was not big tax cuts. By the way, since I made my statement, Timmy Reeves, unbeknownst to me, ran to the press office and has a new statement out that we really did create jobs; Senator Fumo is wrong. Well, as soon as we get a copy of it, we will respond to that as well, because we stand behind our statistics.

Mr. President, the process by which this bill is in front of us is unconstitutional, and the people who say it is are the same people who said the budget bill was unconstitutional last year, and for the first time in all the years I have been here, the court ruled a budget bill unconstitutional. I submit to you that if you really wanted this, you would have put in the extra effort rather than try to get a hollow political victory for Governor Ridge. You would have really put the effort in, had a reasonable debate, allowed for the proper amendment process, and passed a constitutional bill. But no, you would rather have a victory that might be short-lived because it will not happen overnight. But you cannot honestly say to me that the way in which this bill got in front of us and the way everybody in this Chamber was denied the right to amend is a constitutional -- forget that word, it is too esoteric -- is a fair or moral way in which to produce legislation that affects the lives of Pennsylvanians. You cannot say that because you know it is not true.

Mr. President, this is going to pass tonight, but I am proud to say that every Democrat here is voting "no," and for those people who do not know the difference between the Democratic and Republican Parties, this is one of those defining issues. We care about people, they care about factories and big wealthy owners.

Thank you, Mr. President.

LEGISLATIVE LEAVES

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

Senator LOEPER. Mr. President, I request a legislative leave for Senator Heckler, as well as temporary Capitol leaves for Senator Helfrick and Senator Corman, who have been called to their offices.

The PRESIDENT. Senator Loeper requests a legislative leave for Senator Heckler, and temporary Capitol leaves for Senator Helfrick and Senator Corman. Without objection, those leaves are granted.

The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I request temporary Capitol leaves for Senator Belan, Senator Bodack, and Senator O'Pake.

The PRESIDENT. Senator Mellow requests temporary Capitol leaves for Senator Belan, Senator Bodack, and Senator O'Pake. Without objection, those leaves are granted.

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—27

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

NAYS—22

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

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.

CONSIDERATION OF CALENDAR RESUMED

BILL ON CONCURRENCE IN HOUSE AMENDMENTS TO SENATE AMENDMENTS

SENATE CONCURS IN HOUSE AMENDMENTS TO SENATE AMENDMENTS

HB 294 (Pr. No. 3518) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, further providing for expenses of county officers for attending certain meetings and for coroner's investigations; and providing for a referendum in cities of the second class relating to neighborhood schools.

On the question,
Will the Senate concur in House amendments to Senate amendments to House Bill No. 294?

Senator LOEPER. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate amendments to House Bill No. 294.

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

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

YEAS—43

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

NAYS—6

Fumo	Mellow	Tartaglione	Williams
Hughes	Schwartz		

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.

THIRD CONSIDERATION CALENDAR

BILLS REREPORTED FROM COMMITTEE AS AMENDED OVER IN ORDER

HB 299 and HB 1362 -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILL LAID ON THE TABLE

HB 8 (Pr. No. 3582) -- The Senate proceeded to consideration of the bill, entitled:

An Act establishing programs for the education of disruptive students.

Upon motion of Senator LOEPER, and agreed to, the bill was laid on the table.

BILL OVER IN ORDER

HB 100 -- Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILL LAID ON THE TABLE

SB 685 (Pr. No. 719) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 9, 1929 (P. L. 343, No. 176), entitled, as amended, "The Fiscal Code," further providing for reports to the Secretary of Revenue.

Upon motion of Senator LOEPER, and agreed to, the bill was laid on the table.

BILL AMENDED

SB 1317 (Pr. No. 2085) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for registration requirements for telemarketers and for powers and duties of the Office of Attorney General.

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

Senator FISHER offered the following amendment No. A4810:

Amend Sec. 2, page 5, line 23, by striking out "AND WHERE" and inserting a semicolon

Amend Sec. 2, page 5, line 24, by inserting after "PUBLISHER" where it appears the second time: and the person soliciting discloses the following during the initial contact: the total costs to purchase, receive or use and the quantity of the newspapers, magazines or other periodicals of general circulation that are the subject of the sales offer

Amend Sec. 2, page 6, lines 9 through 12, by striking out "FOR THE PURPOSES OF THIS PARAGRAPH," in line 9, all of lines 10 through 12 and inserting: For the purposes of this paragraph, the term "agent" means a person or business which has entered into a written agreement directly with the retail business establishment.

Amend Sec. 4, page 10, line 4, by inserting after "registered,": and are outside the exception to registration provided for in paragraph (5) of the definition of "telemarketer,"

Amend Sec. 5, page 10, line 19, by inserting before "The": (a) Acts enumerated.—

Amend Sec. 5, page 10, lines 22 through 25, by striking out all of said lines and inserting:

(2) Initiating an outbound telephone call to a person when that person previously has stated that he or she does not wish to receive an outbound telephone call made by or on behalf of the seller whose goods or services are being offered.

Amend Sec. 5, page 11, lines 6 and 7, by striking out all of said lines and inserting:

(4) Requesting or receiving payment of any fee or consideration from a person, for goods or services represented to recover or otherwise assist in the return of money or any other item of value paid for by, or promised to, that person in a previous telemarketing transaction, until seven business days after such money or other item is delivered to that person. This provision shall not apply to goods or services provided to a person by a licensed attorney.

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

It was agreed to.

Without objection, the bill, as amended, was passed over in its order at the request of Senator LOEPER.

BILLS OVER IN ORDER

SB 1333, HB 1346, SB 1493 and SB 1513 -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE

SB 1566 (Pr. No. 2150) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of July 9, 1976 (P. L. 817, No. 143), entitled "Mental Health Procedures Act," further providing for mental health review officer, for confidentiality of records and for incompetence to proceed on criminal charges and lack of criminal responsibility as a defense and for competency determination and burden of proof.

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 PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Greenleaf.

Senator GREENLEAF. Mr. President, I rise to urge an affirmative vote on this legislation. There is some urgency to this legislation in that it would determine the burden of proof in the competency proceedings involving criminal defendants. A problem has now developed with regard to the competency statute in Pennsylvania that has been impliedly overturned by the United States Supreme Court. This bill that I have introduced would clarify what the burden of proof is in a competency proceeding and who has those burdens. It is important for us to pass this legislation. There are a number of cases in Pennsylvania that are pending that deal with competency, one of which involves a murder case in the southeastern part of Pennsylvania. It is important for us to pass this legislation so we can clarify that issue.

Thank you.

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

Senator FUMO. Mr. President, I rise to oppose the bill. One of the more interesting features that came up during debate in the Committee on Judiciary that still has not been addressed is what occurs when the court sua sponte raises the issue of competency? Who then has the burden of proof? It is my belief, and also according to the American Bar Association tenets, that that burden of proof at that point in time should shift to the prosecution who, in my belief, always has the burden of proving that the individual committed the act beyond a reasonable doubt, and part of that should be the competency of the individual, not only when he committed the act but also to stand trial. It is one thing and it is a conservative view that we have in Pennsylvania now that holds that it is the moving party who has the burden of proof. The problem that occurs is what happens when the court says the individual appears to be incompetent. You cannot ask the court to have the burden of proof because it is the finder of fact itself.

So I think the bill is deficient in that way. I think that it should have been addressed. Obviously, in these conservative times when our only answer to crime is lock them up and throw away the key, there is not much thought process going

on behind some of this stuff, but in this particular instance, Mr. President, I think we have a very severe problem on our hands. The testimony was elicited that the insanity defense and incompetency is very rarely used in criminal cases, and when it is, it is even more rare that it is successful. It is just that occasionally there is a newspaper headline. You may have had an incompetent prosecutor who lost the case, and their first response is, well, the law is not right. Somebody in Harrisburg made a mistake. I am a good lawyer. And this is the response to it.

As we gradually tear down the basis of freedom in America, Mr. President, at least we ought to have the guidelines correct, and the issue of when the court raises competency should be addressed.

Thank you, Mr. President.

LEGISLATIVE LEAVES

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

Senator LOEPER. Mr. President, Senator Bell and Senator Shaffer have been called from the floor to their offices, and I request temporary Capitol leaves for them.

The PRESIDENT. Senator Loeper requests temporary Capitol leaves for Senator Bell and Senator Shaffer. Without objection, those leaves are granted.

And the question recurring,
Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentleman from Chester, Senator Gerlach.

Senator GERLACH. Mr. President, if I may just add a few remarks in relation to the comments of the gentleman from Philadelphia, Senator Fumo, on the legislation dealing with the burden of proof issue. The bill, Senate Bill No. 1566, was amended yesterday here on the floor with language specifically addressing that issue. It is the intent of that language to permit the court, when on its own motion it does make a determination that an incompetency examination ought to occur without a motion from either the prosecution or the criminal defendant or the criminal defendant's counsel or the warden at the facility where the defendant is incarcerated, that the court will then enter an order directing the examination and the production of evidence on the issue of incompetency. At that point that testimony or evidence is presented to the court, which, in turn, has the responsibility, yes, of making a determination of fact and making a legal determination on the issue of incompetency. That, however, is not contrary to what courts do many times in many areas of the law, being both the factual finder as well as the legal determiner of whether a standard has been met or not met.

So the purpose of the amendment yesterday was to clarify the role of the court when sua sponte, or on its own motion, it does in fact require the criminal defendant to undergo an incompetency examination. It then also, upon the production of the report of that examination, is responsible for making a determination of incompetency where it believes the burden of

proof has been established that incompetency is established by a preponderance of the evidence.

That is the intent of the amendment, and I ask for a positive vote by the Members of this Chamber, that that ought to be where the responsibility lies in these kinds of proceedings.

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

Senator FUMO. Mr. President, in response, I just looked at the amendatory language which appears on pages 3 and 4 of the bill, and still the burden of proof is not defined when the court shall on its own motion question the competency of the individual. It merely says, "Upon completion of the examination, a determination of incompetency shall be made by the court where incompetency is established by a preponderance of the evidence."

Who has the burden of proving incompetency when the judge asks for it? It still seems clear to me, and certainly to the American Bar Association, which has studied this far longer and in far greater depth than I, and I submit Senator Gerlach and Senator Greenleaf and others, their recommendation has consistently been that where it is raised by the court, the burden should shift to the Commonwealth, or the prosecution in those States where it is not referred to as a Commonwealth, that it is then their burden to prove by this lesser standard, a preponderance of the evidence, that the individual is competent. The amendment that was inserted, in my opinion, just makes it even more unclear as to who has the burden of proof because it is not addressed.

Thank you, Mr. President.

And the question recurring,
Shall the bill pass finally?

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

YEAS—32

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

NAYS—17

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

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.

RECONSIDERATION OF SB 1317

BILL AMENDED

SB 1317 (Pr. No. 2085) Senator FUMO. Mr. President, I move to reconsider the vote by which Senate Bill No. 1317 was passed over earlier today.

The PRESIDENT. Senator Fumo moves that we reconsider the vote by which Senate Bill No. 1317 was passed over.

The motion was agreed to.

On the question,

Will the Senate agree to the bill on third consideration?

Senator FUMO offered the following amendment No. A4839:

Amend Bill, page 14, by inserting between lines 12 and 13: Section 9. Investigation.

(a) Authority.—If the Attorney General has reason to believe that a violation of this act has occurred, the Attorney General shall have authority to investigate on behalf of the Commonwealth, its citizens or a political subdivision.

(b) Procedure.—Prior to the institution of a civil action, the Attorney General is authorized to require the attendance and testimony of witnesses and the production of documents. For this purpose, the Attorney General may issue subpoenas, examine witnesses and receive evidence. If a person objects to or otherwise fails to comply with a subpoena or request for testimony, the Attorney General may file in Commonwealth Court an action to enforce the subpoena or request. Notice of hearing the action and a copy of all pleadings shall be served upon the person, who may appear in opposition.

(c) Confidentiality.—Any testimony taken or material produced shall be kept confidential by the Attorney General except to the extent he may use information in a judicial proceeding or if the disclosure is authorized by the court for good cause shown or confidentiality is waived by the person being investigated and by the person who has testified, answered interrogatories or produced materials.

Amend Sec. 9, page 14, line 13, by striking out "9" and inserting: 10

On the question,

Will the Senate agree to the amendment?

It was agreed to.

Without objection, the bill, as amended, was passed over in its order at the request of Senator LOEPER.

BILLS OVER IN ORDER

SB 1572, HB 1711, HB 2041 and HB 2102 -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

SECOND CONSIDERATION CALENDAR

BILL REREPORTED FROM COMMITTEE AS AMENDED ON SECOND CONSIDERATION

SB 1431 (Pr. No. 2131) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 23 (Domestic Relations) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes,

further providing for costs and fees; providing for the establishment of a criminal charge information system for parties in child custody matters; and further providing for an award of custody, partial custody or visitation.

Considered the second time and agreed to,

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

BILL ON SECOND CONSIDERATION

HB 216 (Pr. No. 3505) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 27, 1905 (P. L. 312, No. 218), entitled "An act creating a Department of Health, and defining its powers and duties," further providing for organization and for administrative powers and duties; and making repeals.

Considered the second time and agreed to,

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

BILLS OVER IN ORDER

SB 289, SB 616, SB 819, HB 873, HB 950, HB 1174 and SB 1212 -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILLS LAID ON THE TABLE

SB 1315 (Pr. No. 2034) -- 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.

Upon motion of Senator LOEPER, and agreed to, the bill was laid on the table.

SB 1316 (Pr. No. 2035) -- 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.

Upon motion of Senator LOEPER, and agreed to, the bill was laid on the table.

BILL OVER IN ORDER

SB 1320 -- Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILL LAID ON THE TABLE

SB 1447 (Pr. No. 2037) -- The Senate proceeded to consideration of the bill, entitled:

An Act defining full-service and self-service motor vehicle fuel stations; establishing minimum services; requiring motor vehicle fuel stations to have air pumps for the public and for certain services for persons with disabilities; and providing penalties.

Upon motion of Senator LOEPER, and agreed to, the bill was laid on the table.

BILLS OVER IN ORDER

SB 1479, SB 1506, SB 1533, SB 1547, SB 1579, SB 1584, SB 1595 and SB 1596 -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILLS ON SECOND CONSIDERATION

SB 1600 (Pr. No. 2119) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 12, 1911 (P. L. 295, No. 187), entitled "A supplement to an act, entitled 'An act for the government of cities of the second class,' approved the seventh day of March, Anno Domini one thousand nine hundred and one;....." further providing for a restriction on taxing power; and making repeals.

Considered the second time and agreed to,

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

SB 1607 (Pr. No. 2130) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 18, 1980 (P. L. 1241, No. 224), entitled "Pennsylvania Cancer Control, Prevention and Research Act," extending the expiration date.

Considered the second time and agreed to,

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

HB 1689 (Pr. No. 2982) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of October 27, 1955 (PL.744, No.222), known as the Pennsylvania Human Relations Act, further providing for educational programs; and restricting the Pennsylvania Human Relations Commission and certain other government involvement in pupil school assignment.

Considered the second time and agreed to,

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

HB 1712 (Pr. No. 2619) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for definitions, for vehicle registration periods of less than one year and for exemptions from the motor-bus road tax.

Considered the second time and agreed to,

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

HB 1977 (Pr. No. 3382) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for certain health insurance benefits to aid the health and well-being of mother and child following the birth of a child; and prohibiting certain practices by insurers.

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

BILLS OVER IN ORDER

HB 1985, HB 2064, HB 2388, HB 2470 and HB 2619 -- Without objection, the bills were passed over in their order at the request of Senator LOEPER.

LEGISLATIVE LEAVES

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

Senator FUMO. Mr. President, I request temporary Capitol leaves for Senator Afflerbach, Senator Musto, Senator Porterfield, Senator Stapleton, Senator Tartaglione, and Senator Williams, who have been called to their offices.

The PRESIDENT. Senator Fumo requests temporary Capitol leaves for Senator Afflerbach, Senator Musto, Senator Porterfield, Senator Stapleton, Senator Tartaglione and Senator Williams. Without objection, those leaves are granted.

**MOTION TO CALL UP DISCHARGE
RESOLUTION No. 6**

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

Senator HUGHES. Mr. President, I move to call up Discharge Resolution No. 6, the resolution calling for an increase in Pennsylvania's minimum wage, which we have neglected, as a Special Order of Business.

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

Senator LOEPER. Mr. President, I believe the motion to call the bill up is not debatable. Mr. President, I would oppose the motion, and I ask for a roll-call vote.

The PRESIDENT. Senator Hughes, would you complete your motion statement.

Senator HUGHES. Mr. President, I was moving to call up, as a Special Order of Business, Discharge Resolution No. 6.

The PRESIDENT. Senator Hughes moves to take up Discharge Resolution No. 6 as a Special Order of Business.

Senator LOEPER. Mr. President, is not the motion correctly put to call up the discharge resolution for consideration? And, Mr. President, I oppose that motion.

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

PARLIAMENTARY INQUIRY

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

Senator FUMO. Mr. President, a parliamentary inquiry.

The motion is to call up Discharge Resolution No. 6. Is that what was said?

The PRESIDENT. You are correct.

Senator FUMO. Mr. President, am I correct that if I vote "yes" we vote to call it up, and "no" we do not? Is that proper?

The PRESIDENT. The Senate will be at ease.

(The Senate was at ease.)

The PRESIDENT. Senator Fumo, to deal with the question, a "yes" vote will lead to the Senate considering the discharge, a "no" vote the reverse.

Senator FUMO. Mr. President, the essence of this is that if I vote "yes," I want to consider the minimum wage bill. If I vote "no," I do not. By voting "yes," is that a vote for the minimum wage, or just to bring it up?

The PRESIDENT. This is procedural, yes.

Senator FUMO. Mr. President, so, I would vote "yes" if I want to vote on minimum wage; "no" if I do not.

The PRESIDENT. I would not interpret it that way.

Senator FUMO. Mr. President, well, if I vote "yes," what do I get?

The PRESIDENT. You can take that up with Senator Hughes.

Senator FUMO. Well, Mr. President, in the hope and in the belief that by voting "yes" I can vote on minimum wage, then that is how I am going to be guided. I will vote "yes" because I do think we have to deal with the minimum wage issue.

The PRESIDENT. The Chair would attempt to clarify and say that those who do not wish to deal with it in any way will vote "no," and those who wish to advance the cause of Senator Hughes and perhaps discuss the substantive side of that resolution will vote "yes."

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

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

YEAS—20

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

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.

**UNFINISHED BUSINESS
REPORTS FROM COMMITTEES**

Senator RHOADES, from the Committee on Education, reported the following bill:

HB 1031 (Pr. No. 3809) (Amended)

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, further providing for sabbatical leaves and for rights during a leave of absence.

Senator LEMMOND, from the Committee on State Government, reported the following bill:

SB 1590 (Pr. No. 2094)

An Act authorizing and directing the Department of General Services, with the approval of the Department of Public Welfare and the Governor, to convey to the 900 North Broad Corporation certain real estate situate in the City and County of Philadelphia and the Commonwealth of Pennsylvania.

CONGRATULATORY RESOLUTIONS

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

Congratulations of the Senate were extended to Mary Magdalen Hess by Senator Belan.

Congratulations of the Senate were extended to William Ryan Zinck by Senator Bell.

Congratulations of the Senate were extended to Mr. and Mrs. Earl F. Roth by Senator Brightbill.

Congratulations of the Senate were extended to Chad W. Garson by Senator Greenleaf.

Congratulations of the Senate were extended to Paul Walker by Senator Salvatore.

Congratulations of the Senate were extended to Mr. and Mrs. Harry Duke and to the citizens of Harrisville Township by Senator Shaffer.

Congratulations of the Senate were extended to Elizabeth Spaulding Alexander and to Sydney G. King by Senator Taglione.

CONDOLENCE RESOLUTIONS

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

Condolences of the Senate were extended to the family of the late Edward John Yastrop by Senator Afflerbach.

Condolences of the Senate were extended to the Lancaster Conservatory of Music in memory of the late Mary B. Vyner by Senator Armstrong.

BILLS ON FIRST CONSIDERATION

Senator LEMMOND. 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 1590 and HB 1031.

SENATE RESOLUTION**URGING THE GOVERNOR AND THE ATTORNEY GENERAL OF THE COMMONWEALTH OF PENNSYLVANIA TO TAKE A STRONG STAND**

AGAINST HEINOUS ACTS OF VIOLENCE, BIGOTRY, RELIGIOUS INTOLERANCE, TERRORISM AND ARSON, SUCH AS THE RECENT DESTRUCTION OF PREDOMINANTLY BLACK CHURCHES IN THE SOUTH BY PROVIDING TO THE UNITED STATES ATTORNEY GENERAL ANY AND ALL INFORMATION ON HATE CRIMES AND HATE GROUPS IN PENNSYLVANIA THROUGH THE ASSISTANCE OF STATE AND LOCAL LAW ENFORCEMENT AUTHORITIES WHICH MAY ASSIST IN THE INVESTIGATION OF THE RECENT CHURCH BURNINGS; FURTHER URGING THE ATTORNEY GENERAL OF THE COMMONWEALTH TO TAKE APPROPRIATE MEASURES TO PREVENT SUCH ACTS OF VIOLENCE, TERRORISM, ARSON AND BIGOTRY FROM OCCURRING IN PENNSYLVANIA; AND FURTHER COMMENDING THE PRESIDENT OF THE UNITED STATES AND THE UNITED STATES ATTORNEY GENERAL FOR INVESTIGATIVE ACTIONS TAKEN THUS FAR, BUT URGING BOTH TO CONTINUE TO TAKE EVERY AVAILABLE INVESTIGATORY AVENUE TO SOLVE THESE CRIMES

Senators HUGHES, MELLOW, O'PAKE, STEWART, FUMO, STAPLETON, JUBELIRER, FISHER, PETERSON, WILLIAMS, HELFRICK, SCHWARTZ, HART, AFFLERBACH, THOMPSON, STOUT, GREENLEAF, TARTAGLIONE, ULIANA, WAGNER, TOMLINSON, COSTA, BELAN, TARTAGLIONE, MADIGAN and LOEPER, by unanimous consent, offered the following resolution (Senate Resolution No. 141), which was read, considered and adopted:

In the Senate, June 19, 1996

A RESOLUTION

Urging the Governor and the Attorney General of the Commonwealth of Pennsylvania to take a strong stand against heinous acts of violence, bigotry, religious intolerance, terrorism and arson, such as the recent destruction of predominantly black churches in the South by providing to the United States Attorney General any and all information on hate crimes and hate groups in Pennsylvania through the assistance of State and local law enforcement authorities which may assist in the investigation of the recent church burnings; further urging the Attorney General of the Commonwealth to take appropriate measures to prevent such acts of violence, terrorism, arson and bigotry from occurring in Pennsylvania; and further commending the President of the United States and the United States Attorney General for investigative actions taken thus far, but urging both to continue to take every available investigatory avenue to solve these crimes.

WHEREAS, The United States has had a history of racially motivated burnings of predominantly black churches in the South during the civil rights era; and

WHEREAS, In the past 18 months there have been more than 35 suspicious fires of predominantly black churches; and

WHEREAS, Racial epithets have been left at the scene of many of these suspicious fires; and

WHEREAS, The recent rash of suspicious fires has occurred in ten Southern States, including Alabama, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas and Virginia; and

WHEREAS, The churches set ablaze by arsonists since January 13, 1995, are:

in Alabama, Mt. Zion Baptist, Little Mt. Zion Baptist and Mt. Zoar Baptist in Boligee, New Liberty Baptist in Tyler and Rising Star Baptist in Greensboro,

in Georgia, Gay's Hill Baptist in Millen and Pine Lake Baptist Church, Pine Lake,

in Louisiana, Cypress Grove Baptist, Sweet Home Baptist and Thomas Chapel Benevolent Society in Zachary, St. Charles Baptist in Paincourtville and St. Paul's Free Baptist in Baker,

in Mississippi, St. Paul AME in Hatley, New Mt. Zion Baptist in Ruleville and El Bethal in Satartia, Mt. Pleasant Baptist Church in Kossuth and Central Grove Baptist Church, Kossuth,

in North Carolina, Mt. Tabor Baptist in Cerro Gordo, Matthews-Murkland in Charlotte and Mt. Moriah Baptist in Hillsborough and Hills Chapel Baptist Church in Rocky Point,

in Oklahoma, First Missionary Baptist Church in Enid, in South Carolina, Mt. Zion AME in Williamsburg County, Macedonia Baptist in Manning, St. John Baptist and St. Paul Baptist in Lexington County, Rosemary Baptist in Barnwell and Effingham Baptist in Effingham and Life Christian Assembly Church, North Charleston,

in Tennessee, Johnson Grove Baptist in Bells, Macedonia Missionary Baptist in Denmark, Friendship Baptist and Canaan AME in Columbia, Mt. Calvary Baptist in Hardeman County, Salem Baptist in Gibson County, Inner City in Knoxville and Mt. Pleasant Baptist in Tigrett,

in Texas, New Lighthouse of Prayer and Church of the Living God in Greenville,

in Virginia, Glorious Church of God in Richmond;
and

WHEREAS, These churches are the spiritual, cultural, social and political centers of the African-American communities which they serve; and

WHEREAS, Ethnic, racial and religious diversity is the backbone of this nation, and the Senate is an elected body representing persons from many ethnic and racial backgrounds; therefore be it

RESOLVED, That the Senate denounce and urge the Governor and the Attorney General to denounce these acts of violence, bigotry, religious intolerance, terrorism and arson; and be it further

RESOLVED, That the Senate urge the President and the United States Attorney General to heighten investigatory measures to bring these acts of violence to an end and to fully prosecute the perpetrators of these violent acts; and be it further

RESOLVED, That the Senate urge the Governor of the Commonwealth of Pennsylvania, Thomas J. Ridge, and the Attorney General of the Commonwealth of Pennsylvania, Thomas Corbett, to assist the United States Attorney General in the investigation of these church burnings and to prevent future acts of violence from occurring in the United States and this Commonwealth by providing any and all information on hate groups and hate crimes that have occurred in this Commonwealth through the assistance from State and local law enforcement authorities; and be it further

RESOLVED, That copies of this resolution be transmitted to the churches which have fallen victim to these heinous acts of violence, bigotry, religious intolerance, terrorism and arson as a show of support and encouragement that these crimes will not go unsolved; and be it further

RESOLVED, That copies of this resolution be transmitted to the President of the United States, William J. Clinton, and to the United States Attorney General, Janet Reno, to the Governor of Pennsylvania, Thomas J. Ridge, and the Attorney General of the Commonwealth of Pennsylvania, Thomas Corbett.

PETITIONS AND REMONSTRANCES

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

Senator HART. Mr. President, it has been a long day and I have been here since the very beginning as a Member of the Committee on Rules and Executive Nominations as we discussed, actually as we continued to discuss workers' compensation reform over the last week.

Mr. President, I believe that in their zeal to damage Governor Ridge's plan to help Pennsylvania create more jobs, we know who really marched in lockstep today. There were comments made during the debate in our meeting of the Committee on Rules and Executive Nominations and also today on the floor that I believe impugned a number of Members who supported workers' compensation reform. There were also comments made by several Members complaining about the procedure leading to today's vote, that this should be a bipartisan issue, which I believe it is, Mr. President. There are certainly both Republican workers and Democrat employers all over this Commonwealth. I was at the meeting of the Committee on Rules and Executive Nominations today, Mr. President, where Members were free to offer amendments to the bill if they disagreed with it. There was one amendment offered, and that was the amendment by the gentleman from Lancaster, Senator Wenger. He was the only Member at that committee meeting who presented an amendment.

Mr. President, I wonder, despite the diatribe we heard today which claimed that we did not give anyone the opportunity to have a bipartisan bill, how can we craft a workers' compensation bill that is bipartisan if those on the other side of the aisle do not even believe that we need one, if they do not even believe that there is a workers' compensation crisis in Pennsylvania? Mr. President, I believe that the bill that we passed several years ago, Act 44, did address some very important problems with our workers' compensation system. In fact, it was a very good proposal and made some progress. Those who worked on it are to be commended. Those who supported it are to be commended. And, in fact, in discussions with employers and employees throughout the Commonwealth, people were affected by the bill in a positive way. It was a good start, but it did not solve the entire problem, and anyone who might suggest that it did is sorely mistaken. In fact, Mr. President, I think that was only the first step. Senate Bill No. 801 which we passed today is a new and different, very good second step.

I have met with many individuals, both employers and employees, from across the Commonwealth and in my district. I think many of my colleagues have done this as well over the past several years. Time and time again both employers and workers have told me that we need workers' compensation reform. And they always cited as real workers' compensation reform we need reform that will help to reduce costs that will make sure that benefits are available to those who need them legitimately. Both workers and employers cite fraud as a problem. Well, Senate Bill No. 801 addresses fraud. It places a mechanism in order to cut down on fraud. The Insurance Commissioner is going to set up a fraud task force. The Department of Labor and Industry is going to promulgate regulations to help us straighten out the system so that benefits will be available to those who need them and not to those who do not.

Both employers and employees also cite the lengthy nature of the adjudication process as a serious problem. Well, of course it is. It causes costs to rise for the employers, it causes the employees to languish in a system where they should be able to move through efficiently and be able to receive the treatment and the benefits they need while they cannot work. Mr. President, Senate Bill No. 801 streamlines the system so that if the parties can agree, they can meet informally to solve the problem between themselves without involving attorneys if they choose not to, without involving a long process of going to a workers' compensation judge, which will lengthen the process and obviously cause more expense. If both parties can agree to it, they can avail themselves of that opportunity, Mr. President. This assures to the worker and the employer that the case will be timely heard and timely considered, and hopefully timely remedied.

Even more importantly, regarding the adjudication, if employers or insurers delay the process, they will now be subject, under Senate Bill No. 801, to paying a penalty up to 50 percent of the award to the injured worker. I believe, Mr. President, this will help speed the process, and this will certainly help the injured worker.

Finally, Mr. President, workers' compensation reform is a question of economic reality in Pennsylvania. For some reason though, too many Members chose to stick their heads in the sand and pretend as though we do not have a serious economic problem in Pennsylvania, much of which is caused by our workers' compensation rates. I think the question that we all needed to answer for ourselves today, which was very clear by the vote, was who wants to move forward and compete in the next millennium? Who wants to protect a broken system that holds workers captive, or worse, and has driven many employers to the Sunbelt? I commend to you, Mr. President, those who supported Senate Bill No. 801 are interested in the lives of the families, the workers, the employers of Pennsylvania, and our economy, and our future. This is 1996. We need to realize that we have to move forward. We have to change with the times, we have to remedy what is a problem and has been for years in Pennsylvania.

Mr. President, I am very proud to have voted in support of Senate Bill No. 801, and I am also proud of my colleagues who worked on the bill, crafted the bill, worked with the administration and the Secretary of Labor and Industry, the Insurance Commissioner, and everyone else who knows and believes that we need to move forward and help to fix our economy in Pennsylvania for everyone - workers and employers.

Thank you, Mr. President.

The PRESIDING OFFICER (Daniel S. Delp) in the Chair.

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

Senator HUGHES. Mr. President, on two issues. The first issue is to offer a comment and an explanation to the Members and thanks to all of the Members who cosponsored the resolution that was passed unanimously. The resolution addressed the

issue of this Senate making an official denouncement, if you will, of the perpetrators of, I guess we are up to about 36, church burnings that have occurred in about 12 different States across this country. Also to suggest in this resolution, to understand in this resolution, Mr. President, that we have asked our Governor and our Attorney General to take a cooperative, operative stance in making sure that any and all information that may exist in this Commonwealth about the activities of hate groups be made available to the U.S. Attorney General's Office to help in the prosecution of these heinous acts of racism and bigotry, asked the President to continue and to heighten his efforts in terms of trying to solve these problems, and also requested that we, as all elected officials, move aggressively in our own communities within this Commonwealth to deal with a growing climate of intolerance and acceptance of racism. That is something about which we as brothers and sisters across this country and in Pennsylvania must speak loudly and clearly. In silence bigotry and racism has been allowed to flourish. We cannot ignore in this Commonwealth what is happening across the rest of this country. We must talk, speak, and act, and actions have more impact than words. But there is a lot of work that has to be done in this Commonwealth, not just to support our brothers and sisters hundreds of thousands of miles away, but to address the bigotry that exists within this Commonwealth.

When we even have elected officials who choose to make racist statements and choose not to apologize publicly for those comments, then we only further a climate of intolerance. So I want to thank all of my colleagues for unanimously supporting the resolution that was passed previously and hope that we can be proactive in our work to make sure that the words in that resolution have some real meaning.

Now, Mr. President, the second comment that I have to make, if you will, addresses the fact that again, for I believe the fourth time, we had an opportunity on this floor to deal with an issue that the House of Representatives in this Commonwealth dealt with over a month ago, and that is the issue of raising Pennsylvania's minimum wage. The Congress, under the leadership of Newt Gingrich, voted a measure to raise the United States minimum wage. The House of Representatives here in Pennsylvania voted a measure to raise Pennsylvania's minimum wage. And this Senate continues to ignore, continues to ignore, Mr. President, that reality that working people in this Commonwealth need a hand up. They need help. They need a break. They need more money in their pockets so they can make it through. Now Mr. President, we cannot continue to go down this path where we ignore the real plight of working people in this Commonwealth. The Congress has moved on this, our House of Representatives has moved on this. We have, Mr. President, maybe 10 different bills in place that cannot get any hearing, any action in our Senate Committee on Labor and Industry. We have four discharge resolutions, I believe, Mr. President, that have been considered, and still the Senate chooses not to take action. However, we can cut 220,000 people off of Medical Assistance, we can give the fat cat corporations in this Commonwealth \$286 million in tax breaks, and we can propose that they get another \$60 million

in tax breaks, yet we can ignore people who are working and only need a little bit of help, a little bit of an opportunity to make their way through.

Finally, Mr. President, we can ram through, without any significant public hearings, a workers' compensation reform package that only benefits the corporate few and destroys the rights and opportunities and hope for injured working people who only need a little bit of help to make it through. But we cannot consider, even processwise, a vote. I am not even asking in these comments, Mr. President, for a "yes" vote on the measure. I am just asking for an opportunity to have a vote, a discussion, a public hearing, some dialogue in committee, on the floor. Somewhere in the process, Mr. President, we need an opportunity to consider this measure, but it is not happening, and that is not how we should be doing business. Everyone else wants to address this issue except the Pennsylvania Senate. We need a raise in the minimum wage, Mr. President. As I said earlier, I have introduced 10 different bills because the first bill could not get considered, so let us try different formulations of an increase. Maybe it is the substance. Maybe it is the amount. Maybe it is too much of an increase. Maybe the increase should start later on. Maybe the increase should be tied to the rate of inflation. Maybe the increase should get to 50 percent of the average hourly wage of working people in Pennsylvania. I am not sure which version is acceptable. Maybe the sense I am getting is that no version is acceptable, so consequently we will not take an opportunity to hear the issue.

So, Mr. President, in this moment of Petitions and Remonstrances, since we cannot get a discussion on the floor of the Senate and we cannot get a discussion in committee, at this moment in Petitions and Remonstrances where I still have the opportunity to speak the words in the representation of the 250,000 people whom I represent in the 7th Senatorial District, I am requesting, as we may be here for 5 days next week or 7 days next week, or 3 days next week, that there be some movement by this Senate on the issue of raising Pennsylvania's minimum wage. The people want it. They want it. They want an increase. They want more money. They need more money. They need more funds in their pockets. There has not been an increase since 1991. It just has not happened. Inflation has gone up and wages are staying the same. There are real faces behind these statistics that we talk about. People working in fast food, people working cleaning your car, people working in this building on both sides of the aisle, in both Chambers, making sublivable wages. That is not acceptable. We need to deal with this issue. Now, if it is just saying, yes, I am for it; no, I am against it, that is acceptable. But we have to address this issue, Mr. President, and that is the conclusion of my comments. Again, please, let us have some consideration, some action on raising Pennsylvania's minimum wage.

Thank you very much.

ANNOUNCEMENTS BY THE SECRETARY

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

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

FRIDAY, JUNE 21, 1996

11:00 A.M.	JUDICIARY (public hearing on the Bureau of Narcotics Investigation of the Office of the Attorney General)	Ceremonial Courtroom US Courthouse 601 Market St Phila., PA
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MONDAY, JUNE 24, 1996

CANCELLED

10:00 A.M.	JUDICIARY (public hearing on Senate Bill No. 1552)	Room 8E-B East Wing
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TUESDAY, JUNE 25, 1996

9:30 A.M.	CONSUMER PROTECTION AND PROFESSIONAL LICENSURE (to consider Senate Bills No. 1502 and 1585; and Final Regulation No. 16A-536)	Room 8E-B East Wing
11:00 A.M.	ENVIRONMENTAL RESOURCES AND ENERGY (to consider Senate Bill No. 1587, an Act requiring Commonwealth agencies to evaluate potential constitutional infringements of private property rights; and providing powers and duties of the Attorney General)	Room 8E-A East Wing

ADJOURNMENT

Senator LOEPER. Mr. President, I move that the Senate do now adjourn until Thursday, June 20, 1996, at 10 a.m., Eastern Daylight Saving Time.

The motion was agreed to.

The Senate adjourned at 9:07 p.m., Eastern Daylight Saving Time.