

79TH GENERAL ASSEMBLY

REGULAR SESSION

JUNE 21, 1976

1. PRESIDENT:

2. The hour of twelve having arrived, the Senate will
3. come to order. Will our guests in the gallery please
4. stand as we have prayer by Father Hugh P. Cassidy, Blessed
5. Sacrament Church, Springfield, Illinois.

6. FATHER HUGH P. CASSIDY:

7. Oh, Mighty Father, creator of all, we come before you
8. at the beginning of this day. We place our hope and con-
9. fidence in you. Guide and direct the Senators of our State.
10. May your spirit help them to know the needs of all for whom
11. they labor. We pray that they may be responsive to these
12. needs. Guide them in their deliberations, strengthen them
13. in their resolve, enlighten them to make right judgements
14. and fill them with your ever abiding presence. Oh, God of
15. Heaven and Earth, bless these Senators today and always.
16. Amen.

17. PRESIDENT:

18. Reading of the Journal. Senator...Senator Kenneth Hall.

19. SENATOR KENNETH HALL:

20. Thank you, Mr. President. Journal No. 146, Monday, June
21. 21st, 1976. I move that reading and approval of the Journals
22. of Friday, June the 11th, 1976, Monday, June 14th, 1976, Tues-
23. day, June 15th, 1976, Wednesday, June 16th, 1976, Thursday,
24. June 17th, 1976 and Friday, June 18th, 1976 be postponed pend-
25. ing arrival of the printed Journals.

26. PRESIDENT:

27. You heard the motion. All in favor will say Aye.

28. SENATOR KENNETH HALL:

29. Aye.

30. PRESIDENT:

31. Opposed Nay. The Ayes have it. The motion carries. A
32. Message from the House.

33. SECRETARY:

1. A Message from the House by Mr. O'Brien, Clerk.

2. Mr. President - I am directed to inform the Senate
3. that the House of Representatives has adopted the following
4. Joint Resolution in the adoption of which I am instructed
5. to ask concurrence of the Senate, to-wit:
6. House Joint Resolution 103.

7. PRESIDENT:
8. Secretary's Desk.

9. SECRETARY:
10. A Message from the House by Mr. O'Brien, Clerk.

11. Mr. President - I am directed to inform the Senate
12. that the House of Representatives has adopted the following
13. Joint Resolution in the adoption of which I am instructed
14. to ask concurrence of the Senate, to-wit:
15. House Joint Resolution 105.

16. PRESIDENT:
17. Secretary's Desk. Resolutions.

18. SECRETARY:
19. Senate Resolution 396, introduced by Senators Hynes and
20. Rock. It's congratulatory.

21. PRESIDENT:
22. Senator Rock. Senator Rock moves to suspend the rules
23. for the immediate consideration of a congratulatory resolu-
24. tion. All in favor say Aye. Opposed Nay. The rules are
25. suspended. Senator Rock now moves for the adoption immediately
26. of this resolution. All in favor will say Aye. Opposed Nay.
27. Ayes have it. The resolution is adopted. House Bills on 1st
28. reading, page 7. House Bill 3973, Senator Kenneth Hall.

29. SECRETARY:
30. House Bill 3973.

31. (Secretary reads title of bill)
32. 1st reading of the bill.

33. PRESIDENT:

1. House Bills on 1st reading, page 7. 3582, Senator
2. Vadalabene.
3. SECRETARY:
4. House Bill 3582.
5. (Secretary reads title of bill)
6. 1st reading of the bill.
7. PRESIDENT:
8. For what purpose does Senator Daley arise?
9. SENATOR DALEY:
10. Mr. President and fellow Senators, on Senate Bill on
11. 2nd reading, Senate Bill 1915 and 1916 is identified as
12. Senator Daley. Actually they are Committee bills and it
13. should be shown on the Calendar as Judiciary Committee Bills.
14. PRESIDENT:
15. It will be so shown. Senate Bills on 2nd reading.
16. Senate Bill 1847, Senator Knuppel. Read the bill with
17. the understanding he will bring it back.
18. SECRETARY:
19. Senate Bill 1847.
20. (Secretary reads title of bill)
21. 2nd reading of the bill. No Committee amendments.
22. PRESIDENT:
23. Any amendments from the Floor? 3rd reading. Senate
24. Bill 1915, Senator Daley. Read the bill.
25. SECRETARY:
26. Senate Bill 1915.
27. (Secretary reads title of bill)
28. 2nd reading of the bill. The Committee on Judiciary offers
29. one amendment.
30. PRESIDENT:
31. Senator Daley.
32. SENATOR DALEY:
33. Mr. President, the amendment states that...first of all

1. it prohibits who can examine bank accounts and savings accounts,
2. and it also allows who has the authority to look at a savings
3. account or a checking account. The only one can give it is a
4. customer. Besides that it has to be a court order, a subpoena
5. or warrant upon the bank or upon the customer. Also, I will
6. move it to 3rd reading on the basis that we have to put another
7. amendment on to take care of the Federal Government, State
8. Government inspections of these records.

9. PRESIDENT:

10. Any discussssion on Amendment No. 1? All in favor...Senator
11. Daley moves the adoption of Amendment No. 1 to Senate Bill
12. 1915. All in favor will say Aye. Opposed Nay. The Ayes have
13. it. Amendment No. 1 is adopted. Any further amendments? 3rd
14. reading. Senate Bill 1916, Senator Daley. Read the bill.

15. SECRETARY:

16. Senate Bill 19...

17. PRESIDENT:

18. Pardon me. Just a moment. Pardon me. Senator Harris,
19. you seek recognition?

20. SENATOR HARRIS:

21. Well, you can go ahead with the reading of this. I have
22. a parliamentary inquiry on both of these bills. I just wonder
23. if we're not going to get into some problem on these with re-
24. spect to the steps taken in the light of the limitations of
25. our Joint Rules.

26. PRESIDENT:

27. These bills have been in Rules as I understand it.

28. SENATOR HARRIS:

29. Well, the sponsor explained that they are Committee bills.

30. PRESIDENT:

31. That is correct. He...the sponsor explained that the
32. Calendar showed them, with himself as being the sponsor, but
33. when they were in truth and in fact, Committee bills, and he

1. was asking that the Calendar be corrected in the future to
2. reflect that they are Committee bills...

3. SENATOR HARRIS:

4. Well...

5. PRESIDENT:

6. ...rather than individual sponsored bills.

7. SENATOR HARRIS:

8. ...you see the thing that...I think you might have a
9. problem. These bills were introduced by the sponsor in April
10. as Senate Bills 1915 and 1916. Now, if the Committee wants
11. to introduce them as Committee bills it seems to me that
12. you're going to have to do just that. Is...is draw bills and
13. have them assigned a number for a Committee bill. I...we're
14. ...we're fuzzing a point here and I...I think we should make
15. a clearer distinction than is being developed here. These, in
16. fact, are Senator Daley's bills, it seems to me. And I...I
17. just...I think we ought to keep the two things separate from
18. each other.

19. PRESIDENT:

20. Senator, I think you are absolutely correct in that
21. when the bills were introduced they bore the name Senator
22. Daley. When those bills got to the Committee, the Committee
23. adopted the bills and passed them out as Committee bills with
24. Senator Daley losing personal identification with the bills.
25. They came back to the Calendar showing Senator Daley as being
26. the sponsor when, in fact, they are now adopted and preempted
27. by the Committee. They are now Committee bills. That...and
28. that's why he made the statement asking that the record be
29. corrected in terms of the Calendar to reflect that they are
30. Committee bills rather than individually sponsored bills at
31. this time.

32. SENATOR HARRIS:

33. Well, I...I would just point out that I...I...I suffer
some hesitation about the purity of their actuality, these

1. two bills, as...as truly Committee bills. I think our pro-
2. cedure in the past has been different from that and I think
3. this House has done a much more thorough job of truly identi-
4. fying, in fact, a committee bill. And they're...I...I'm
5. just a little bit troubled about us corrupting the process
6. of committee bills as has been the case on some other occasions
7. and I...I just don't want us to get into that posture.

8. PRESIDENT:

9. Well, I would understand the purity concept. By the same
10. token there are lots of bills in the House that were in the
11. committees sponsored originally by individual sponsors, which
12. bills became committee bills when re...you know...they became
13. committee bills when it was decided that they could not come
14. out as individual bills. That isn't the situation here.

15. SENATOR HARRIS:

16. Well, but in those cases they were assigned different
17. numbers, Mr. President, and I...I just...I think that ought
18. to be the way we do it.

19. PRESIDENT:

20. Senator Daley.

21. SENATOR DALEY:

22. Mr. President, fellow Senators, I agree with the President
23. of the Senate, here, stating that they were sent to the Com-
24. mittee. There was a vote upon the Committee to make these
25. bills as Committee bills then in turn we made another vote
26. to...a motion Do Pass out as Committee bills. We fully dis-
27. cussed that in the Senate Judiciary making these Committee
28. bills.

29. PRESIDENT:

30. Senator Harris, I don't know if you heard that, but there
31. were two separate motions in the Judiciary Committee. One to
32. make these bills Committee bills, and the second, of course,
33. on the Do Pass motion. They didn't just simply adopt them by

1. verbiage, they did it by vote to make it a Committee bill.

2. SENATOR HARRIS:

3. Well, the Joint Rule states that the deadlines provided
4. in paragraph D do not apply to, and then the first two are
5. not...the...the point in paragraph C and that is number two,
6. a bill introduced by a majority of members of a standing
7. committee of either House. Now, these bills were introduced
8. by Senator Daley, and that's the distinction I'm trying to
9. make, Mr. President. I just...I just think that you are...
10. we...this procedure would...would not make clear and the
11. action of the committee, I have no quarrel with insofar as
12. adopting a policy to sponsor the thrust contained in Senate
13. Bills 1915 and 1916, but in fact I don't think these bills
14. have been introduced by the Committee. I think they are
15. bills that were introduced by Senator Daley and I'm just
16. making that point. It seems to me that the way to cure the
17. problem is to introduce bills doing this thing, assign a
18. new number to them and let them be the product of the action
19. of a majority of the Committee on...the Senate Committee on
20. Judiciary.

21. PRESIDENT:

22. Senator Daley, in light of that, perhaps, it may be the
23. best thing so that there won't be any question about the
24. validity of the bills, for us to reintroduce those bills as
25. a Committee bill. Could do it today. A motion could then
26. be made to by-pass both Rules and Assignment of Bills, have
27. the bill read a first time and have it sent to the order of
28. 2nd reading, where it would be tomorrow. I think maybe that
29. would...that would be...take care of the purity of the question.
30. Senator Harris.

31. SENATOR HARRIS:

32. Yeah. It was my understanding that that...those motions
33. were made in the Committee. But it just seems to me that we

1. ought to come with a new...a new set of bills and then
2. we're not going to have any problems with it, and I'm...
3. you know, I'm not...

4. PRESIDENT:

5. Senator Daley indicates he'll do that. We'll get them
6. put in today and we'll make those appropriate motions and
7. we'll have the bill on...it'll be on second tomorrow. Take
8. this out of the record. Take out Senate Bills 1915 and 16
9. out of the record. House Bills on 2nd reading. House Bill
10. 1080, Senator Nudelman or Lane. Want it read? Read the bill.

11. SECRETARY:

12. House Bill 1080.

13. (Secretary reads title of bill)

14. 2nd reading of the bill. No committee amendments.

15. PRESIDENT:

16. Any amendments from the Floor? 3rd reading. House Bill
17. 1304, Senator Davidson. House Bill 2115, Senator Vadalabene.
18. Senate Bill 3036, Senator Dougherty. 3036. Pardon. House
19. Bill 3062, Senator Fawell. House Bill 3308, Senator Rock.
20. House Bill 3374, Senator Bruce. House Bill 3377, Senator
21. Joyce. House Bill 3389, Senator Knuppel. I don't know if I
22. mentioned to anybody that we're going to try to get out of
23. here this week. House Bill 3403, Senator Demuzio. House Bill
24. 3411, Senator Buzbee. Senator Buzbee.

25. SENATOR BUZBEE:

26. Mr. President, I do want this read a 2nd time today.
27. However, I have an amendment which I need to check on first
28. and so if you could get back to it in a few minutes, why,
29. I'd like to have it read a 2nd time.

30. PRESIDENT:

31. I'm going to get back to all of them, because we want
32. to start moving. House Bill 3475, Senator Smith. House Bill
33. 3494, Senator Mitchler. House Bill 3505, Senator Vadalabene.

1. Read the bill.

2. SECRETARY:

3. House Bill 3505.

4. (Secretary reads title of bill)

5. 2nd reading of the bill. The Committee on Agriculture, Con-

6. servation and Energy offers two amendments.

7. PRESIDENT:

8. Senator Vadalabene.

9. SENATOR VADALABENE:

10. Amendment No. 1 calls for candling and grading. It's

11. a technical amendment and Amendment No. 2 requires the annual

12. registration of dealers, doctors and dentists and so forth...

13. PRESIDENT:

14. Take one at a time, Senator. Senator Vadalabene moves

15. the adoption of Amendment No. 1. Any discussion? All in

16. favor will say Aye.

17. SENATOR VADALABENE:

18. Aye.

19. PRESIDENT:

20. Opposed Nay. Ayes have it. Amendment No. 1 is adopted.

21. Amendment No. 2, Senator Vadalabene.

22. SENATOR VADALABENE:

23. Yes. Amendment NO. 2 requires the annual...deletes the

24. requiring of annual registration where the...where the pro-

25. ducer of eggs sell...sells them to the doctors or the dentists

26. or their churchs and so forth and I move for its adoption.

27. PRESIDENT:

28. Any discussion on Amendment No. 2? Senator Vadalabene

29. moves the adoption of Amendment No. 2 to House Bill 3505.

30. All in favor will say Aye.

31. SENATOR VADALABENE:

32. Aye.

33. PRESIDENT:

1. Opposed Nay. Ayes have it. Amendment No. 2 is adopted.
2. Any further amendments? Any amendments from the Floor? 3rd
3. reading. House Bill 3518, Senator Brady. House Bill 3605,
4. Senator Knuppel. House Bill 3629, Senator Sommer. House
5. Bills on 2nd reading. House Bill 3630, Senator Sommer. Read
6. the bill.
7. SECRETARY:
8. House Bill 3630.
9. (Secretary reads title of bill)
10. 2nd reading of the bill. No committee amendments.
11. PRESIDENT:
12. Any amendments from the Floor? 3rd reading. Senator
13. Rock. House Bill 3705, Senator Glass. Read the bill.
14. SECRETARY:
15. House Bill 3705.
16. (Secretary reads title of bill)
17. 2nd reading of the bill. No committee amendments.
18. PRESIDENT:
19. Any amendments from the Floor? 3rd reading.
20. PRESIDING OFFICER: (SENATOR ROCK)
21. House Bill 3817 on the order of House Bills 2nd reading.
22. Read the bill, Mr. Secretary.
23. SECRETARY:
24. House Bill 3817.
25. (Secretary reads title of bill)
26. 2nd reading of the bill. The Committee on Appropriations
27. offers four amendments.
28. PRESIDING OFFICER: (SENATOR ROCK)
29. Senator Partee.
30. SENATOR PARTEE:
31. In these four amendments there will be no dollar changes.
32. The first amendment is the so-called Partee Amendment, the
33. fifty percent...

1. PRESIDING OFFICER: (SENATOR ROCK)
2. Senator Partee...

3. SENATOR PARTEE:
4. ...and I move its adoption.

5. PRESIDING OFFICER: (SENATOR ROCK)
6. Senator Partee moves the adoption of Amendment No. 1
7. to House Bill 3817. Any discussion? All those in favor
8. signify by saying Aye. All those opposed. The Ayes have
9. it. Amendment No. 1 is adopted. Amendment No. 2.

10. SENATOR PARTEE:
11. Amendment No. 2?

12. PRESIDING OFFICER: (SENATOR ROCK)
13. Amendment No. 2.

14. SENATOR PARTEE:
15. It's a technical amendment because one bureau no longer
16. exists. We've changed the language to read the Bureau of
17. the Budget in the Executive Office to the Governor and move
18. the adoption.

19. PRESIDING OFFICER: (SENATOR ROCK)
20. Senator Partee moves the adoption of Committee Amendment
21. No. 2. All those in favor signify by saying Aye. All those
22. opposed. The Ayes have it. Amendment No. 2 is adopted. Amend...
23. Committee Amendment No. 3, Senator Partee.

24. SENATOR PARTEE:
25. There's no dollar change here. These are just breakout
26. amendments on the statewide Manpower Services showing where
27. the money is going and breaking it out into line items.

28. PRESIDING OFFICER: (SENATOR ROCK)
29. Any discussion?

30. SENATOR PARTEE:
31. I move the adoption.

32. PRESIDING OFFICER: (SENATOR ROCK)
33. Senator Partee moves the adoption of Committee Amendment

1. No. 3 to House Bill 3817. All those in favor signify by
2. saying Aye. All those opposed. The Ayes have it. Amend-
3. ment No. 3 is adopted. Committee Amendment No. 4, Senator
4. Partee.

5. SENATOR PARTEE:

6. Committee Amendment No. 4 is at the request of the
7. Bureau of the Budget. Technical Amendment.

8. PRESIDING OFFICER: (SENATOR ROCK)

9. Any discussion? Senator Partee moves the adoption
10. of Committee Amendment No. 4 to House Bill 3817. All those
11. in favor signify by saying Aye. All those opposed. The
12. Ayes have it. Amendment No. 4 is adopted. Any further...

13. SENATOR PARTEE:

14. Now, Mr....Mr. President...

15. PRESIDING OFFICER: (SENATOR ROCK)

16. Yes. Senator Partee.

17. SENATOR PARTEE:

18. Those...those are all the amendments today. I'm going
19. to move it to 3rd. I've talked to Senator Weaver. He has
20. one tomorrow which we have no objection to, which we will
21. bring it back for that purpose.

22. PRESIDING OFFICER: (SENATOR ROCK)

23. Fine. Any further amendments? 3rd reading. 3819,
24. Senator Kosinski. Do you wish to hold that? 3821, Senator
25. Hall. Hold that. 3822, Senator Netsch. Hold. 3825. Read
26. the bill, Mr. Secretary.

27. SECRETARY:

28. House Bill 3825.

29. (Secretary reads title of bill)

30. 2nd reading of the bill. No committee amendments.

31. PRESIDING OFFICER: (SENATOR ROCK)

32. Any amendments from the Floor? 3rd reading. 3843,
33. Senator Philip, do you wish that moved? We're on the order

1. of House Bills 2nd, page 6 on the Calendar. House Bill
2. 3843. Read the bill, Mr. Secretary.
3. SECRETARY:
4. House Bill 3843.
5. (Secretary reads title of bill)
6. 2nd reading of the bill. The Committee on Elections and
7. Reapportionment offers one amendment.
8. PRESIDING OFFICER: (SENATOR ROCK)
9. Senator Philip.
10. SENATOR PHILIP:
11. Thank you, Mr. President. It's a Committee amendment
12. and all it does is make the Act become effective immediately
13. becoming law. So, I move the adoption of Amendment No. 1.
14. PRESIDING OFFICER: (SENATOR ROCK)
15. Any discussion? Senator Philip moves the adoption of...
16. Senator Kosinski. Okay. Any discussion? Senator Philip
17. moves the adoption of Committee Amendment No. 1 to House
18. Bill 3843. All those in favor signify by saying Aye. All
19. those opposed. The Ayes have it. The amendment is adopted.
20. Any further amendments? 3rd reading. 3856. Mr. Secretary,
21. read the bill.
22. SECRETARY:
23. House Bill 3856.
24. (Secretary reads title of bill)
25. 2nd reading of the bill. No committee amendments.
26. PRESIDING OFFICER: (SENATOR ROCK)
27. Any amendments from the Floor? 3rd reading. 3858.
28. Senator Knuppel, do you wish that called?
29. SENATOR KNUPPEL:
30. I want to move it, but there's amendments that definitely
31. have to be put on the bill, so it will have to be brought
32. back. But, I want to move it.
33. PRESIDING OFFICER: (SENATOR ROCK)

1. All right. It will be moved with the understanding
2. that it will, in fact, be brought back. 3858, Mr. Secretary,
3. read the bill.

4. SECRETARY:

5. House Bill 3858.

6. (Secretary reads title of bill)

7. 2nd reading of the bill. The Committee on Agriculture,
8. Conservation and Energy offers one amendment.

9. PRESIDING OFFICER: (SENATOR ROCK)

10. Senator Knuppel.

11. SENATOR KNUPPEL:

12. I move the adoption of that amendment.

13. PRESIDING OFFICER: (SENATOR ROCK)

14. Senator Knuppel moves the adoption of Committee Amend-
15. ment No. 1 to House Bill 3858. All those in favor signify
16. by saying Aye. All those opposed. The Ayes have it. The
17. amendment is adopted. Any further amendments, 3rd reading.
18. 3952, Senator Savickas. Read the bill, Mr. Secretary.

19. SECRETARY:

20. House Bill 3952.

21. (Secretary reads title of bill)

22. 2nd reading of the bill. The Committee on Elections and Re-
23. apportionments offers one amendment.

24. PRESIDING OFFICER: (SENATOR ROCK)

25. Senator Savickas.

26. SENATOR SAVICKAS:

27. Yes, Amendment No. 1 was a Committee amendment to make
28. clear that the intent of the bill is to prohibit the counting
29. of write in ballots for a particular office when a candidate
30. is already listed on that ballot for that office. The amend-
31. ment will be...will prevent confusion if the same individual
32. is written in for a second office. And I would move for its
33. adoption.

1. PRESIDING OFFICER: (SENATOR ROCK)

2. Any discussion? Question is, the adoption of Amend-
3. ment No. 1 to House Bill 3952. All those in favor signify
4. by saying Aye. All those opposed. The Ayes have it. The
5. amendment is adopted. Any further amendments? Senator
6. Savickas.

7. SENATOR SAVICKAS:

8. Yes, I have Amendment No. 2 that was of some concern
9. to Senator Nimrod and I'm not sure if Senator Hickey...but
10. anyway the subject matter of Amendment No. 2 would be that
11. at least one of the votes for a candidate, a write in or
12. a regular vote, will be counted. This will assure that a
13. voter's right to franchise will not be prohibited by statute.

14. PRESIDING OFFICER: (SENATOR ROCK)

15. All right. Mr. Secretary, do you have the amendment
16. on the Desk? All right, read...read the amendment.

17. SECRETARY:

18. Amendment No. 2, offered by Senator Savickas.

19. PRESIDING OFFICER: (SENATOR ROCK)

20. Senator Savickas. We just technically had to read
21. the amendment.

22. SENATOR SAVICKAS:

23. Oh. Well, the explanation again on it is, that in
24. directing...it directs that at least one of the votes per
25. candidate, a write in or a regular vote, will be counted,
26. and this will assure that a voter's right to franchise will
27. not be prohibited by statute.

28. PRESIDING OFFICER: (SENATOR ROCK)

29. Any discussion? Senator Savickas moves the adoption
30. of Amendment No. 2 to House Bill 3952. All those in favor
31. signify by saying Aye. All those opposed. The Ayes have
32. it. The amendment is adopted. Any further amendments? 3rd
33. reading. Senator Knuppel, for what purpose do you arise?

1. SENATOR KNUPPEL:
2. Before you leave that order of business. I was not
3. prepared when they called the roll on 3605. I'd like to
4. have it advanced to 3rd reading.
5. PRESIDING OFFICER: (SENATOR ROCK)
6. All right. On the order of House Bills 2nd reading
7. at the top of page 6. Senator Knuppel has asked leave to
8. go back to House Bill 3605. Mr. Secretary, read the bill.
9. SECRETARY:
10. House Bill 3605.
11. (Secretary reads title of bill)
12. 2nd reading of the bill. The Committee on Agriculture and
13. Conservation offers one amendment.
14. PRESIDING OFFICER: (SENATOR ROCK)
15. Senator Knuppel. Senator Knuppel moves the adoption
16. of Amendment No. 1 to House Bill 3605. Any discussion?
17. All those in favor signify by saying Aye. All those opposed.
18. The Ayes have it. The amendment is adopted. Any further
19. amendments? 3rd reading. Any other member have a House
20. Bill on the order of 2nd reading which he wishes advanced?
21. Senate Bills on 3rd reading. Senate Bill 1516, Senator
22. Carroll. Senate Bill 1584, Senator Shapiro. Senate Bill
23. 1630, Senator Dougherty. Do you wish to proceed with that,
24. Senator?
25. SENATOR DOUGHERTY:
26. Could I hold that for a little while, Sir?
27. PRESIDING OFFICER: (SENATOR ROCK)
28. Sure could. 1712, Senator Hynes. 1721, Senator David-
29. son. Read the bill, Mr. Secretary.
30. SECRETARY:
31. Senate Bill...
32. PRESIDING OFFICER: (SENATOR ROCK)
33. We are on the order of Senate Bills on 3rd reading. On

SB 1997
5-21-76
ReWall

1. that order, Senate Bill 1721, Mr. Secretary.
2. SECRETARY:
3. Senate Bill 1721.
4. (Secretary reads title of bill)
5. 3rd reading of the bill.
6. PRESIDING OFFICER: (SENATOR ROCK)
7. Senator Davidson.
8. SENATOR DAVIDSON:
9. Mr. President and members of the Senate, this bill has
10. worked out compromise agreement. This delays the installation
11. of the additional lights for two years. It's worked out
12. among the school bus people, the school board administration,
13. Senator Glass who had some objection. I know of no objection
14. to the bill now. I'd appreciate a most favorable roll call.
15. PRESIDING OFFICER: (SENATOR ROCK)
16. Is there any discussion? Question is, shall Senate Bill
17. 1721 pass? Those in favor will vote Aye. Those opposed will
18. vote Nay. The voting is open. I wish to be recorded Present,
19. please. Have all voted who wish? Take the record. On that
20. question the Ayes are 34, the Nays are none, 9 Voting Present.
21. Senate Bill 1721 having received a constitutional majority
22. is declared passed. 1801, Senator Bruce. Two, no. 67, 78
23. is a hold. 1928, Senator Brady. 1952, Senator Partee. Senate
24. Bill 1952, relation to medical malpractice. Do you wish to
25. call that bill? Senator Partee.
26. SENATOR PARTEE:
27. The amendment isn't back to that bill yet, Mr. President,
28. and I'm going to ask if, at this time, if we might, that we
29. would take up that bill when we do at the same time as we take
30. up the two House bills on the same subject and we could address
31. ourselves to all three of them in a package later today.
32. PRESIDING OFFICER: (SENATOR ROCK)
33. Is leave granted? Leave is granted. 1972, Senator

SB 1997
4/2/76
2nd Reading

1. Vadalabene. No...you want to hold it. Hold it. Okay.
2. 1977, Senator Morris. 1997, Senator...Committee on Judiciary.
3. Senator Daley, are you handling 1997? He is. Senator Daley
4. seeks leave to bring Senate Bill 1997 back to the order of
5. 2nd reading for purposes of an amendment. Is leave granted?
6. So ordered. Now, on the order of Senate Bills on 2nd read-
7. ing is Senate Bill 1997. Mr. Secretary.
8. SECRETARY:
9. Amendment No. 1 offered by Senator Harris.
10. PRESIDING OFFICER: (SENATOR ROCK)
11. We're on...on the order of Senate Bills 3rd, Senate
12. Bill 1997 from the Committee on Judiciary. Senator Daley
13. has sought...sought leave. Senator Daley.
14. SENATOR DALEY:
15. Senator Palmer has an amendment in regards to Senate
16. Bill 1997.
17. PRESIDING OFFICER: (SENATOR ROCK)
18. Well, the Secretary just read one from Senator Harris.
19. Now, whose amendment is it? Senator Harris.
20. SENATOR HARRIS:
21. Mr. President, I was not aware that this bill was going
22. to be called today and I have not had a chance to discuss it
23. with Senator Daley. I would prefer that he go ahead and ad-
24. vance it if he wants to...
25. PRESIDING OFFICER: (SENATOR ROCK)
26. No, it's...it's on the order of 3rd. He's called it
27. back to 2nd for the purpose of...
28. SENATOR HARRIS:
29. Oh, I see. Well, I haven't had a chance to discuss it
30. with him, and Senator Nudelman has not arrived yet, so...
31. PRESIDING OFFICER: (SENATOR ROCK)
32. Can we...can we get back to this later? Shall we...
33. SENATOR HARRIS:

1. Okay.

2. PRESIDING OFFICER: (SENATOR ROCK)

3. ...just leave it on 2nd?

4. SENATOR HARRIS:

5. Well, okay.

6. PRESIDING OFFICER: (SENATOR ROCK)

7. It's been on 3rd, so we'll just leave it...leave every-

8. thing in status quo until everybody has a chance to talk to

9. one another. All right, 1990...on the order of Senate Bills

10. on 3rd reading, 1998, Senator Daley. All right, Senate Bill

11. 2000, Senator Dougherty.

12. SENATOR DOUGHERTY:

13. Thank you, Mr. President.

14. PRESIDING OFFICER: (SENATOR ROCK)

15. Senator...Mr...Senator Dougherty, do you wish to pro-

16. ceed on this bill?

17. SENATOR DOUGHERTY:

18. I do.

19. PRESIDING OFFICER: (SENATOR ROCK)

20. Okay. On the order of Senate Bills on 3rd reading is

21. Senate Bill 2000. Read the bill, Mr. Secretary.

22. SECRETARY:

23. Senate Bill No. 2000.

24. (Secretary reads title of bill)

25. 3rd reading of the bill.

26. PRESIDING OFFICER: (SENATOR DONNEWALD)

27. Senator Dougherty.

28. SENATOR DOUGHERTY:

29. Thank you, Mr. President and fellow Senators. Senate

30. Bill 2000 is introduced by myself and Senator Soper, and it

31. provides that the State of Illinois will amend the Transporta-

32. tion Bond Act to provide fifteen million dollars of those

33. funds authorized to be used for repair and reconstruction

1. of unsafe or substandard bridges. Now, this bill is offered
2. in this Senate and I have given consideration to the Governor's
3. Staff and...as to the bill and I would note that Senator
4. Knuppel passed Senate Bill 1950. The co-sponsor was Senator
5. Glass. This bill provided fifteen million dollars for...
6. to these operations and the funds have been provided from
7. General Revenue and from the Road Fund. It's my very frank
8. opinion, and I'm joined by others, that the Governor would
9. find the easier way to do it would be to provide funds out of
10. the Bond Fund and that he would be tempted to veto this bill that
11. takes it from General Revenue and from the Road Fund. I
12. believe this is one way to safeguard the fact that these
13. bridges will be repaired, that these rural roads will be put
14. in proper condition, and I can see that if we pass this bill
15. we will be insuring the people of Illinois, particularly in
16. the rural districts where these bridges need to be repaired,
17. where rural highways need to be repaired and there's fifteen
18. million dollars we will provide by this Transportation Bond
19. issue will cover the programs until-such time as the new
20. Governor of Illinois, whoever he may be, will be in a position
21. to work along with the programs as devised, because it's been
22. hinted to me, that's while I was in committee hearings, that
23. this whole program is going to cost in excess of several hun-
24. dred millions of dollars. So, in order to get going on the
25. program with this fifteen million dollars, I urge passage of
26. Senate Bill 2000 to assure the general public, particularly
27. in rural Illinois, that the necessary bridges are going to
28. be repaired and rural roads are going to be put in better shape.

29. PRESIDING OFFICER: (SENATOR DONNEWALD)

30. Is there further discussion? Senator Latherow.

31. SENATOR LATHEROW:

32. Thank you, Mr. President. I wonder if the Senator would
33. yield to a question?

1. PRESIDING OFFICER: (SENATOR DONNEWALD)
2. He indicates he will.
3. SENATOR LATHEROW:
4. Senator, is there any descriptive way in here whereby
5. the counties or townships or local road districts will
6. match these funds in any manner?
7. PRESIDING OFFICER: (SENATOR DONNEWALD)
8. Senator Dougherty.
9. SENATOR DOUGHERTY:
10. Senator Latherow, I will read the bill to you in its
11. entirety right now if you wish.
12. PRESIDING OFFICER: (SENATOR DONNEWALD)
13. Senator Latherow.
14. SENATOR LATHEROW:
15. Well, I...I just want to recognize, Senator Dougherty,
16. and no place in the bill do I recognize where...where it
17. says that there shall be matched with these local funds.
18. PRESIDING OFFICER: (SENATOR DONNEWALD)
19. Senator Dougherty.
20. SENATOR DOUGHERTY:
21. That...that's why I wish to assure you, Senator Latherow,
22. that's there's no place within the legislation mentions the
23. fact it will be matched. That's correct.
24. PRESIDING OFFICER: (SENATOR DONNEWALD)
25. Is there further discussion? Question is, shall Senate
26. Bill 2000 pass? Those in favor vote Aye. Those opposed No.
27. The voting is open. Senator Harris, we're in the middle of
28. a roll call. That...Senator Harris.
29. SENATOR HARRIS:
30. Parliamentary inquiry.
31. PRESIDING OFFICER: (SENATOR DONNEWALD)
32. All right.
33. SENATOR HARRIS:

1. How many votes does this bill require?
2. PRESIDING OFFICER: (SENATOR DONNEWALD)
3. We would...we would have to...we would have to determine
4. that by looking at the legislation itself, Senator.
5. SENATOR HARRIS:
6. Yeah, I just...
7. PRESIDING OFFICER: (SENATOR DONNEWALD)
8. Just a moment.
9. SENATOR HARRIS:
10. Yeah.
11. PRESIDING OFFICER: (SENATOR DONNEWALD)
12. The Chair rules that it will take thirty-six. Have
13. all those voted who wish? Have all those voted who wish?
14. Take the record. On that question the Ayes are 39, the
15. Nays are 11, 1 Voting Present. Senate Bill 2000 having
16. received the constitutional majority is declared passed.
17. Senator Vadalabene, for what purpose do you arise?
18. SENATOR VADALABENE:
19. Yes, I'm ready for 1972. I was called to the phone awhile
20. ago and if you want to stay in the order of Senate Bills...
21. PRESIDING OFFICER: (SENATOR DONNEWALD)
22. We are still on the order of Senate Bills 3rd reading.
23. We will consider Senate Bill 1972. Senator Vadalabene. Read
24. the bill.
25. SECRETARY:
26. Senate Bill 1972.
27. (Secretary reads title of bill)
28. 3rd reading of the bill.
29. PRESIDING OFFICER: (SENATOR DONNEWALD)
30. Senator Vadalabene.
31. SENATOR VADALABENE:
32. Yes, thank you, Mr. President and members of the Senate.
33. Senate Bill 1972, as amended, is the proposed land transfer

1. approximating 58.74 acres of the State of Illinois land to
2. the...from the Alton Mental Health Center to the City of Alton. As
3. you recall, last year we transferred approximately six hun-
4. dred acres of land to the City of Alton and this fifty-eight
5. acres was inadvertently omitted. This will enable the City
6. of Alton to complete their master plan and go ahead with
7. the planning of their park, and I would appreciate a favorable
8. vote.

9. PRESIDING OFFICER: (SENATOR DONNEWALD)

10. Is there further discussion? Senator Wooten.

11. SENATOR WOOTEN:

12. Senator Vadalabene, pardon me, but I do not recall,
13. were the amendments that we discussed in committee put on
14. here to...

15. PRESIDING OFFICER: (SENATOR DONNEWALD)

16. Senator Vadalabene.

17. SENATOR VADALABENE:

18. Yes, they were. They were put on 2nd reading by Senator
19. Fawell.

20. PRESIDING OFFICER: (SENATOR DONNEWALD)

21. Senator Wooten.

22. SENATOR WOOTEN:

23. ...I finish my question, Senator. They were the ones
24. which carefully specified this would be used for park and
25. recreational purposes. Is that correct?

26. PRESIDING OFFICER: (SENATOR DONNEWALD)

27. Senator Vadalabene.

28. SENATOR VADALABENE:

29. That is correct. The amendment says public open space
30. and park.

31. PRESIDING OFFICER: (SENATOR DONNEWALD)

32. Is there further discussion? Senator Fawell.

33. SENATOR FAWELL:

1. The...the only point I would like to add and I...I'm
2. going to support the bill here, but I think that each time
3. that we approach a bill whereby land which is owned by the
4. people of the State of Illinois is to be conveyed to any
5. entity, private or public, that we ought to insist that
6. General Services has made a check to determine if any of our
7. State agencies or entities have need of this land, especially
8. the Department of Conservation which is continuously looking
9. for open space. Now, apparently, we have conveyed heretofore
10. six hundred acres of land and here we have another, I guess,
11. fifty-eight acres or approximately so. I would suggest that
12. we in the General Assembly are not really living up to our
13. responsibilities when we rather lethargically sit back and
14. allow these lands to be conveyed and none of us, not one of
15. us here, probably, has the slightest idea as to whether or
16. not any of the other entities of our State might have need
17. for this land, especially, I repeat, the Department of Con-
18. servation. We have at least put a clause on this bill that
19. states that it must be held for open space and park purposes
20. by a local community, and of course, any local community
21. that has park land has to open that land to all of the people
22. of the State of Illinois. So, with that amendment we have,
23. I think, done quite a bit in at least protecting some of the
24. rights of the people, but I...I think all too often we're
25. letting bills slip through here without doing our homework
26. and without insisting that all of the people who paid for the
27. land be certainly protected to the extent that we determine
28. if other state entities have a right or desire to use the
29. land. Then we might even give consideration to whether or
30. not the best course of action might be to sell it and to get
31. money for our overtaxed treasury.

32. PRESIDING OFFICER: (SENATOR DONNEWALD)

33. Senator Bloom.

1. SENATOR BLOOM:

2. Well, in response to Senator Fawell's comments, I...I've
3. attempted to try and find out how much surplus land there is
4. in the whole State. Under the law, supposedly, the General
5. Services and the Capital Development Board is supposed to in-
6. ventory it and they haven't, and it's really hard to dispose
7. of some of these tracts or deal with some of these tracts
8. where the legislatively charged agencies, and they were charged
9. four years ago to do this, haven't come up with an inventory.

10. PRESIDING OFFICER: (SENATOR DONNEWALD)

11. Is there further discussion? Senator Vadalabene may
12. close the debate. He calls for a roll. Question is, shall
13. Senate Bill 1972 pass? Those in favor vote Aye. Those opposed
14. Nay. The voting is open. Have all those voted who wish? Take
15. the record. On that question the Ayes are 42, the Nays are
16. 1, 1 Voting Present. Senate Bill 1972 having received the
17. constitutional majority is declared passed. (Machine cut-off)
18. ...any other Senate Bills on the 3rd reading that the Senators
19. desire to call at this time? House Bills 3rd reading. House
20. Bill 3137, Senator Bruce. Read the bill.

21. SECRETARY:

22. House Bill 3137.

23. (Secretary reads title of bill)

24. 3rd reading of the bill.

25. PRESIDING OFFICER: (SENATOR DONNEWALD)

26. Senator Bruce.

27. SENATOR BRUCE:

28. This is a vacation of a construction easement for which a
29. borrow pit was made in Lawrence County for a grade separation
30. on a railroad. One hundred and forty dollars will be paid
31. to the State.

32. PRESIDING OFFICER: (SENATOR DONNEWALD)

33. Is there further discussion? The question is, shall House

HB 3147
6/21/74

1. Bill 3137 pass? Those in favor vote Aye. Those opposed Nay.
2. The voting is open. Have all voted who wish? Take the
3. record. On that question the Ayes are 47, the Nays are none,
4. 2 Voting Present. House Bill 3137 having received the con-
5. stitutional majority is declared passed. House Bill 3147,
6. Senator Brady. Read the bill.

7. SECRETARY:
8. House Bill 3147.
9. (Secretary reads title of bill)

10. 3rd reading of the bill.

11. PRESIDING OFFICER: (SENATOR DONNEWALD)
12. Senator Brady.

13. SENATOR BRADY:
14. Yes, Mr. President and fellow members. This bill specifi-
15. cally is a substantive legislation which amends the School
16. Construction Bond Act to authorize proceeds from sale of bonds
17. to be used for the reimbursement of special education building
18. projects in 1976 and 77 only. There have been two appropriation
19. bills passed already out of here. One for fiscal '76 was
20. House Bill 3148 in the amount of ten million and there was ten
21. million in the Senate Bill 1935 that was passed out of here,
22. by way of Senate Amendment No. 6 on that bill, that took from
23. the normal course General Revenue Funds to the School Construc-
24. tion Bond Act, these by bonding authority rather than General
25. Revenue. This bill raises the bonding authority from four
26. hundred to four hundred and twenty million to cover these two,
27. and I urge your favorable support.

28. PRESIDING OFFICER: (SENATOR DONNEWALD)
29. Is there further discussion? Senator Berning.

30. SENATOR BERNING:
31. Yes, Mr. President. Just one question of the sponsor.
32. I'm sorry that I was not alerted to this bill earlier. I
33. would have come to you personally. My question has to do with

AB 3147
6/21/78

1. the ever increasing numbers of vacant rooms. In fact, in
2. certain areas there are whole schools standing vacant, and
3. I'm curious as to whether or not there ought not to be some
4. provision or mandate that before additional construction
5. for Special Ed. or any other school purpose, every effort is
6. made to utilize existing available construction. Has this
7. by any chance been taken into consideration?

8. PRESIDING OFFICER: (SENATOR DONNEWALD)

9. Senator Brady.

10. SENATOR BRADY:

11. Yeah, Senator Berning, it has not been taken into con-
12. sideration specifically for this reason and this bill and
13. that is that these are reimbursements for Special Education
14. projects already completed or contracts already let. If
15. we were talking about 1978 construction, I think you're making
16. a valid point there, but specifically I don't know of, for
17. one, any Special Education classrooms that have remained vacant
18. in the State of Illinois at the present time.

19. PRESIDING OFFICER: (SENATOR DONNEWALD)

20. Is there further discussion? Senator Shapiro.

21. SENATOR SHAPIRO:

22. Mr. President and Ladies and Gentlemen of the Senate,
23. I can't embellish what Senator Brady had just said. A
24. Special Ed. district now can take advantage of empty classrooms
25. or empty school buildings by entering into an agreement with
26. the local school districts that enter into that Special Ed.
27. district. It's happened up in my area where my school district
28. gave up a building that was fifteen years of age, due to declining
29. enrollment, and a Special Ed. district purchased that particular
30. building for use of Special Ed. purposes, and so it can be done
31. now under existing authority and really would have nothing to
32. do with this particular bill. This bill is strictly for reim-
33. bursement to those Special Ed. districts who have buildings under

AB 3141
6/21/76

1. construction at the present time and are obligated for next
2. year. I am in complete support of the bill.
3. PRESIDING OFFICER: (SENATOR DONNEWALD)
4. Senator Buzbee.
5. SENATOR BUZBEE:
6. A question of the sponsor, Mr. President.
7. PRESIDING OFFICER: (SENATOR DONNEWALD)
8. He indicates he will respond.
9. SENATOR BUZBEE:
10. This money would all have to be used on public school
11. facilities would it not, Senator Brady?
12. PRESIDING OFFICER: (SENATOR DONNEWALD)
13. Senator Brady.
14. SENATOR BRADY:
15. That's correct, Senator Buzbee. On...on public school
16. facilities in Special Education specifically and only for
17. reimbursement of those projects.
18. PRESIDING OFFICER: (SENATOR DONNEWALD)
19. Senator Buzbee.
20. SENATOR BUZBEE:
21. My...my concern is, that a private-for-profit corpora-
22. tion or individual who operates a facility where he has
23. Special Ed, students and where he have...provides classroom
24. space for those students for the local public school or
25. Special Ed. district to teach them, there is no way that that
26. individual or that corporation could get any of this money
27. to embellish his facility, is there?
28. PRESIDING OFFICER: (SENATOR DONNEWALD)
29. Senator Brady.
30. SENATOR BRADY:
31. You are correct. There is none.
32. PRESIDING OFFICER: (SENATOR DONNEWALD)
33. Is there further discussion? Question is, shall House

413 3/41
6/12/76

1. Bill 3147 pass? Those in favor vote Aye. Those opposed Nay.
2. The voting is open. Have all those voted who wish? Take
3. the record. On that question the Ayes are 48, the Nays are
4. none. House Bill 3147 having received the constitutional
5. majority is declared passed. House Bill 3155, Senator Knuppel.
6. House Bill 3197, Senator Shapiro. House Bill 3202, Senator
7. Hynes. House Bill 3316, Senator Mitchler. Read the bill.
8. SECRETARY:
9. House...House Bill 3316.
10. (Secretary reads title of bill)
11. 3rd reading of the bill.
12. PRESIDING OFFICER: (SENATOR DONNEWALD)
13. Senator Mitchler.
14. SENATOR MITCHLER:
15. Mr. President and members of the Senate, House Bill
16. 3316 authorizes the Kane County Forest Reserve District to
17. transfer in exchange...transfer land that they now have in
18. exchange for some land that is adjacent to the Kane County
19. Forest Preserve District for the land. There's a swap of
20. two parcels of land. This was handled by Representative
21. Schoeberlein in the House and I'm handling it in the Senate.
22. And I'd appreciate a favorable roll call.
23. PRESIDING OFFICER: (SENATOR DONNEWALD)
24. Is there further discussion? Senator Bloom.
25. SENATOR BLOOM:
26. Part of the owners of this land is...one of the parcels
27. is a land trust. Could you tell us who the beneficiaries of
28. this land trust are?
29. PRESIDING OFFICER: (SENATOR DONNEWALD)
30. Senator Mitchler.
31. SENATOR MITCHLER:
32. Yes, Senator Bloom, on page one of the bill it states -
33. "whereas the Chicago Title and Trust Company is trustees in a

1. trust number 1066672, is the trust number, the beneficial
2. owners of trust number 1066672 are Howard W. Sellergren
3. and James D. Sellergren."

4. PRESIDING OFFICER: (SENATOR DONNEWALD)

5. Is there further discussion? Question is, shall House
6. Bill 3316 pass? Those in favor vote Aye. Those opposed Nay.
7. The voting is open. Have all those voted who wish? Take
8. the record. On that question the Ayes are 45, the Nays are
9. none, 1 Voting Present. House Bill 3316 having received
10. the constitutional majority is declared passed. House Bill
11. 3380, Senator Palmer. House Bill 3624, Senator Fawell. Read
12. the bill.

13. SECRETARY:

14. House Bill 3624.

15. (Secretary reads title of bill)

16. 3rd reading of the bill.

17. PRESIDING OFFICER: (SENATOR DONNEWALD)

18. Senator Fawell.

19. SENATOR FAWELL:

20. Yes, Mr. President and members of the Senate, this pro-
21. vides...it's an amendment to the Municipal Code, that simply
22. states that the interest rate insofar as Revenue Bond issues
23. has nothing to do with GO bonds. For a one year period it's
24. increased to nine percent. The reason for this is that the
25. Village of...

26. PRESIDING OFFICER: (SENATOR DONNEWALD)

27. Just...just a minute, Senator. Now, either my hearing
28. is getting better or it's getting awful noisy in here.
29. It seems to be like it's Monday afternoon. May we have order?
30. Will the members please be in their seats. Proceed.

31. SENATOR FAWELL:

32. The Village of Hinsdale had public bidding on this Revenue
33. Bond issue and all of the...the lowest bid came in over 8.1...8.5

HB 3854
3rd Reading
6-21-76

1. percent and that's the...the reason for the request for a
2. one year period, so that they can accept the lowest bid
3. and be able to also proceed to accept the Federal funds
4. which are awaiting the passage of this legislation. I'd
5. appreciate a favorable roll call.

6. PRESIDING OFFICER: (SENATOR DONNEWALD)

7. Is there further discussion? Question is, shall House
8. Bill 3624 pass? Those in favor vote Aye. Those opposed
9. Nay. The voting is open. Have all those voted who wish?
10. Take the record. On that question the Ayes are 41, the
11. Nays are 4, 3 Voting Present. House Bill 3624 having re-
12. ceived the constitutional majority is declared passed. House
13. Bill 3814, Senator...House Bill 3818, Senator Bruce. House
14. Bill 3837, Senator Netsch. Do you wish to call the bill,
15. Senator? Senator Netsch, for what purpose do you arise?
16. SENATOR NETSCH:

17. No, I would not like to call the bill today, because
18. there is still an amendment that is being worked on. I
19. did want to call attention to the fact, as our staff pointed
20. out, that the bill was amended once already and that should...
21. does not show correctly on the Calendar.

22. PRESIDING OFFICER: (SENATOR DONNEWALD)

23. The Calendar will be corrected. House Bill 3838, Senator
24. Netsch. House Bill 3854, Senator Brady. Read the bill.

25. SECRETARY:

26. House Bill 3854.

27. (Secretary reads title of bill)

28. 3rd reading of the bill.

29. PRESIDING OFFICER: (SENATOR DONNEWALD)

30. Senator Brady.

31. SENATOR BRADY:

32. Yes, Mr. President and fellow members. This bill, House
33. Bill 3854, amends the Illinois Clinical Lab. Act. It requires

1. persons who contract to make payments for laboratory services,
2. to disclose on the bills to the patients or the third party
3. payers the name of the laboratory, the amount or amounts
4. charged by the laboratory and the amount of any procurement
5. or processing charges if any. I submit to you that this is
6. a very important piece of legislation and I think it can
7. clean up the allegations and fraud and possible fraud that
8. can come about by submitted clinical charges with no breakdown
9. or the duplication of clinical charges. I know of no opposition
10. to this bill either in committee or in any other form so far.
11. It came out of the House as a House Committee bill. No one
12. suggested any amendment necessary. I think it is urgent that
13. we have this type of legislation and I urge your favorable
14. support.

15. PRESIDING OFFICER: (SENATOR DONNEWALD)

16. The moment of truth will soon come. Senator Don Moore.

17. SENATOR MOORE:

18. Thank you, Mr. President and members of the Senate. I join
19. Senator Brady in support of this bill. I think that you're
20. all aware of the clinical laboratory fraud that was disclosed
21. principally through the efforts of the Legislative Advisory
22. Committee on Public Aid and Senator Morris' subcommittee on
23. long term care. I think that this bill will do much to eliminate
24. fraud in that particular section of the Medicaid Program in
25. the Department of Public Aid. And I urge everyone's support
26. on this side of the aisle.

27. PRESIDING OFFICER: (SENATOR DONNEWALD)

28. Is there further discussion? Senator Rock.

29. SENATOR ROCK:

30. Thank you, Mr. President and Ladies and Gentlemen of
31. the Senate. I, too, rise in support of House Bill 3854 and
32. that, frankly, notwithstanding the fact that it is a Committee
33. bill from the House Committee on Human Resources. That is

1. the worse possible endorsement that a sponsor could have.
2. The bill is good anyway.

3. PRESIDING OFFICER: (SENATOR DONNEWALD)

4. Is there further discussion? Question is, shall House
5. Bill 3854 pass? Those in favor vote Aye. Those opposed
6. vote Nay. The voting is open. Have all those voted who
7. wish? Have all those voted who wish? Take the record.
8. On that question the Ayes are 52, the Nays are none. House
9. Bill 3854 having received the constitutional majority is
10. declared passed. House Bill 3859, Senator Carroll. House
11. Bill 3892 is not shown on the Calendar. However, due to an
12. oversight of the printers, it is the bill that appropriates
13. twenty-five hundred dollars to the Department of Finance
14. for the painting of a portrait of...of former Governor
15. Richard B. Ogilvie. Senator Partee is handling that bill.
16. Senator Partee, do you wish to call the bill? Read the bill.

17. SECRETARY:

18. House Bill 3892.

19. (Secretary reads title of bill)

20. 3rd reading of the bill.

21. PRESIDING OFFICER: (SENATOR DONNEWALD)

22. Senator Partee.

23. SENATOR PARTEE:

24. The traditional bill for the painting of a portrait of
25. a former Governor. I'd ask for a favorable roll call.

26. PRESIDING OFFICER: (SENATOR DONNEWALD)

27. Is there further discussion? Question is, shall House
28. Bill 3892 pass? Those in favor vote Aye. Those opposed Nay.
29. The voting is open. Have all those voted who wish? Take
30. the record. On that question the Ayes are 49, the Nays are
31. none. House Bill 3892 having received the constitutional
32. majority is declared passed. House Bill 3913, Senator Netsch.
33. Read the bill.

1. SECRETARY:

2. House Bill 3913.

3. (Secretary reads title of bill)

4. 3rd reading of the bill.

5. PRESIDING OFFICER: (SENATOR DONNEWALD)

6. Senator Netsch.

7. SENATOR NETSCH:

8. Thank you, Mr. President. This bill, as the title indicates,
9. would create a licensing mechanism for the a range of alcoholism
10. treatment centers including the detoxification centers and other
11. programs, some of which will be going into effect during this
12. next year as a result of prior legislation that we passed.
13. While there are requirements that existing facilities and
14. programs meet certain standards which the Department of Public
15. Health has the capacity to promulgate, there is...basically there
16. is no licensing bill and there is also no way to compel the
17. enforcement of minimum standards. That is the gap that this
18. bill fills. It is fairly traditional in its licensing pro-
19. visions, very similar to others that we have seen in other
20. forms of health care activity. The administrative costs are
21. fairly modest. They have already been provided for in the
22. appropriation for the Department of Public Health. The bill
23. was favorably received by the Committee on Public Health,
24. Welfare and Correction...Corrections and was favorably re-
25. ported nine to nothing. I would be happy to answer questions
26. on it. If not, it is a very important piece of legislation
27. complementary to programs that we are already involved in
28. and I would urge favorable consideration.

29. PRESIDING OFFICER: (SENATOR DONNEWALD)

30. Senator Buzbee.

31. SENATOR BUZBEE:

32. Two brief comments, Mr. President. First of all, I'm
33. a little shocked to see my dear friend and colleague, Senator

1. Netsch, sponsoring a licensing bill. It was my understanding
2. that she is philosophically opposed to licensing. But secondly,
3. this morning Senator Regner and I were working on the sub-
4. committee on the Department of Public Health's appropriation
5. bill and we did eliminate those two positions, Senator Netsch,
6. but with the understanding, that if this legislation passes,
7. if the Department will eat internally those two jobs out of
8. existing vacancies that they have in other places, and that
9. come next January if we have crippled or seriously hurt the
10. Department of Public Health in any way, that Senator Regner
11. and I will both be in support of supplemental appropriation.

12. PRESIDING OFFICER: (SENATOR DONNEWALD)

13. Is there...Senator Soper.

14. SENATOR SOPER:

15. Senator Netsch, what's a fairly modest appropriation?
16. Is it Sears and Roebuck appropriation or Lord and Taylor?

17. PRESIDING OFFICER: (SENATOR DONNEWALD)

18. Senator Netsch.

19. SENATOR NETSCH:

20. I guess that depends what you're buying, as a matter-of-
21. fact, Senator Soper. The...as I understand it, there is no
22. appropriation right now. The amount that had been requested
23. by the department was twenty-seven thousand seven hundred
24. dollars. Senator Buzbee has just informed me that, at least
25. preliminarily that money is to be...or is going to be proposed
26. to be withdrawn from the Department of Public Health's budget
27. and they will have to absorb the...that additional administrative
28. burden within their existing budget. So, on that basis I
29. assume there will be no additional cost.

30. PRESIDING OFFICER: (SENATOR DONNEWALD)

31. Is there further discussion? The question is, shall...

32. Senator Dougherty.

33. SENATOR DOUGHERTY:

1. Yes, I would like to refer a question to Senator Netsch.

2. PRESIDING OFFICER: (SENATOR DONNEWALD)

3. Senator...

4. SENATOR DOUGHERTY:

5. Now, you say you're...you talk about licensing. How
6. many people do you propose to license under this?

7. PRESIDING OFFICER: (SENATOR DONNEWALD)

8. Senator Netsch.

9. SENATOR NETSCH:

10. I don't think I have a number on that. It would be
11. more...every detoxification facility that is to be setup,
12. which are to be twenty-nine by the first of August, plus
13. additional programs, many of which already exist in public
14. and private agencies that...that come under the general
15. description of alcoholic rehabilitation programs. I don't
16. have the exact number, though, I'm sorry.

17. PRESIDING OFFICER: (SENATOR DONNEWALD)

18. Is there further...Senator Dougherty.

19. SENATOR DOUGHERTY:

20. I have been informed, Senator, that the cost at the
21. present time has been somewhat set. One set a million and
22. a half dollars, another one...group set five million. I've
23. been informed now it's been set at about some eight million
24. dollars for this program. Have you any idea as to the cost?

25. PRESIDING OFFICER: (SENATOR DONNEWALD)

26. Senator Netsch.

27. SENATOR NETSCH:

28. Well, the only cost is the cost of administration and
29. that's the point that Senator Buzbee and I were just dis-
30. cussing, Senator Dougherty. The cost of administration as
31. requested by the Department of Public Health was only twenty-
32. seven thousand dollars and that also...apparently is planned
33. to be eliminated even in this year's budget.

1. PRESIDING OFFICER: (SENATOR DONNEWALD)
2. Senator Dougherty.
3. SENATOR DOUGHERTY:
4. You are merely referring to...to a limited cost in
5. that particular area, not to the total cost of the operation?
6. PRESIDING OFFICER: (SENATOR DONNEWALD)
7. Senator Netsch.
8. SENATOR NETSCH:
9. No, that's the total cost of administration.
10. PRESIDING OFFICER: (SENATOR DONNEWALD)
11. Is there further discussion? Senator Brady.
12. SENATOR BRADY:
13. If I might, maybe a question of the sponsor.
14. PRESIDING OFFICER: (SENATOR DONNEWALD)
15. She indicates she will yield.
16. SENATOR BRADY:
17. Senator Netsch, is it not correct that there will be
18. a reimbursement process to these clinics or detox centers
19. from the State and that appropriation is somewhere in the
20. neighborhood of eight million dollars to the mental health
21. budget.
22. PRESIDING OFFICER: (SENATOR DONNEWALD)
23. Senator Netsch.
24. SENATOR NETSCH:
25. No, that you're talking really about a different part
26. of it I think, Senator Brady. The...the program of de-
27. criminalization and alcoholic rehabilitation, which we talked
28. about last week and I'm sure we'll be talking about again,
29. does involve some State appropriations, of course. It takes
30. several forms. Some is in the form of grants to detox centers,
31. other is for reimbursement or purchase of care from private
32. hospitals and...well, those are the two major forms of grants.
33. That is not directly involved in this bill. This bill is

1. purely the licensing bill for not only those facilities, but
2. actually for some others that may not be directly a part
3. of that network. For example, halfway houses are included
4. in the licensing requirements of this bill. They may well
5. not be receiving any State funds at any point, so that in
6. a sense the two things are...are separate. This is a licens-
7. ing bill which stands apart from the other program and would
8. be necessary and requested whatever the fate of the other
9. programs.

10. PRESIDING OFFICER: (SENATOR DONNEWALD)

11. Senator Brady.

12. SENATOR BRADY:

13. Yes, Mr. President and Senator Netsch. I stand in
14. support of your...of your bill creating this as a licensing
15. Act, but I think that we must remember that it does tie in
16. then that we will then step forward to the next phase of
17. that which will be the setting up of these detoxification
18. clinics and centers, and although I'm suggesting at this
19. point that I support that, I don't think that we should mis-
20. lead people that that will not cost some money and I think
21. it will be money well spent, but I think it's a necessary
22. thing that we do address ourselves to that, also. Thank
23. you.

24. PRESIDING OFFICER: (SENATOR DONNEWALD)

25. Is there further discussion? Senator Berning.

26. SENATOR BERNING:

27. Just two quick questions from the sponsor. I wonder
28. if she is willing to hazard a guess as to what the potential
29. total cost will be in two years, four years...for this program?

30. PRESIDING OFFICER: (SENATOR DONNEWALD)

31. Senator Netsch.

32. SENATOR NETSCH:

33. The only figure that I can give you is, the department has

1. projected its total cost ahead a...an additional fiscal
2. year which in effect is two years ahead and their estimate
3. for that period of time is forty-one thousand dollars.

4. PRESIDING OFFICER: (SENATOR DONNEWALD)

5. Senator Berning.

6. SENATOR BERNING:

7. I would be willing to agree that may be the administra-
8. tive cost, but my question has to do with the total cost
9. of the program. Would you be willing to hazard a guess on
10. a two year basis as to what that will be? Five million,
11. ten million, fifty million or five hundred million? I...I'd
12. like some ballpark figure.

13. PRESIDING OFFICER: (SENATOR DONNEWALD)

14. Senator Netsch.

15. SENATOR NETSCH:

16. I think you're still talking about a different program,
17. Senator Berning, as I explained before in response to Senator
18. Dougherty's question. This is a licensing bill. This has
19. nothing to do with how much or where the State is going to
20. spend money for detoxification programs. The...the State
21. Department of Public Health that wants the power to set stan-
22. dards and license, no matter what happens or how much money
23. is available in the future for the Alcoholism Rehabilitation
24. and Treatment Act. This is licensing and it is separate and
25. apart, so that I think in a very literal sense the only price tag
26. that comes with this bill is the cost of administration and
27. that's what we have been talking about.

28. PRESIDING OFFICER: (SENATOR DONNEWALD)

29. Senator Berning.

30. SENATOR BERNING:

31. Well, perhaps, I am overly apprehensive. We may be faced
32. with an indeterminate total expense whether we have this or
33. not. I...I'm willing to accept your explanation that this as

1. a licensing procedure has limited dollar obligations. However,
2. if we didn't have this we might not be faced with as broad
3. a demand on us for dollars for detoxification, but that being
4. aside may I call your attention to page 2, line 22 where it's
5. describing the...the section 3.4 describes what an alcoholic
6. is and proceeds to say -"loss of control over consumption of
7. alcohol demonstrated by persistent and excessive use of alcohol
8. such as to lead usually to intoxication if drinking is begun
9. by chronicity, by progression and by a tendency towards re-
10. lapse." Would...would you care to clarify that last sentence?

11. PRESIDING OFFICER: (SENATOR DONNEWALD)

12. Senator Netsch. Senator Berning, your time is up, but
13. we'll let Senator Netsch respond.

14. SENATOR NETSCH:

15. I'm not sure my clarification will shed that much light.
16. I am not a doctor. All of those terms are terms which are...
17. which are used in a medical sense to describe the symptoms
18. and characteristics of alcoholism.

19. PRESIDING OFFICER: (SENATOR DONNEWALD)

20. Is there further discussion? Senator Regner.

21. SENATOR REGNER:

22. Yes, Senator Netsch, will you yield to a question.

23. PRESIDING OFFICER: (SENATOR DONNEWALD)

24. She indicates she will.

25. SENATOR REGNER:

26. Senator Netsch, if I understand this rightly, you're
27. talking about licensing the detox. centers that are proposed
28. in...by the Department of Mental Health creating in their
29. program this year that's contained in their appropriation
30. bill.

31. PRESIDING OFFICER: (SENATOR DONNEWALD)

32. Senator Netsch. Senator Netsch.

33. SENATOR NETSCH:

1. All right, thank you. Not entirely. There are facilities
2. ties and programs that will be licensed that go beyond those
3. that would be directly involved. For example, let me just
4. read to you the...the general description of the major categories
5. that come within the licensing bill. A detoxification
6. facility which are those that are in large part covered by
7. the other program that we've been talking about, a residential
8. alcoholism rehabilitation center, a halfway house, alcoholism
9. outpatient programs and alcoholism treatment facilities or
10. program...I'm sorry, that's the part that is not included.
11. What it does is, to include a fairly substantial number and
12. I...I, again, I'm sorry, I cannot answer exactly what number,
13. as Senator Dougherty asked me, of programs and facilities
14. that may be private, for example, and may never be involved
15. at all in the State program. The thing that has happened is
16. that this is now, as you know, recognized to be probably the major
17. public health problem in the entire United States and more
18. and more, fortunately, there are people and institutions and
19. agencies which are establishing forms of alcoholism treatment.
20. They...there has been no way to impose any minimum standards
21. on those programs. They can represent themselves to be a alcoholism
22. residential facility, for example, and they may well
23. have no basis for making that representation. It may be a
24. facility or program that never comes within the State network
25. of programs and facilities, but nevertheless because it is a
26. health care, and a major health care program, it needs to have
27. some minimum standards set by the State just the same as the
28. licensing of...of hospitals, for example, or other health
29. care dispensing facilities.

30. PRESIDING OFFICER: (SENATOR DONNEWALD)

31. Senator Regner.

32. SENATOR REGNER:

33. But...but, they will be licensing some of those agencies

1. that the Department of Mental Health is proposing in their
2. implementation program?

3. PRESIDING OFFICER: (SENATOR DONNEWALD)

4. Senator Netsch.

5. SENATOR NETSCH:

6. Yes, that's right. They will be licensing beyond that,
7. however.

8. PRESIDING OFFICER: (SENATOR DONNEWALD)

9. Senator Regner.

10. SENATOR REGNER:

11. Okay, then...just...someone had asked the cost of the
12. alcoholism program and just to answer those questions. This
13. year, the Department of Mental Health is requesting five
14. million dollars for local grants in the program and they're
15. also requesting 3.9 million dollars for the implementation
16. of their program and that may suffice as an answer to some
17. of the questions that have been asked.

18. PRESIDING OFFICER: (SENATOR DONNEWALD)

19. Is there further discussion? Senator Netsch may close
20. the debate.

21. SENATOR NETSCH:

22. Let me just repond briefly to several of those points
23. that have been raised. Senator Regner, a lot of the money
24. that you have referred to, which relates to the overall alcoholism
25. program has been in the budget in the past. The Department of
26. Mental Health is not newly arriving at a responsibility for
27. treatment of alcoholics. It has had a mandate to do that for
28. a long period of time, and as a matter of fact, as many of us
29. know, a good many of the residents of institutions run by the
30. Department of Mental Health in the past and to some extent it
31. is still true, are alcoholics, people who probably do not be-
32. long in a mental institution as such, but have gone there because
33. there has been no other place, no other program or facility for

1. them. So, that a good deal of the money that we're talking
2. about for that program represents money that the department
3. has already spent in the past and would continue to have to
4. spend whether or not we implement the new law. Secondly,
5. and I wanted to just refer briefly to Senator Brady's
6. point, a number of the facilities that we are talking about
7. are not new ones. They are already existing agencies and
8. programs and if we are using our new terminology, detoxifica-
9. tion centers, which will simply fold if that program does
10. not go through and is not implemented. But, again, none of
11. this relates to this particular bill. This bill deals only
12. with the licensing, not with any other aspect thereof. And
13. on the point of licensing, Senator Buzbee, if I may respond
14. to your point. I have never said that licensing is not good
15. under any circumstances. There are certain areas where
16. licensing is appropriate and the maintaining of minimum
17. standards of health care for programs which have an enormous
18. impact on peoples lives and health and safety is one of
19. those appropriate things. It is not an occupational licensing
20. bill of the kind that we have taken out after in the past.
21. It is a health care minimum standard licensing bill. There
22. is a difference.

23.
24.
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26.
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29.
30.
31. (Continued on next page)
32.
33.

HB 3957
Revised
6-21-76

1 PRESIDING OFFICER: (SENATOR DONNEWALD)

2 The question is, shall House Bill 3913 pass? Those in
3 favor vote Aye. Those opposed Nay. The voting is open.
4 Have all those voted who wish? Take the record. On that
5 question the Ayes are 36, the Nays are 4, 8 Voting Present.
6 House Bill 3913 having received the constitutional majority
7 is declared passed. House Bill 3957, Senator Partee. Senator
8 Partee.

9 SENATOR PARTEE:

10 I would first seek leave to return 3957 to the order
11 of 2nd reading for the purpose of some amendments that will
12 be offered.

13 PRESIDING OFFICER: (SENATOR DONNEWALD)

14 Do we have leave? Leave is granted. House Bill 3957
15 is now on the order of 2nd reading. Are there amendments?

16 SECRETARY:

17 Amendment No. 2 offered by Senator Harris.

18 PRESIDING OFFICER: (SENATOR DONNEWALD)

19 Senator Harris.

20 SENATOR HARRIS:

21 Yes, thank you, Mr. President. This amendment is in
22 the process of being distributed. I was not aware that
23 my amendment was going to be the first one called, so the
24 Pages are distributing it. I'm...I'll be happy to explain
25 it very simply. It does two things. In the present law the
26 statute of limitations with respect to foreign substance...
27 with respect to foreign substance there is a ten year statute.
28 The bill, as it came from the Senate Committee on Insurance
29 and Licensed Activities, did not take up the question in com-
30 mittee except that there was discussion on it about the ten
31 year statute with respect to this problem in medical malpractice.
32 That, as I have indicated, is the law now, and the bill de-
33 letes it and my amendment restores it. Additionally, my amendment

1 changes the statute of limitations, which under the provisions
2 of the bill is being...being reduced from five years to four
3 years. It would change...my amendment would change that to
4 a flat two years from the time of occurrence of the medical
5 malpractice or...or discovery. Well, there was considerable
6 discussion in the committee about the really serious problem
7 of availability of health delivery service to the people of
8 Illinois. The states of Michigan, Indiana, Missouri, Texas,
9 Oklahoma, Delaware, all have flat two year statutes of limita-
10 tion for this very serious question that faces the people
11 of Illinois. It's true that we don't have a great deal of
12 time to act on this. Beginning July 1st a very serious pro-
13 blem will face us here in Illinois with respect to the premiums
14 for medical malpractice insurance coverage. The National
15 Association of Insurance Commissioners made a survey of some
16 twenty-eight hundred eighteen claims filed by adults during
17 the period of July to December in 1974. The study indicated
18 that eighty-six percent of all claims were filed within two
19 years of the date of occurrence of the alleged incident, and
20 while this only relates to claims filed by adults the study
21 also found that eighty-seven percent of the total number of
22 malpractice claims filed nationally are filed by adults. The
23 Illinois experience found in this study closely parallels the
24 national 84.9 percent of claims studied. Now, I'm terribly
25 concerned about the availability of unrestricted health delivery
26 service for the people of Illinois, and in the testimony in
27 the Committee I was persuaded that this one single amendment
28 will do more to guarantee uninterrupted, unrestricted broad
29 capability of the delivery of health service in Illinois than
30 any other remaining unresolved question with respect to the
31 national and Illinois crisis of medical malpractice insurance
32 coverage. Let me restate the effect of this amendment, which
33 I understand is Amendment No. 2. It would change the bill by

1 reinstating the ten year foreign object statute of limitation,
2 which in the provisions of the bill has been deleted, and
3 further, it would reduce from four years to two years dis-
4 covery or date of occurrence with respect to the statute for
5 other medical malpractice allegations. I think it's an under-
6 standable circumstance of what the intent of the amendment
7 does. I'd be happy to respond to questions. If not, I would
8 urge, Mr. President, a favorable response to Amendment No. 2.
9 PRESIDING OFFICER: (SENATOR DONNEWALD)

10 Senator Bloom.

11 SENATOR BLOOM:

12 Yeah, I've got one question. That is, does the amend-
13 ment read - amend House 3957 on page 5. This is the amend-
14 ment I have.

15 PRESIDING OFFICER: (SENATOR DONNEWALD)

16 Senator Harris.

17 SENATOR HARRIS:

18 Yes, that...that is the amendment. Comma...okay.

19 PRESIDING OFFICER: (SENATOR DONNEWALD)

20 Senator Bloom.

21 SENATOR BLOOM:

22 Well, my copy of the bill on my desk, if that happened,
23 if that was amended in that form, wouldn't have anything to
24 do...are you sure you don't want to amend it on page 6?

25 PRESIDING OFFICER: (SENATOR DONNEWALD)

26 Senator Harris.

27 SENATOR HARRIS:

28 I think you've raised a perfectly valid point, Senator
29 Bloom, and for that I thank you. It's apparent that the prepara-
30 tion of this amendment has been prepared faulty. I would like,
31 Mr. President, to take this amendment from the record and re-
32 prepare it.

33 PRESIDING OFFICER: (SENATOR DONNEWALD)

1 Take it from the record. Are there further amendments?

2 SECRETARY:

3 Amendment No. 2 offered by Senator Glass.

4 PRESIDING OFFICER: (SENATOR DONNEWALD)

5 Senator Glass.

6 SENATOR GLASS:

7 Thank you, Mr. President. Ladies and Gentlemen, I am
8 going to offer a series of five amendments to the bill, and
9 I would like to preface my remarks by saying that as a member
10 of the Medical Malpractice's Commission, all of these five
11 amendments were recommendations of the Commission. The pro-
12 visions of 3957, House Bill 3957, already contains, I believe,
13 all of the other recommendations, but these five recommendations
14 which, I think, in addition to the amendment offered by Senator
15 Harris, are really the guts of serious reform in this area
16 are not yet on the bill. So, first of all, this amendment
17 would permit a court, upon motion of either party or on its
18 own motion, to order periodic payments of judgements in per-
19 sonal injury cases where the settlement or award to the plaintiff
20 exceeds fifty thousand dollars. The purpose of this is to allow
21 a better management of a large judgement for the recipient in
22 the form of a trust fund and it would, of course, allow the
23 insurance carrier to have the use of those funds for an additional
24 period of time, and...and I think that...it's a simple amend-
25 ment. That's the gist of it. I'd be happy to answer any
26 questions.

27 PRESIDING OFFICER: (SENATOR ROCK)

28 Any discussion? Senator Lemke. Senator Lemke. Our
29 million dollar system doesn't seem to be operable. Will you
30 move over to Senator Smith's. Senator Smith.

31 SENATOR LEMKE:

32 Senator Glass, this amendment, what rate of interest
33 is this poor injured party going to be paid?

1 PRESIDING OFFICER: (SENATOR ROCK)

2 Senator Glass.

3 SENATOR GLASS:

4 The bill doesn't provide that, Senator Lemke, but it
5 would be up to the court to order that, and the bill reads
6 that it...if...the court orders periodic payments it
7 shall take such steps and issue such orders that will guaran-
8 tee such payments, so I would...would leave that in...in the
9 judgement of the court to provide adequate interest or what-
10 ever other terms it sees fit. It...it gives flexibility to
11 allow this to be paid out, and...and primarily this has to
12 do with awards for future earnings that have been lost, so
13 I...I answering you directly, the bill doesn't specifically
14 refer to interest, but gives the court, I think, the necessary
15 authority to cover it.

16 PRESIDING OFFICER: (SENATOR ROCK)

17 Senator...Senator Lemke.

18 SENATOR LEMKE:

19 In other words, the public will give up their rights
20 to receiving all this money and the right to make investments
21 and receive higher investments and the insurance industry will
22 be able to hold this money and go by the arbitrary decision
23 of a judge as to what the interest rate is going to be. In
24 other words, you're asking us as Legislators to pass upon an
25 amendment to take people's rights away, but nothing in return.
26 Now, this...I think a party should be responsible as to where
27 he wants to invest. What provision has been made in this bill
28 for this...if this insurance carrier goes defunct. What pro-
29 tection does the individual have?

30 PRESIDING OFFICER: (SENATOR ROCK)

31 Senator Glass.

32 SENATOR GLASS:

33 Well, Senator Lemke, your...your first part of your question

1 ...we're asking members of the public to give up something,
2 that isn't the point of the...the Commission's recommendation
3 at all. This is in a case where an individual is believed
4 not to be capable of making sound investments or at least
5 to be unsure of whether the lump sum payment, in fact, would
6 stay intact for future years. It's the same theory as a
7 trust and the court may order this in order to be sure that
8 the individual receives these payments throughout the rest
9 of his or her life. The insurance company, I suppose, could
10 become defunct. I guess that's possible. To my knowledge
11 though there are adequate reinsurance arrangements required
12 for all insurance companies so as to protect the public from
13 losing benefits of this type.

14 PRESIDING OFFICER: (SENATOR ROCK)

15 Senator Lemke.

16 SENATOR LEMKE:

17 I don't see that provision in here, and when you talk
18 about the public giving up something, you're talking about
19 classifying people. Do you mean to tell me that you're say-
20 ing that a man with a third grade education is not capable
21 of managing his money? Is that what you're saying? That only
22 the ones that go to college are those that are intelligent
23 enough to make investments, and that we, as people, should be like
24 the Gestapo and step in and say - you're not practical of
25 getting ahead, cause you're not qualified, cause you're not
26 ...you don't have the same rights as anybody else. Is that
27 what you're saying in this amendment?

28 PRESIDING OFFICER: (SENATOR ROCK)

29 Senator Glass.

30 SENATOR GLASS:

31 Senator Lemke, those are your words and that is what you
32 said. That isn't what the amendment says and that's not what
33 I'm saying. What I did tell you and what I will repeat is,

1 that it leaves this judgement to a court of law to determine
2 in whether and in what cases periodic payments are appropri-
3 ate. In...in judgements of over fifty thousand dollars this
4 would become an option under the bill.

5 PRESIDING OFFICER: (SENATOR ROCK)

6 Senator Lemke.

7 SENATOR LEMKE:

8 Do you mean to tell me that a judge or a court of law
9 will sit on a...competency of an individual not to get the
10 money? It's up to the courts to decide if the guy's com-
11 petent or not? We have adequate provisions for incompetency.
12 If you want to prove somebody incompetent then you go to
13 court and prove it, and you go all the way. You're saying
14 this, "we're classifying people", and I'm against classifying
15 people based on their education and their knowledge. They
16 have the right to earn this money just like anybody else
17 that's a Rockefeller, and they have the same investment powers
18 if they want to invest it. If they, too, choose not to choose
19 the right party that's freedom of choice and that's what this
20 country is about, and you're taking things away from man's
21 freedom of choice, and I cannot support this amendment, be-
22 cause you're giving up people's rights for the benefit of
23 the insurance carrier. What provision has been made in this
24 Act for a reduction of insurance premiums? It's my knowledge
25 in the State of Illinois, very few reductions in premiums
26 have ever been given as far as the rates go. No rates have
27 ever been reduced, they've always been increased. And there's
28 nothing in this...in this amendment, you could tell me where
29 this amendment is going to reduce insurance premiums.

30 PRESIDING OFFICER: (SENATOR ROCK)

31 Senator Buzbee.

32 SENATOR BUZBEE:

33 Thank you, Mr. President. My concern is for the ultimate

1 consumer, not for the lawyers and not for the doctors, except as
2 how the ultimate consumer is affected by their inability to
3 get medical treatment because the doctors are no longer
4 practicing, because they can't afford the medical malpractice
5 insurance. So, I find myself in somewhat the same position
6 that I was on...on Workmen's Compensation. It's a very
7 extremely complicated field, but I...I think that Senator
8 Lemke makes one good point, Senator Glass. I believe already
9 written into our laws is...is the case of...of the courts
10 being able to appoint a conservator. Is that not true?

11 PRESIDING OFFICER: (SENATOR ROCK)

12 Senator Glass.

13 SENATOR GLASS:

14 Yes, of course, it's true that conservators can be appointed
15 in cases of incompetence. That isn't what this deals with
16 at all. This deals only with future economic losses. In
17 other words future earnings. The court is not given discretion
18 to...to take an entire award, but on motion of either party
19 to provide for periodic payments in cases where the...the
20 future care and support needs of the plaintiff are so acute
21 as to require conservation of the assets resulting from the
22 judgement. Rather than simply paying a large lump sum to an
23 individual twenty-one years old, it gives the court the authority
24 to defer that...to...to defer payments under terms that it
25 sees fit, so there's...there's nothing mandatory about it,
26 but it...it also allows the court to take...take such steps
27 and issue such orders that will guarantee the payments, so I
28 ...I think it's...it's got everything that's needed by way of
29 protection.

30 PRESIDING OFFICER: (SENATOR ROCK)

31 Senator Buzbee.

32 SENATOR BUZBEE:

33 Well, I think if you followed your line of thinking then

1 we would not allow any lump sum payment to ever be made in
2 a life insurance claim. We would simply say -"widow, you
3 are incompetent",and a lot of them are, but I think that's
4 their constitutional right to be incompetent if they want
5 to. To blow that quarter of a million dollar life insurance
6 premium rather life insurance payout if they want to, and
7 I know of some cases where that's happened. But, it seems
8 to me, that if the claimant has a legitimate claim and the
9 courts have so settled and so decided that we have no business
10 stepping in there and saying -"however, I think that you are
11 just a little too dumb, you're a little too immature to handle
12 that kind of money, and so, therefore, we're not going to
13 give it to you all at one time. We're going to allow it to
14 stay with the insurance company where they can keep it and
15 use in...interest free for the next several years." The next
16 thing if we were to follow this line of reasoning, the next
17 thing we'd be doing would be telling life insurance claimants
18 that we're going to pay you that you...option No. 1 which
19 is the cash settlement option always in a life insurance con-
20 tract, that option no...number one is no longer operable.
21 We will not ever payout on a lump sum basis, because we don't
22 think you have the ability to handle it. I...I would be opposed
23 to this amendment.

24 PRESIDING OFFICER: (SENATOR ROCK)

25 Senator Fawell.

26 SENATOR FAWELL:

27 Senator Glass, I...I'm a bit confused by this, too. What
28 ...what is the basic reason for this amendment? What...what's
29 the motivating basis?

30 PRESIDING OFFICER: (SENATOR ROCK)

31 Senator Glass.

32 SENATOR GLASS:

33 Well, this, as I said, Senator Fawell, is one of a number

1 of recommendations of the Medical Malpractice Commission.
2 I would say the basic reason for the amendment is to pro-
3 vide a device allowing the court to distribute these monies
4 over a period of years in the form of a trust, where the court
5 is convinced that the person receiving the injury needs the
6 assurance that the...the fund will be available in future
7 years for their benefit.

8 PRESIDING OFFICER: (SENATOR ROCK)

9 Senator Fawell.

10 SENATOR FAWELL:

11 Then in...in reality it is a type of adjunct to our
12 conservation laws, and I wouldn't necessarily say that is...
13 that is bad. You're saying that the court does not have to
14 find that a person is incompetent as our conservator laws
15 now do provide, but merely that there is some basis which
16 isn't really spelled out here, whereby the court apparently
17 is of the opinion that there might be some propagate tenden-
18 cies here and, so we're going to conserve. The one thing,
19 though, that bothers me is, and...and this is important,
20 I think. In the last sentence it states that in the event
21 the court orders periodic payments, it shall take such steps
22 and issue such orders that will guarantee such payments. I
23 don't think any court could construe that that is giving the
24 court the authority to demand that the defendant or the de-
25 fendant's insurance carrier must pay interest or be obligated
26 to pay any interest. I would be...I think that's very im-
27 portant here that if the motivation of this amendment, and
28 I...I...I would certainly accept the word of the Commission
29 here, is to safeguard the rights of the...the injured who may
30 not be able to utilize these funds for economic damages only
31 to which it applies, then I think we ought to make it very,
32 very clear that if periodic payments are to be the rule that
33 the...the person obligated to pay, or his insurance carrier

1 has to then also respond by also paying a reasonable amount
2 of interest on that. I...I...I think without that, I don't
3 believe your amendment in any way empowers the court to obli-
4 gate any interest payments, and without it I...I...without
5 that I...I would not be able to support it, and I think it
6 would be a very unfair amendment then, that would be motivat-
7 ed not on the basis of helping the injured, but motivated to
8 save costs for the insurance carrier. Now, if that's the
9 reason then that's understandable too, I guess, but we ought
10 to make it very clear the court then...and then I think it's
11 unconstitutional because the court would have very arbitrary
12 powers to deprive one person of interest making powers and
13 not another. I think that that...it has to be clearly stated
14 that the power of the court to demand that the payer pay
15 interest has to be in this amendment.

16 PRESIDING OFFICER: (SENATOR ROCK)

17 Senator Glass, for what purpose do you arise? I don't
18 think that was a question.

19 SENATOR GLASS:

20 No, I...I think, however, Mr. President, that Senator
21 Fawell does make a good point and in my response to Senator
22 Lemke, I did indicate it was my understanding that the court
23 had the flexibility to provide for interest payments. It
24 certainly should, and since that provision is not in the
25 amendment I would like to ask leave to withdraw this amend-
26 ment and make that correction.

27 PRESIDING OFFICER: (SENATOR ROCK)

28 All right. Is leave granted? Leave is granted. That
29 amendment will be withdrawn. Further amendments?

30 SECRETARY:

31 Amendment No. 2 offered by Senator Glass.

32 PRESIDING OFFICER: (SENATOR ROCK)

33 Will you read the first part, Mr. Secretary, so we can

1 identify. There's five or six on everybody's desks, I know.

2 SECRETARY:

3 (Secretary reads Amendment No. 2)

4 PRESIDING OFFICER: (SENATOR ROCK)

5 Senator Glass, have we...has everybody identified which
6 amendment we're...

7 SENATOR GLASS:

8 Yeah. I might...Mr. President, identify that for the
9 Senators by saying that it is the shortest amendment. It's
10 a seven line amendment and it is a repealing amendment.

11 PRESIDING OFFICER: (SENATOR ROCK)

12 All right. The question is on Amendment No. 2 for the
13 purpose of discussion. Senator ParTEE, for what purpose do
14 you arise?

15 SENATOR PARTEE:

16 Repealing what? What does it do?

17 PRESIDING OFFICER: (SENATOR ROCK)

18 Well, he didn't...all I was asking him to do was identify
19 it. We're not...

20 SENATOR PARTEE:

21 Yeah.

22 PRESIDING OFFICER: (SENATOR ROCK)

23 We're not yet at the discussion...

24 SENATOR PARTEE:

25 You said the question is...

26 PRESIDING OFFICER: (SENATOR ROCK)

27 No, no, no, I'm trying to posture this in the way it
28 should be. All right. The question is the adoption of
29 Amendment No. 2. To explain the amendment, Senator Glass.

30 SENATOR GLASS:

31 Thank you, Mr. President, Ladies and Gentlemen...

32 PRESIDING OFFICER: (SENATOR ROCK)

33 For...hold it. For what purpose do you arise, Senator Egan?

1 SENATOR EGAN:
2 Well, now you've got this labeled Amendment No. 2, but
3 it's really Amendment...
4 PRESIDING OFFICER: (SENATOR ROCK)
5 That is correct.
6 SENATOR EGAN:
7 ...No. 1, because No...Amendment No...
8 PRESIDING OFFICER: (SENATOR ROCK)
9 No, Amendment No. 1 was...was adopted the other day at
10 the request of Senator...
11 SENATOR EGAN:
12 I beg your pardon.
13 PRESIDING OFFICER: (SENATOR ROCK)
14 ...Partee.
15 SENATOR EGAN:
16 ...I beg your pardon.
17 PRESIDING OFFICER: (SENATOR ROCK)
18 All right. Amendment No. 2 for purpose of discussion
19 and explanation, Senator Glass.
20 SENATOR GLASS:
21 Now, Mr. President and Ladies and Gentlemen, when we
22 passed Senate Bill 1024 last year...
23 PRESIDING OFFICER: (SENATOR ROCK)
24 Senator Glass.
25 SENATOR GLASS:
26 Thank you, Mr. President, when we passed Senate Bill
27 1024 last year, one of the sections that was included was
28 Section 58.2A, and that section prohibited any agreement
29 between a patient and his health care provider exculpating
30 the health care provider from liability. This amendment would
31 delete that prohibition and, thereby, allow for agreements,
32 the so-called exculpatory agreements so long as they were
33 constitutional to be in effect. Now, I...I would hasten to

1 inform you that it is not the Commission's recommendation
2 that Illinois law relating to exculpatory agreements that
3 are...that...that exculpatory agreements are...are desirable.
4 It's not...that is not the Commission's recommendation. How-
5 ever, there are several alternative proposals to our present
6 way of dealing with medical malpractice. One of them is an
7 elective no-fault provision and another one is voluntary
8 binding arbitration somewhat along the lines of Senate...
9 of House Bill 3958, the next bill to be considered. We are
10 concerned that with this Section 58.2A in the law, agree-
11 ments of that kind would be prohibited, therefore, we would
12 repeal that...that section and return the law of Illinois
13 to what it was prior to the passage of Senate 10...Bill 1024
14 last year.

15 PRESIDING OFFICER: (SENATOR ROCK)

16 Any discussion? Senator Partee.

17 SENATOR PARTEE:

18 For whom is...do these bells toll? Who is this for?

19 PRESIDING OFFICER: (SENATOR ROCK)

20 Senator Glass.

21 SENATOR GLASS:

22 Senator Partee, as I explained, this would allow Illinois
23 any...this...this Legislature, individuals who deal with doc-
24 tors, with hospitals to enter into agreements for binding
25 arbitration, for example, of future disputes over medical
26 malpractice and, so, I think it's for the benefit of the public
27 generally to....to be able to do this. I think by leaving
28 this Section 58.2A in the law we would run the risk of all
29 agreements of that type being invalid.

30 PRESIDING OFFICER: (SENATOR ROCK)

31 Senator Partee.

32 SENATOR PARTEE:

33 I don't agree at all. I think you ought to leave this in,

1 because what you're doing if you repeal it, you're going to
2 then allow doctors and hospitals to draw up these contracts
3 which release themselves from liability before they treat a
4 patient, and I'm not sure we want to do that. The patient,
5 it seems to me, would be under duress. Now, if, in fact,
6 you want to do what you say you want to do, why not leave it
7 in, and by other language exclude what you're talking about.
8 Now, what I'm saying is this, suppose this bill doesn't pass?
9 You will have taken out of the law that which is already
10 in there, and that seems a little sneaky to me. I don't
11 think we ought to tamper with this until, certainly, the law
12 has been changed that does all the other things you're talk-
13 ing about. You're assuming it's going to happen. I can't
14 make that assumption at this junction.

15 PRESIDING OFFICER: (SENATOR ROCK)

16 Any further discussion? Senator Glass may close the
17 debate on Amendment No. 2.

18 SENATOR GLASS:

19 Thank you, Mr. President. I would simply say in re-
20 sponse to Senator Partee's argument, that this bill, I re-
21 peat, would restore the law to what it is before we passed
22 Senate Bill 1024. Exculpatory agreements to the extent they
23 are against public policy would be invalid in any event, but
24 I am afraid with this section in the law binding arbitration
25 agreements or no-fault programs would not be constitutional,
26 they would not be valid under Illinois law, and I...I say
27 that very sincerely. That was the feeling of the Commission
28 and, therefore, this is one of the Commission recommendations
29 and I would urge a favorable vote on this amendment.

30 PRESIDING OFFICER: (SENATOR ROCK)

31 All right. The question is, the adoption of Amendment
32 No. 2 to House Bill 3957. All those in favor signify by say-
33 ing Aye. All those opposed. The Noes have it. The amendment

1 fails. A roll call has been requested. The question is the
2 adoption of Amendment No. 2 to House Bill 3957. Those in
3 favor of adoption will vote Aye. Those opposed will vote
4 Nay. The voting is open. Have all voted who wish? Take
5 the record. On that question the Ayes are 22, the Noes are
6 25, none Voting Present. Amendment No. 2 fails. Further
7 amendments?

8 SECRETARY:

9 Amendment No. 3 offered by Senator Glass.

10 PRESIDING OFFICER: (SENATOR ROCK)

11 Mr. Secretary, will you read the first few lines and
12 identify this amendment.

13 SECRETARY:

14 (Secretary reads Amendment No. 3)

15 PRESIDING OFFICER: (SENATOR ROCK)

16 Senator Glass.

17 SENATOR GLASS:

18 Thank you, Mr. President and Ladies and Gentlemen. This
19 is the amendment calling for itemized verdicts. The...the
20 Commission, which incidently was madeup, I think, of a pretty
21 good cross-section of those in the medical field, those repre-
22 senting the insurance companies, those representing the trial
23 lawyers, consumer groups and others who heard a good deal
24 of testimony for many months on this subject, did hear testi-
25 mony that large awards for pain and suffering might very well
26 be reduced if a jury were required to account for and label
27 each dollar that is awarded. Itemized verdicts, also, would
28 ...would provide useful information with regard to the collection
29 and analysis of malpractice data, and if the Legislature does,
30 as I hope it will, impose a cap or a limit on noneconomic dam-
31 ages it, of course, would help in that regard. Now, this...
32 this amendment would apply not only to medical malpractice,
33 but to injury cases generally and it would say very simply

1 to...to a jury - you can award whatever you think is appro-
2 priate, but you ought to know what you're doing. Therefore,
3 an itemization of the losses that the plaintiff has sustained
4 and also that portion which is noneconomic or that portion
5 which applies to pain and suffering should be separately set
6 forth. That is what the amendment does. I'd be happy to
7 answer any questions.

8 PRESIDING OFFICER: (SENATOR ROCK)

9 Senator Partee.

10 SENATOR PARTEE:

11 Well, I stand in opposition to this amendment. There's
12 an old expression that justice delayed is justice denied,
13 and all this would do would be to delay justice. One of
14 the big complaints of people who are injured is, that it takes
15 them such a long, long time to get their money. And all...all
16 this amendment would do would serve as grounds for appeal
17 for the insurance companies to hold the money longer, collect
18 the interest on it during the intervening period. Now, if
19 there are two cases that had the same injury, say the loss
20 of an eye, perhaps two juries might give them the same thing,
21 a hundred thousand dollars let's say, but if under the itemiza-
22 tion they...one of them set a different amount from the other,
23 then that different amount could be used as an argument for
24 appeal, seeking, saying that this was unequal justice in the
25 same kind of a situation, and where it would be different they
26 would go in for an appeal, another year, a year and a half,
27 and justice would be delayed by that amount of time. If you
28 really want to know what the amounts are you don't have to
29 have itemization. Sometimes lawyers are prone to make things
30 so sophisticated they forget the basics. If you really want
31 to know what the...what they are, all you have to do is look
32 at the specials. The specials, that is the damages which
33 we call lost wages, hospital bills, doctors bills, are certified

1 to before a trial. You know what the amount is and all
2 you have to do is a very simple thing that you teach in the
3 second grade and that is, subtract the specials from the
4 total judgement and you'd have what the amount is without
5 itemization. This is a bad amendment and I urge its defeat.

6 PRESIDING OFFICER: (SENATOR ROCK)

7 Further discussion? Senator Lemke. Senator Lemke
8 on Senator Smith's microphone.

9 SENATOR LEMKE:

10 I speak against this amendment, because I think this
11 is a method of tampering with our impartial jury system,
12 and I cannot see confusing the jury with other issues when
13 there's things to be impartial and deciding as to what a
14 person should collect. As Senator Partee says, an insurance
15 carrier can find out what the special is. She...he can also
16 find out what the projected loss of income is and subtract
17 that from the total thing and get the difference, and I
18 can see no value in this amendment, except as Senator Partee
19 does, as an attempt by the insurance carriers to stall the
20 payment of the claim and to keep this money without interest
21 and denying the person the money he could earn on this in-
22 come while the case is on appeal...appeal.

23 PRESIDING OFFICER: (SENATOR ROCK)

24 Is there any further discussion? Senator Fawell.

25 SENATOR FAWELL:

26 Well, I...I seldom rise to the defense of the insurance
27 carriers. But I really...I can't see any real harm here.
28 Anybody who would adequately prepare a personal injury case
29 would have this pretty much worked out obviously, and it might
30 take a little bit more work in changing some forms, instruc-
31 tions and so forth, but I...and I'm not sure if it's going
32 to accomplish a great deal, but I cannot see any real harm,
33 and if we're...and I think all of us want to try to do something

1. to be of help here. I...I really can't see that there's
2. going to be any harm here, and it might be certainly that
3. there are some juries that are real foggy about getting
4. right down to the particulars of the evidence that happens
5. to be before them and sit down and...and work out exactly
6. what are the so-called economic and noneconomic losses.
7. And I'm a little bit...the only thing that might bother me
8. here is whether we've got proper definitions for those words,
9. but I would think that they are elemental enough that we would not
10. have a real problem in that regard. I would...I...I would
11. support Senator Glass in this amendment.

12. PRESIDING OFFICER: (SENATOR ROCK)

13. Senator Partee, for what purpose do you arise?

14. SENATOR PARTEE:

15. To see if the gentleman would yield to a question, be-
16. cause I didn't understand a part of what he said.

17. PRESIDING OFFICER: (SENATOR ROCK)

18. Senator Fawell, I...

19. SENATOR FAWELL:

20. Yes.

21. PRESIDING OFFICER: (SENATOR ROCK)

22. ...think the question is directed at you. He indicates
23. he will yield.

24. SENATOR PARTEE:

25. You said something about a juror becoming a little foggy.
26. Is this an attack on the jury system, or on the people who
27. make it up.

28. PRESIDING OFFICER: (SENATOR ROCK)

29. Senator Fawell.

30. SENATOR FAWELL:

31. Well, I don't think either really. I just think in...
32. in certain cases you're bound to have juries that can be per-
33. haps confused and to sit down and push the pencil a bit and

1. to go over the evidence and determine the actual economic
2. loss as shown by the evidence, so that they can be absolutely
3. sure in their own minds how much they are giving, for instance,
4. for pain and suffering, disfigurement, or whatever it might be
5. of the intangible areas, I think would be helpful. It may
6. not...it may not alter things greatly, but I think it would
7. be helpful for the jury to go over that.

8. PRESIDING OFFICER: (SENATOR ROCK)

9. Senator Partee.

10. SENATOR PARTEE:

11. I don't want to belabor this, but it seems to me that
12. what you're saying, is that jurors cannot add and subtract.
13. If they're giving a hundred thousand dollar judgement and
14. if they know that the specials in noneconomic...no, the
15. economic losses like lost wages and the hospital bills and
16. something amounts to sixty thousand dollars and they're
17. giving a hundred thousand dollar verdict, I think they could
18. subtract sixty from a hundred to know, or add forty to know
19. what they're adding. So, I...I just really don't understand
20. what you're saying.

21. PRESIDING OFFICER: (SENATOR ROCK)

22. All right. Senator Fawell.

23. SENATOR FAWELL:

24. It...it sometimes doesn't work out quite that easily.
25. You...you have to figure in terms of economic loss the in
26. futura amounts, and I think sometimes juries will not really
27. sit down and figure out the longevity of life involved and
28. things of this sort and really put down what the economic
29. and the noneconomic losses are. No doubt, juries can add
30. and subtract, but I don't think that there's any big problem
31. in putting evidences of that ability in their final verdict.

32. PRESIDING OFFICER: (SENATOR ROCK)

33. Senator Partee.

1. SENATOR PARTEE:

2. One further question. Do you realize that if they have
3. to itemize it, it could bring about a difference in cases and
4. as a consequence, it would be an appealable item for one in-
5. surance company on the basis of unequal justice?

6. PRESIDING OFFICER: (SENATOR ROCK)

7. Senator Fawell.

8. SENATOR FAWELL:

9. Well, that was one part of your argument that I...I
10. couldn't quite follow nor to the degree that I can that I
11. would agree to. Certainly, in regard to one jury's determination
12. as to what pain and suffering is worth that it may differen-
13. tiate from another. Even if the facts are similar, I don't think there
14. would be any basis for the lack of equal justice whatsoever.
15. A jury...one jury obviously is going to have a view, for in-
16. stance, in southern Illinois what pain and suffering is worth.
17. In Chicago it may be entirely different in Naperville. I...I
18. don't think any court nor is there any case law that would
19. say that because of that differentiation, anymore than total
20. verdict differentiation on the same facts, would be any evidence
21. of lack of justice.

22. PRESIDING OFFICER: (SENATOR DONNEWALD)

23. Senator Partee.

24. SENATOR PARTEE:

25. You finally said it. You said that there might be a
26. difference between what a jury thinks pain and suffering is
27. worth in southern Illinois or Naperville. I just happen to
28. think that this is one state and it ought not be fractionalized,
29. ought not to be divisionalized. I think if a person has pain
30. and suffered in Carbondale it's the same as in Wheaton or
31. Waukegan or anywhere else in this State. We've been through
32. this argument. There was a time when people who thought as
33. you have just expressed yourself, felt that a judge in one

1. area should be paid more than a judge in another area, or
2. a state's attorney in one area should be paid more than
3. another. I just don't see that, Senator. I don't think
4. that there's any difference in people in Salem, Illinois
5. or Breeze than it is in...in Waukegan or any other town in
6. this State. I...I think that the mentality of the people
7. is the same. I think that they all ought to be treated
8. equally under the law, and I just don't see this kind of
9. divisional kind of thinking that you're doing here.

10. PRESIDING OFFICER: (SENATOR DONNEWALD)

11. Just a moment. Senator Harris, for what purpose do
12. you arise?

13. SENATOR HARRIS:

14. Well, I just wonder if the President is willing to
15. take the Home Rule Amendment out of all the statutes then
16. if we're all the same.

17. PRESIDING OFFICER: (SENATOR DONNEWALD)

18. Senator Egan.

19. SENATOR EGAN:

20. Yes, Mr. President and members of the Senate, so that
21. I can get oriented here I...could I ask the sponsor of the
22. amendment a question?

23. PRESIDING OFFICER: (SENATOR DONNEWALD)

24. Senator Glass indicates he will yield.

25. SENATOR EGAN:

26. Thank you, Senator, I...it appears to me that we are
27. addressing ourselves to the defense of malpractice cases,
28. medical malpractice cases, and it occurs to me that we are
29. here attempting to assist the medical practioners to reduce
30. the cost of medical malpractice, and not to assist the in-
31. surance industry in its defense of all personal injury cases.
32. But, does this not apply to all personal injury cases?

33. PRESIDING OFFICER: (SENATOR DONNEWALD)

1. Senator Glass.

2. SENATOR GLASS:

3. That is correct. It does, Senator Egan, and the reason
4. for that is a simple one. I can see no constitutional justifi-
5. cation for itemizing verdicts as between pain and suffering
6. and...and economic loss. In...in these kind of cases and in
7. other kinds of cases and to insure the validity in having
8. this constitutionally upheld, we have made this apply across
9. the board to all injury cases.

10. PRESIDING OFFICER: (SENATOR DONNEWALD)

11. Senator Egan.

12. SENATOR EGAN:

13. Well, I...I appreciate that. It does, however, do more
14. than address our industry here to the defense of medical mal-
15. practice cases, and I submit further that in so doing, it does
16. not assist in the defense of medical malpractice cases to a
17. degree that would reduce the premiums so that the doctors
18. would not pay so much money for their medical malpractice
19. insurance. I don't see the importance of the amendment other
20. than the assistance that it will give to the insurance in-
21. dustry.

22. PRESIDING OFFICER: (SENATOR DONNEWALD)

23. Senator Glass.

24. SENATOR GLASS:

25. Well, in direct response to...to your question, Senator
26. Egan, as to whether this would do any good in...in reducing
27. amounts of premiums, one of the major problems is the large
28. verdicts that are awarded by juries, and it is the feeling of
29. the Commission based on the testimony that was heard, that
30. if a jury were required to itemize what it is they are awarding,
31. so that they...they simply say this is what we're awarding and
32. itemize it that they would, in fact, think more carefully
33. about giving large amounts for pain and suffering. That's

1. simply stated what the rationale behind it is.

2. PRESIDING OFFICER: (SENATOR DONNEWALD)

3. Senator Knuppel.

4. SENATOR KNUPPEL:

5. I just wondered if every...if everyone in this room
6. had a conflict of interest refrained from voting, what would
7. happen? We have insurance people, you know, people that are
8. influenced by insurance people, that are influenced by de-
9. fense attorneys, people that are influenced as plaintiff's
10. attorneys. I just wonder if we'd get a vote at all.

11. PRESIDING OFFICER: (SENATOR DONNEWALD)

12. Is there...is there further discussion? Senator...

13. Senator Glass may close the debate.

14. SENATOR GLASS:

15. Thank you, Mr. President, I think this would be a signifi-
16. cant improvement to the medical malpractice situation. I...
17. I have one more comment in response to Senator Egan. The bill
18. already addresses more than just the medical malpractice field
19. by removing the ad damnum provision in all cases. That is,
20. should this bill pass, in injury suits there will be no longer
21. possible to allege an amount of dollar damages that should
22. be recovered. It will merely be possible to claim damages and
23. ...and that will apply across the board. So, I would urge favorable
24. action on this amendment, Mr. President.

25. PRESIDING OFFICER: (SENATOR DONNEWALD)

26. The question is on the adoption of Amendment No. 3 to
27. House Bill 3957. All those in favor indicate by saying Aye.
28. Those opposed. The Noes have it. The amendment fails. There
29. is a request for a roll call. Roll call will be taken. All
30. those in favor of the adoption of Amendment No. 3 will vote
31. Aye. Those opposed Nay. The voting is open. Have all those
32. voted who wish? Have all those voted who wish? Take the record.
33. On that question the Ayes are 31, the Nays are 19, none Voting

1. Present. Amendment No. 3 to 3957 is adopted. Are there
2. further amendments?

3. SECRETARY:

4. Amendment No. 4 offered by Senator Glass. It amends
5. House Bill 3957...

6. (Secretary reads Amendment No. 4)

7. PRESIDING OFFICER: (SENATOR DONNEWALD)

8. Senator Glass.

9. SENATOR GLASS:

10. Thank you, Mr. President and Ladies and Gentlemen. This
11. amendment places a limitation or a cap on noneconomic loss
12. of two hundred and fifty thousand dollars, so that on damages
13. for pain and suffering a plaintiff would be limited in the
14. amount of recovery to two hundred and fifty thousand dollars
15. which, frankly, I think is...is excessive for pain and suffering
16. when you consider that an individual can recover all the actual
17. economic loss, and this cap or limitation would apply across
18. the board on injury cases generally. So, I...I think this
19. again is an important amendment and would tend to reduce mal-
20. practice insurance premiums by reducing the size of the awards
21. and placing a reasonable albeit...I believe, high limitation
22. on the portion of the award for pain and suffering. I'd be
23. happy to answer any questions.

24. PRESIDING OFFICER: (SENATOR DONNEWALD)

25. Senator Lemke.

26. SENATOR LEMKE:

27. I thought we went through this with the Supreme Court
28. case which says it's unconstitutional to put a cap on damages.
29. Now, you're saying that you consider two hundred and fifty
30. thousand dollars a lot of money for pain and suffering. Senator
31. Glass, if you was a man without a leg or an arm would you take
32. two hundred and fifty thousand dollars or would you take your
33. arm back. I think I'd rather have my arm, and what pain and

1. suffering is and...and aggravation you go through when you're
2. injured and you're...I can recall a case when I first started
3. practicing law, of a lady that went in for a simple gall bladder
4. operation and we came out a spastic quadriplegic. And she
5. laid there and suffered with that and you tell me that two
6. hundred and fifty thousand dollars is a lot of money. Well,
7. I'm telling you when you're in that condition you look and
8. see if two hundred and fifty thousand dollars is a lot of money,
9. because it isn't a lot of money, because...there isn't a dime
10. ...there isn't a million dollars I'd take for my arm or a leg
11. or my eyes. I want them, and there's people that would give
12. that to get them back and more and they can't. So, therefore,
13. I urge, not the adoption of this amendment, because it's un-
14. constitutional.

15. PRESIDING OFFICER: (SENATOR DONNEWALD)

16. Senator Partee.

17. SENATOR PARTEE:

18. I would just add to what Senator Lemke says, that we
19. just had the experience in the one case on putting caps on,
20. and here we come back again. Now, I think the poor people
21. and the little people have had enough of this today, and I
22. think this certainly ought not to be adopted. First of all,
23. noneconomic loss in large cases is very minimal. The bulk of
24. the awards in these large cases is for future custodial
25. care and for future wage losses. In the small cases, a non-
26. economic loss is a larger part of the award and in a case of
27. the loss of one eye or one arm, the medical expenses and the
28. lost wages are small, but the total of lost wages and medical
29. bills might be only five thousand dollars, but the pain and
30. the suffering and the disfigurement and the disability and
31. the nature and extent part of the award could be much higher.
32. How much is it worth to lose an eye? If you put a cap on
33. the amount of recovery for noneconomic loss, it seems to me

1. it would mean that those who are most severely injured
2. would not get full compensation. It's...it's...it's class-
3. ifying people again, because if somebody lost an arm and was
4. awarded a hundred and fifty thousand dollars he'd be allowed
5. to get his full recovery. If somebody lost both arms and
6. both legs, and yet within a profession where he could con-
7. tinue to work, like a teacher, he would be allowed to be
8. only partially compensated under your plan. It would be
9. better to take a percentage off of all awards rather than
10. discriminate against those who are the most severely injured.
11. I think this is not a...an amendment that was born of com-
12. petent thinking.

13. PRESIDING OFFICER: (SENATOR DONNEWALD)

14. Senator Buzbee.

15. SENATOR BUZBEE:

16. A question of the sponsor, Mr. President.

17. PRESIDING OFFICER: (SENATOR DONNEWALD)

18. He indicates he will yield.

19. SENATOR BUZBEE:

20. The cap we put on in the bill that we passed last year,
21. I believe, was five hundred thousand dollars, but I believe
22. that was for all, was it not, not just on economic losses?
23. He indicates that's...that's an affirmative answer I guess, Mr. President.

24. PRESIDING OFFICER: (SENATOR DONNEWALD)

25. The record will show that he shook his head "yes".

26. SENATOR BUZBEE:

27. I want to try to draw an analogy between medical mal-
28. practice and let's say liability as far as disfigurement,
29. loss of limbs, disabilities and so forth as they come about
30. from automobile accidents. Is there a similar cap on...on
31. automobile accident losses?

32. PRESIDING OFFICER: (SENATOR DONNEWALD)

33. Senator Glass.

1. SENATOR GLASS:

2. Senator Buzbee, under this bill there would be. This
3. cap would apply across the board to all injuries.

4. PRESIDING OFFICER: (SENATOR DONNEWALD)

5. Senator Buzbee.

6. SENATOR BUZBEE:

7. In other words we are amending the section that deals
8. with...with court loss or rather with court paid losses.

9. PRESIDING OFFICER: (SENATOR DONNEWALD)

10. Senator Glass.

11. SENATOR GLASS:

12. Yes, I think, Senator Buzbee, by way of clarification
13. and I think partly to clarify a couple of the comments of
14. Senator Partee. The bill would place a limit on the maximum
15. recovery to which a plaintiff may be entitled for a judgement
16. for damages other than for his hospital and medical expenses,
17. loss of earnings and other actual expenses. Now, I'll wait
18. 'til Senator Egan is done talking to you if I...what...what
19. this means is, of course, future earnings may be fully com-
20. pensated for. Loss of future earnings are compensable. This
21. ...this doesn't cover loss of earnings. Other actual expenses
22. are compensable including hospital and medical, but for...for
23. the noneconomic losses for anyone who is injured in medical mal-
24. practice or other cases, in other words for pain and suffering,
25. the cap is two hundred and fifty thousand dollars under this
26. amendment.

27. PRESIDING OFFICER: (SENATOR DONNEWALD)

28. Senator Buzbee.

29. SENATOR BUZBEE:

30. Well, Senator Glass, when you first started explaining
31. this amendment I thought I could be for it, because I do
32. want to do something that will bring down the cost of medical
33. malpractice premiums, but I just don't see how you and I can

1. sit here in the...in Springfield in this Chamber and arbitrarily
2. say that two hundred and fifty thousand dollars is all that's
3. really necessary to pay for somebody who's been permanently
4. disfigured or who has...becomes a paraplegic or quadruplegic
5. because of an accident or because of a...the incompetency of
6. some particular physician. I just don't believe that we can
7. do that in all good conscience, and I'm going to have to vote
8. "No" on this amendment.

9. PRESIDING OFFICER: (SENATOR DONNEWALD)

10. Senator Hynes.

11. SENATOR HYNES:

12. I wonder if the sponsor would yield to a question.

13. PRESIDING OFFICER: (SENATOR DONNEWALD)

14. He indicates he will.

15. SENATOR HYNES:

16. With respect to the...this amendment limiting the non-
17. economic losses, what would the impact be of this new section
18. on a wrongful death action outside of the area of medical
19. malpractice?

20. PRESIDING OFFICER: (SENATOR DONNEWALD)

21. Senator Glass.

22. SENATOR GLASS:

23. The...you mean what...what amount of pain and suffering
24. could be awarded in the death...a wrongful death case?

25. PRESIDING OFFICER: (SENATOR DONNEWALD)

26. Senator Hynes.

27. SENATOR HYNES:

28. As I read the amendment, it provides that in any action
29. on account of personal injuries and that would include a
30. medical malpractice case, an automobile case, a products liability
31. case, public liability case of any kind arising out of the
32. use of equipment or negligent operation of a plant and so on
33. and so forth, in any of those cases the maximum recovery of

1. the plaintiff will be two hundred and fifty thousand dollars
2. other than hospital and medical expenses, loss of earnings
3. and other actual expenses. Now, is the loss of earnings
4. thing limited to the...to the loss of earnings up to the
5. time of death. Is there going to be an impact on...what would
6. be the ordinary measure of damages in a wrongful death case?

7. PRESIDING OFFICER: (SENATOR DONNEWALD)

8. Senator Glass.

9. SENATOR GLASS:

10. Well, Senator Hynes, I would say certainly not. I think
11. loss of earnings is clear. Compensation is allowed for loss
12. of earnings without limitation. The only cap placed on is
13. for other...other expenses other than those mentioned in the
14. amendment. So, I...I...my answer to you would be that future
15. loss of earnings is certainly fully compensable.

16. PRESIDING OFFICER: (SENATOR DONNEWALD)

17. Senator Hynes.

18. SENATOR HYNES:

19. Well, I...I would like to address a comment to this amend-
20. ment, and I, frankly, there are so many amendments here on
21. the desk it's hard to sort them out, but this amendment, the
22. one dealing with attorney's fees, the one dealing with periodic
23. payments in personal injury cases, the one that we just voted
24. on dealing with the verdicts, all of them apply across the
25. board in any action involving personal injury. There is no
26. limitation in medical malpractice which is what we are here
27. to resolve and...and is the subject that we are trying to do
28. something about. And it seems to me that we are being pre-
29. sented these amendments which are going to have a much more
30. substantial and dramatic and far reaching impact in other
31. areas than they are in medical malpractice. In fact, in terms
32. of the total premiums involved, the total payments involved
33. from insurance companies, medical malpractice is only a tiny,

1. tiny percentage of what is at issue here, and we are using
2. a highly emotional issue, the ability of the people of this
3. State to get adequate medical care in order to ram something
4. through that is going to have an impact on all other areas,
5. and I don't think that the two...two subjects ought to be
6. considered together. We ought to address the subject of
7. medical malpractice and try and do something about it,
8. which I think these bills do, and not be attempting to adopt
9. amendments which have far reaching effects outside the area
10. we are supposed to be considering. And I don't think that
11. message is getting through. Anyone looking at this series
12. of amendments might think that the amendments are geared
13. strictly to the medical malpractice question. Well, if I
14. were an official of an insurance company these amendments
15. would be significant, not from a medical malpractice point
16. of view, but from the point of view of all of the other risks
17. that are insured by my company. I think that these have no
18. place here whatsoever, and if this kind of problem is to be
19. addressed it ought to be addressed in...in the context of medical mal-
20. practice, not as a general public liability question which is
21. what this is all about. These amendments are absolutely out
22. of place here and ought to be defeated.

23. PRESIDING OFFICER: (SENATOR DONNEWALD)

24. Senator Johns.

25. SENATOR JOHNS:

26. Mr. President, I doubt if any of the other members have
27. had the privilege that I've had for the last twenty years;
28. probably some people wouldn't consider it a privilege, but it
29. is to me. I've had a brother that's been paralyzed for twenty
30. years as a result of an automobile accident, and I can tell
31. you gentlemen that this cap is not sufficient. When you think
32. of wheelchairs, electric beds, lifts, catheters, bandages,
33. just food and clothing and housing, I can tell you that only

1. through the perseverance of my other brother and I have we
2. been able to maintain a home for him and care for him. And
3. it has been a privilege, but I tell you that two hundred and
4. fifty thousand dollars doesn't touch twenty years of medicine
5. and care and custody. And I would say to you gentlemen in
6. all essence, I remember what the Secretary of State, Paul
7. Powell, said to me one time when I was a little blue about
8. the problem that I had. He said - this is the burden that
9. you have to bear...and I resent the whistles at that time.
10. I can take it any other time, but...

11. PRESIDING OFFICER: (SENATOR DONNEWALD)

12. Just...just a moment. Senator Glass, for what purpose
13. do you arise?

14. SENATOR GLASS:

15. Mr. President, to clarify something if I may that Senator
16. Johns is...is saying, because I think from his remarks he
17. may not be construing the bill correctly. Senator Johns,
18. all of those expenses that you were referring to would be
19. fully compensated under this amendment. Any...any hospital
20. expenses, loss of earnings, or actual payments...

21. PRESIDING OFFICER: (SENATOR DONNEWALD)

22. Just...just a moment. Now, that happens to be a matter
23. for debate, and the Chair will rule that Senator Johns continue.

24. SENATOR JOHNS:

25. (Machine cut-off) just tell you, Gentlemen, at that time
26. there's never been anybody come to us, insurance companies
27. or anybody else and say, you know, we're ready to assist you.
28. We've had to beg and borrow and to seek assistance at every point
29. in our lives for the last twenty years, and I tell you that
30. two hundred and fifty thousand dollars is a small figure for
31. twenty years of hardship for a family.

32. PRESIDING OFFICER: (SENATOR DONNEWALD)

33. Senator Knuppel.

1. SENATOR KNUPPEL:

2. Mr. Chairman and members of the Body, I think Senator
3. Hynes has really touched the tender nerve that runs through
4. this particular amendment, and maybe through most of these.
5. This says, "in all action." Now, I submit we're dealing with
6. a single solitary problem. That is furnishing health ser-
7. vices to the citizens of this State. I don't think we should
8. be reaching out into the areas of negligence with respect
9. to automobiles or other types of negligence. This is a
10. thinly disguised attempt through, probably, unsuspecting members
11. of this Body, by the insurance industry to benefit itself at
12. the expense of the citizenry and also of the medical profession,
13. the legal profession, but most of all to the consumer. This
14. particular provision is not limited as to the number of per-
15. sons who may be plaintiffs in a single suit. It says there'll
16. be a cap of two hundred and fifty thousand. It's not limited
17. to any single individual in its terminology, provides nothing
18. for dismemberment, which is allowed even in Workmen's Compen-
19. sation cases. I think that this is...that this question,
20. this problem is so deep that it's going to be with us for a
21. long, long time and the only way that we're going to solve it
22. is as we did industrial cases where we take the single solitary
23. issue of medical malpractice when the situation becomes so
24. acute that in order to provide worthwhile medical services,
25. that we must treat this differently than we do other negligence
26. cases. This amendment does not, I repeat, does not treat a
27. medical malpractice only. And if I were the sponsor of the
28. amendment I think that I would want to withdraw it at this
29. time and make very sure, make very sure that I wasn't being
30. used by the insurance industry to help itself in other cases,
31. and to provide that only in medical malpractice cases that I
32. was providing such a cap. I don't think that it does this. I
33. think it could be construed to...to go further into other cases

1. than in the...than medical malpractice cases, because it says
2. in all actions, in all actions. I don't think this is what
3. you intended and I...I think that it would be a bonanza for
4. the insurance industry at the expense of our citizens.

5. PRESIDING OFFICER: (SENATOR DONNEWALD)

6. Senator Bell.

7. SENATOR BELL:

8. Thank you, Mr. President. I guess I'll be speaking in
9. favor of this amendment. I...I certainly refute what Senator
10. Knuppel, in his infinite wisdom, has been saying here and
11. Senator Hynes and his wisdom. You know, actually, they are
12. correct in the instance that they're saying that the problem
13. of liability as addressed in this amendment, goes beyond the
14. medical malpractice aspect. Ladies and Gentlemen of the Senate,
15. in my humble opinion that certainly is true, because that cer-
16. tainly is what is part and parcel of the problem that we have
17. in reference to the whole liability question today, and you
18. can't particularly address one aspect of the liability problem,
19. as we're talking about in malpractice, without being faced
20. with the problem in reference to products liability where they're
21. going to have an increase going on in the next few years in
22. probably an excess of three hundred percent. The whole aspect
23. of liability is a crucial thing to our society today. Now, I
24. don't know of anybody here in the General Assembly that isn't
25. concerned about people problems. That's why we're down here
26. trying to serve our districts and the people of the State of
27. Illinois. We have a very different manner sometimes of how
28. we try to arrive at...at solving those particular problems. And
29. I've got to tell you that, in my opinion, this whole problem of
30. liability as personified here in medical malpractice liability
31. is what we're having problems about in our general society to-
32. day. You know the fuzzy headed do-gooders are actually going
33. to bankrupt this State and this Nation. And actually what we're

1. talking about in terms of arriving at some form of an economic
2. cap has got to take place. Somewhere along the line we have
3. to draw a line. Now, we're either going to start, you know,
4. doing these jobs that are distasteful that at somewhere along
5. the line start, I suppose, hurting people to some degree, but
6. we've got to do it in terms of arriving at the greater means
7. of resolving the problems that we're faced with. Otherwise
8. we're going to have, you know, maybe four people carrying the
9. economic burdens of the other ten. And all of this, I submit
10. to you, hangs together with the whole problem that we're
11. having in society today, and liability is only one personifi-
12. cation of it, and so, I think we ought to start with some
13. kind of a reasonable cap, and I think this is a reasonable
14. cap and ought to be enacted.

15. PRESIDING OFFICER: (SENATOR DONNEWALD)

16. Senator Carroll. Senator Hynes, for what purpose do
17. you arise?

18. SENATOR HYNES:

19. I...I was going to make a parliamentary objection, and I
20. want you to know, Mr. President, that I'm going to withdraw
21. it, because Senator Bell's remarks were on point, because this
22. is, in fact, a products liability bill...or we are attempting
23. to make it that. Products liability, automobile negligence
24. cases, general public liability questions, we are in the pro-
25. cess of expanding this bill to cover all of those areas and
26. not just medical malpractice, so, therefore, I think his...his
27. comments were in order.

28. PRESIDING OFFICER: (SENATOR DONNEWALD)

29. So, you're withdrawing your point. I see. Senator Carroll.

30. SENATOR CARROLL:

31. Thank you, Mr. President and members of the Senate. I,
32. too, rise to oppose this amendment, and I do so for very specific
33. reasons. Many of you will recall that I was probably the first,

1. and maybe the only who surfaced the cap issue a year ago when
2. the...when the malpractice legislation passed, and suggested
3. to this Body, as well as others, that putting that type of
4. cap on recovery would have to be held unconstitutional. I
5. also suggested at that time some type of a trust fund, but on
6. this particular amendment we are talking about a limit on all
7. future payments. When you use the word "incurred", especially
8. when you have not given the court continuing supervision,
9. you are saying that the plaintiff is only entitled to recover
10. those bills he has paid up to time of judgement, 'cause those
11. are the only bills he has incurred up till that point. So,
12. you're saying again to the type of case that Senator Johns referred
13. to and the other types of cases we have heard, both malpractice
14. and otherwise, that all future expenses will have to come out
15. of that capped recovery, and when you're talking about all
16. kinds of tort law, what about punitive damages? In many
17. cases in tort law they upheld the court, the jury by specific
18. recommendation that there shall be punitive damages. But,
19. this says no. When someone was so wrong that a jury awarded
20. punitive damages, this says no those cannot be paid. I
21. don't think that's the way we want to go. And while we're
22. talking about malpractice as well as all tort law, as we are,
23. and we're talking about the insurance premium crisis in Illinois,
24. I would just remind you to read some of the literature we get,
25. including that from the Medical Society, which indicates in
26. only twenty-five percent of the premium dollar is ever re-
27. turned to a patient in malpractice claims. Only twenty-
28. five cents on every malpractice premium dollar actually goes
29. to pay a claim. The rest of it the insurance company uses
30. for what they call their overhead. And I think when we're
31. talking about twenty-five cents out of a dollar we can look
32. a little more realistically at what the insurance companies
33. are throwing before us. I think this cap is not only unconstitutional

1. but works to the detriment of all of the citizens of Illinois
2. on all of their future expenses as well as their loss and
3. their personal injury. Thank you.

4. PRESIDING OFFICER: (SENATOR DONNEWALD)

5. Senator Bruce.

6. SENATOR BRUCE:

7. Thank you, Mr. President and members of the Senate. I
8. rise in opposition to Amendment No. 4 on many of the same
9. grounds that Senator Carroll has just expressed, and that
10. is we're no longer talking just about the negligent person,
11. we're now talking about the person who acts intentionally
12. or maliciously, and he can, although there are several others
13. who may have from time to time have thoughts along these
14. lines. He can insure himself with two hundred and fifty thousand
15. dollars and commit a malicious or intentional act and realize
16. that he will suffer no personal loss whatsoever, no punitive
17. damages, no problems. He can get away with any act in this
18. State for a fee of two hundred and fifty thousand dollars.
19. Additionally, I think that we have missed the point of the
20. court opinion on medical malpractice in which they stated that
21. they might approve some ceiling if there was a quid pro quo
22. as expressed by the court in...in Workmen's Compensation
23. where there is no proof of negligence required. I don't see
24. the quid pro quo and perhaps in the closing arguments Senator
25. Glass can indicate what...what have the doctors or what have
26. the tort-feasors in the State of Illinois given up, what...
27. what have they given to the people who are injured to...to
28. balance the scale so that the two hundred and fifty thousand
29. dollar limitation we have placed on the injured is somehow
30. offset by some benefit they get in the tort system.

31. PRESIDING OFFICER: (SENATOR DONNEWALD)

32. Senator Bloom. Is there further discussion on the first
33. round? Senator Berning, have you addressed yourself to this

1. particular...

2. SENATOR BERNING:

3. No, Mr. President.

4. PRESIDING OFFICER: (SENATOR DONNEWALD)

5. ...amendment? You may speak. Senator Berning.

6. SENATOR BERNING:

7. Just very briefly, Mr. President. I think perhaps you

8. and I are among the very few who don't seem to have a vested

9. interest in this amendment and in this whole legislation.

10. I just want to know whether your quid is as pro as my quo.

11. There is unfortunately, Mr. President, one aspect of this

12. whole argument that seems to be missed, and that is, that you

13. and I, Mr. President, as the attorneys carry out their bicker-

14. ings and their settlements and their influences with the juries,

15. we, you and I, have to pay the piper and that is the reason

16. that I support this kind of legislation.

17. PRESIDING OFFICER: (SENATOR DONNEWALD)

18. Is there further discussion? Senator Buzbee on the 2nd

19. time around.

20. SENATOR BUZBEE:

21. Mr. President, the reason I wanted to speak a second time

22. was, Senator Carroll answered half of my question as to the...

23. using Senator Johns' example there as to the...the claim will

24. be paid up to the time of the court settlement, but any future

25. claims, as in Senator Johns' case, would not be covered, it's

26. my understanding. Senator Glass, I would like to...I would

27. like to ask one other question. What kind of pain and suffering

28. would you expect a young surgical intern or surgical resident

29. who may be earning ten or twelve thousand dollars a year but

30. who's...if he were to be injured, let's say permanently dis-

31. abled, what...

32. PRESIDING OFFICER: (SENATOR DONNEWALD)

33. Well...well...

1. SENATOR BUZBEE:
2. No, I'm not finished yet.
3. PRESIDING OFFICER: (SENATOR DONNEWALD)
4. Well, before you finish your question I want to recog-
5. nize Senator Don Moore to welcome back one of our constituents.
6. Senator Don Moore.
7. SENATOR MOORE:
8. On a point of personal privilege, Mr. President.
9. PRESIDING OFFICER: (SENATOR DONNEWALD)
10. State your point.
11. SENATOR MOORE:
12. I'd like the Senate to stand and recognize our colleague
13. and we're real happy to see him back, Senator John Graham.
14. And he promises that he will be here until June 30th.
15. PRESIDING OFFICER: (SENATOR DONNEWALD)
16. Senator Graham.
17. SENATOR GRAHAM:
18. Thank you, Mr. President and thank you, Senator Moore.
19. If you want to say anything in the little black box, just
20. come up and I'll get you recorded.
21. PRESIDING OFFICER: (SENATOR DONNEWALD)
22. We'll be very careful.
23. SENATOR GRAHAM:
24. But, I do...in all sincerity I...you don't know how much
25. you really miss this group until you're gone for awhile. You've
26. been absolutely marvelous in your correspondence and your
27. phone calls and your best wishes, and I'm back on a kind of
28. a pass, a temporary thing, but I'm just coming along fine and
29. your prayers and good wishes have helped. Thank you so very
30. much.
31. PRESIDING OFFICER: (SENATOR DONNEWALD)
32. Senator Buzbee, you may complete your question.
33. SENATOR BUZBEE:

1. Well, Senator Graham, you came back right at the right
2. time. We're in the...in the...right in the midst of some-
3. thing that is noncontroversial all together, so, well...
4. Senator Glass, let's take the case of the 3rd year medical
5. student or who is, perhaps, serving in an internship, or
6. perhaps a residency in...in brain surgery. As a resident
7. he's probably earning twelve thousand dollars a year, as a
8. brain surgeon three months later he can expect to earn an
9. average of probably seventy-five thousand dollars a year.
10. Or let's take the case of a young Princeton graduate who's
11. just completed Northwestern Law School. Where would he be
12. in that economic spector if he is in the third year of law
13. school? Could he expect then to be compensated under the
14. economic portion on the basis of his earnings as a law student
15. or on the basis of what he will be earning the following
16. year as a corporate attorney or perhaps a trial lawyer? Can
17. ...can any of that be taken into consideration in the...in
18. the economic portion of the suit or should he be compensated
19. in the pain and suffering portion?

20. PRESIDING OFFICER: (SENATOR DONNEWALD)

21. Senator Glass.

22. SENATOR GLASS:

23. Well, Senator Buzbee, it is my intention and I want to
24. make the record clear on this, that that in your example the
25. individual should be able under this amendment to be compen-
26. sated under the economic portion for his future loss of earn-
27. ings. Senator Carroll has raised an issue with the language
28. of the bill in which the actual language states - other than
29. the plaintiff's hospital and medical expenses, loss of earn-
30. ings and other actual expenses incurred. Now, if...if the..
31. if it needs to be cleaned up, if this amendment gets on and
32. if...if that needs to be cleaned up to clarify that the in-
33. tention is, future loss of earnings are to be fully compensated,

1. I will certainly accede to any language request, but it cer-
2. tainly is my intention to only cover on the cap the pain and
3. suffering or the noneconomic loss.

4. PRESIDING OFFICER: (SENATOR DONNEWALD)

5. Is there further discussion? Senator Glass, you may
6. close the debate.

7. SENATOR GLASS:

8. Well, thank you, Mr. President. I'm going to...to be
9. as brief as possible, but there are a couple of specifics
10. to which I want to respond. One of them I think Senator Bruce
11. made reference to, Senator Lemke, Senator Partee, on whether
12. this is constitutional. It is true, Ladies and Gentlemen
13. that this Body voted overwhelmingly to put a five hundred
14. thousand dollar limit on all medical malpractice loss and
15. that was held unconstitutional, and one of the reasons given
16. by the court, and I think the main reason was that we discrimi-
17. nated between those plaintiffs that received smaller awards,
18. because there was no limit on...on those plaintiffs. They
19. could get the full amount of their loss, but as to those with
20. larger injuries in excess of five hundred thousand as to that
21. classification of plaintiffs there was a limit, and for that
22. reason it was unconstitutional. Now, in order to avoid the
23. unconstitutionality, this amendment applies to all plaintiffs
24. with regard to pain and suffering and it applies to all types
25. of injury cases, so I think it has an excellent chance of being
26. sustained in this form. Senator Hynes, with reference to
27. death cases I don't know if I fully understood your comments
28. at the time, but my counsel, Senator Fawell, reminds me that
29. in death cases it's pecuniary loss to the next of kin, which
30. is awarded, and I don't see that there is any limitation by
31. virtue of this bill in those cases. I...I would just close
32. the...I think this has been well debated. I would just close
33. by saying that, again, this is a tangible very significant way

1. to reduce medical malpractice premiums. It's drafted in a
2. manner which I believe to be constitutional, and I would
3. certainly urge a favorable vote of everybody and, Mr. Presi-
4. dent, I would request a roll call on this amendment.

5. PRESIDING OFFICER: (SENATOR DONNEWALD)

6. Question is, shall Amendment No. 4 be adopted? Those
7. in favor vote Aye. Those opposed Nay. The voting is open.
8. Have all those voted who wish? Take the record. On that
9. question the Ayes are 19, the Nays are 32, none Voting Present.
10. Amendment No. 4 to House Bill 3957 fails. Are there further
11. amendments?

12. SECRETARY:

13. Amendment No. 5, offered by Senator Glass and it begins
14. as follows:

15. (Secretary reads Amendment No. 5)

16. PRESIDING OFFICER: (SENATOR DONNEWALD)

17. Senator Glass.

18. SENATOR GLASS:

19. Well, Ladies and Gentlemen, this amendment places a
20. limit on the amount of attorneys' fees which can be recovered
21. in these cases. Now, I think a couple of observations are
22. in order. First of all, I would say the primary purpose of
23. this amendment is to get more of the premium dollars in the
24. hands of the injured party rather than going out in attorneys'
25. fees. Let's see if we can't get more of the dollars paid for
26. medical malpractice in the...in the hands of the party that's
27. injured. That's one of the major problems in this area that
28. ...that the patient, the person that everybody today has been
29. espousing the cause for is...is the individual who ends up
30. getting a relatively small percent of the award. And to make
31. sure that we do something about that, this bill would place
32. what I think is an extremely reasonable limit on attorneys'
33. fees, and that limit is as follows. If the award or judgement

1. is between one dollar and fifty thousand dollars there is no
2. limit, there is no limit at all on attorneys' fees. From
3. fifty thousand to one hundred thousand dollars, the limit
4. is thirty-three and a third percent of the amount recovered.
5. From one hundred thousand to two hundred thousand dollars
6. there is a twenty-five percent limit on the amount recovered,
7. and for judgements or awards in excess of two hundred thou-
8. sand dollars the limit is fifteen percent of the amount re-
9. covered. I would submit to you, Ladies and Gentlemen that
10. these percentages leave all attorneys with an entirely adequate
11. fee in any of these cases and at the same time begin to make
12. a reasonable impact on...on the attorneys' fees portion of
13. the awards. Be happy to answer any questions, and I would
14. urge the membership to approve this amendment.

15. PRESIDING OFFICER: (SENATOR DONNEWALD)

16. Senator Bell.

17. SENATOR BELL:

18. Yeah, thank you, Mr. President, I was just wondering
19. whether the attorneys are going to recognize the conflict
20. of interest aspect that this dictates to them, and I would
21. suggest that Senator Knuppel's comments are really very
22. appropriate at this time, and that as a Body they probably
23. shouldn't vote on this. Of course, it is a limiting factor,
24. I guess, that Senator Glass' amendment addresses itself to,
25. so maybe the debate will be very enlightening here.

26. PRESIDING OFFICER: (SENATOR DONNEWALD)

27. Senator Knuppel.

28. SENATOR KNUPPEL:

29. I want to declare that in this area I'm a small town
30. lawyer and I never get verdicts of over fifty thousand cause
31. I don't get those big cases, so there's no conflict of interest.
32. Now, a minute ago I noticed that Senator Berning said you
33. had no conflict of interest. I think this is where you better

1. declare your conflict of interest, Senator Donnewald, but
2. I would call...well, he handles five or six cases like that
3. big one there a year, but I would call on the lawyers in this
4. case. There's so few...there's so few...
5. PRESIDING OFFICER: (SENATOR DONNEWALD)
6. Point...point of order. Not for the last six or seven
7. years, Senator.
8. SENATOR KNUPPTEL:
9. Oh, well, all right. But, there's so...there are so
10. few judgements that attorneys in this Body have that are of
11. that consequence that unless you can find something else wrong
12. with this bill, I'd hasten to urge all of you to vote for
13. this amendment.
14. PRESIDING OFFICER: (SENATOR DONNEWALD)
15. Senator Partee.
16. SENATOR PARTEE:
17. (Inaudible)
18. PRESIDING OFFICER: (SENATOR DONNEWALD)
19. Senator Kenneth Hall.
20. SENATOR KENNETH HALL:
21. Would the sponsor yield for a question?
22. PRESIDING OFFICER: (SENATOR DONNEWALD)
23. He indicates he will.
24. SENATOR KENNETH HALL:
25. Senator Glass, as a non-lawyer I'd like to ask you this.
26. Does this put a limit on doctors and hospitals also?
27. PRESIDING OFFICER: (SENATOR DONNEWALD)
28. Senator Glass.
29. SENATOR GLASS:
30. No, Senator, this only limits attorneys' fees.
31. PRESIDING OFFICER: (SENATOR DONNEWALD)
32. Senator Kenneth Hall.
33. SENATOR KENNETH HALL:

1. Well, what is your reasoning for not including others?
2. PRESIDING OFFICER: (SENATOR DONNEWALD)
3. Senator Glass.
4. SENATOR GLASS:
5. Well, the...I suppose to get at your question, in one
6. way you could say that in...in...in the case of hospital
7. bills and doctor bills that an injured party has to pay,
8. it's possible for that party to recover the full amount of
9. those. Now, in...in...because we didn't add the last amend-
10. ment there's no...no limit whatever on...on what he can re-
11. cover. But, we're only saying that once the individual has
12. received a judgement or an award there ought to be some limit
13. on the portion that that injured party gets to keep as opposed
14. to how much is paid out in attorneys fees, so this...this
15. just goes to that one portion of the problem.
16. PRESIDING OFFICER: (SENATOR DONNEWALD)
17. Senator Egan.
18. SENATOR EGAN:
19. Yes, thank you, Mr. President and members of the Senate.
20. I am not totally unsympathetic with this amendment, but it...it
21. does raise two questions in my mind and they are number...be-
22. side from the constitutionality, they are number one, what is
23. this going to do to lower premiums on insurance coverage for
24. medical malpractitioners? One. If I could ask Senator Glass
25. to explain that to me.
26. PRESIDING OFFICER: (SENATOR DONNEWALD)
27. Senator Glass, did you...
28. SENATOR GLASS:
29. Could he repeat the question, please? I'm sorry, I was...
30. PRESIDING OFFICER: (SENATOR DONNEWALD)
31. Senator Egan, he was busy consulting.
32. SENATOR EGAN:
33. If...if you would, Senator Glass, without delaying the

1. process, try to explain to me how in the devil this is going
2. to reduce medical malpractice insurance premiums. Number
3. one, then I have another question.
4. PRESIDING OFFICER: (SENATOR DONNEWALD)
5. Senator Glass.
6. SENATOR GLASS:
7. I'm not so sure it will reduce premiums, Senator Egan.
8. It will get more money hopefully in the hands of the injured
9. party. More of the premium dollar that is paid to the...
10. to the injured party.
11. PRESIDING OFFICER: (SENATOR DONNEWALD)
12. Senator Egan.
13. SENATOR EGAN:
14. Yes, but this addresses itself again to all personal
15. injury judgements, does it not?
16. PRESIDING OFFICER: (SENATOR DONNEWALD)
17. Senator Glass.
18. SENATOR GLASS:
19. Yes. I want to be sure that's a correct answer, but...yes.
20. PRESIDING OFFICER: (SENATOR DONNEWALD)
21. Senator Egan.
22. SENATOR EGAN:
23. Yes, well, it amends Chapter 13, and that's the attorneys
24. chapter and that means that attorneys cannot get more than
25. x number of dollars in...in judgements in excess of fifty
26. thousand in all personal injury cases, and not just personal
27. injury, but all damage cases...and all contingent fees. It
28. might even cover all contingent fees. If I took a contract
29. contingent fee it would apply to that. How...how...
30. PRESIDING OFFICER: (SENATOR DONNEWALD)
31. Senator Glass.
32. SENATOR EGAN:
33. ...is this conceivably going to do any good for the

1. doctors and the medical...the medical malpractioners and
2. the...and I thought that's what we were addressing our-
3. selves' to.

4. PRESIDING OFFICER: (SENATOR DONNEWALD)

5. Senator Glass.

6. SENATOR GLASS:

7. Well, Senator Egan, the Medical Malpractice Commission
8. from which this recommendation came, was concerned with all
9. phases of the medical malpractice problem. Now, in Senator
10. Partee's bill the only provisions are not those which would
11. reduce premiums. There are also provisions which would hope-
12. fully make the standards of health care better. They would
13. give patients the right to inspect their medical records
14. and...and other things, so the...the amendments do not only
15. seek to reduce premiums, but address the entire problem, and
16. I think I've given you the only answer I can on the reason
17. for this amendment.

18. PRESIDING OFFICER: (SENATOR DONNEWALD)

19. Senator Egan.

20. SENATOR EGAN:

21. Yes, thank you, Senator Glass. I'm sure that that's
22. possibly the only possible reason, but it addresses itself
23. so broadly that we are not addressing ourselves any longer
24. to medical malpractice, but now we take up a brand new sub-
25. ject as to how lawyers and how much they're going to be paid.
26. My second question was, does it apply to the counterclaims
27. that the...that the...that the doctor is going to file against
28. all of the...the legal malpractioners?

29. PRESIDING OFFICER: (SENATOR DONNEWALD)

30. Senator Glass.

31. SENATOR GLASS:

32. The bill or the amendment applies to any contingent fee
33. arrangement, so I suppose it certainly would apply to those.

1. I would...I would point out to...in...in view of Senator Egan's
2. question that the membership should note that in special
3. circumstances where an attorney performs extra ordinary ser-
4. vices involving more than usual participation in time and
5. effort, that he may apply to the court for approval of additional
6. compensation. So, the door is not absolutely closed.

7. PRESIDING OFFICER: (SENATOR DONNEWALD)

8. Just...just a moment. Now, we have...we have a multi-
9. tude of Senators that wish to speak and the next on the list
10. is Senator ParTEE.

11. SENATOR PARTEE:

12. Let me make it crystal clear that I'm not a personal
13. injury lawyer and in the twenty-five years that I've practiced
14. I've had probably less than two cases in a...that went to
15. court in this area. This is not my field and all cases
16. that come into my office of this nature are referred to per-
17. sons who have expertise in this field. But, it's interest-
18. ing to me that you place a limit on the contingency fees of
19. lawyers representing injured people, many of whom are poor
20. and unable to hire lawyers to do battle with the defense
21. lawyers who represent the insurance companies. I note in
22. your amendment no limitation on the amount of money that
23. may be spent by an insurance company with its lawyers. There
24. is no limitation on defense lawyers. It's only on those
25. representing the plaintiff. The contingency fee arrangement
26. has been accurately described as a poor man's key to the
27. court house. A poor man who is injured, who goes up against
28. an insurance company that has large, large law firms repre-
29. senting it, cannot afford to do battle in court with those
30. lawyers. If he has a case that's worth two hundred and fifty
31. thousand dollars to him and his injury he likely, if you put
32. a contingency...a limitation on contingency fees, he's likely
33. to have to take fifty thousand dollars instead of the two

1. hundred to which he's entitled, because he can't fight all
2. the way up, but if he can take a lawyer who will take it
3. on a contingency, the lawyer, then, has the sufficient in-
4. spiration and encouragement to keep trying to get the top
5. dollar for that individual. You're taking the key...the
6. poor man's key to the court house, away from him by this
7. limitation, and although you say that you're concerned about
8. more premium dollars going to the injured, what you're really
9. saying is, that there'll be a heck of a lot less...less law
10. suits that go to final judgement, because people won't be
11. able to afford to get them there, because a man who's in-
12. jured has not the resources to hire a lawyer to do battle
13. with the insurance company. There's also a question, in
14. my judgement, as to whether or not the Legislature can place
15. this delimitation on the leg of legal profession. Supreme
16. Court, in my judgement, only holds that jurisdiction, and
17. I'm not certain that if you put this in here that this bill
18. would not be unconstitutional. I don't understand it, except
19. I do. It's not what you say it is. It's what you desire
20. to accomplish. I've always been told there are two...two
21. reasons for everything, a good reason and a real reason. You've
22. given us a good reason, the real reason we know what it is,
23. it's in the interest of the insurance companies, and you are
24. really taking from the poor man or those who are unable to
25. finance these actions. You're taking that stroke away from
26. him. You are, indeed. This amendment should also fail.

27. PRESIDING OFFICER: (SENATOR DONNEWALD)

28. Senator Lemke.

29. SENATOR LEMKE:

30. This is another attempt at class legislation. This
31. amendment slaps at the poor, but put no limitation on how
32. much a wealthy person can pay for a fee. It is known in the
33. business that a wealthy person doesn't deal in contingency

1. fields. He deals in flat fees. He has an attorney on re-
2. tainer and he's paid a flat hourly rate. This bill does
3. not do nothing to limit how much that person can charge on
4. a flat basis. It only limits those people that can't afford
5. to pay an hourly rate to a lawyer to handle a case in court.
6. It also prompts an attorney to settle the case quicker with
7. a insurance carrier and maybe settling for less money, because
8. there are some unscrupulous lawyers that will settle for
9. less when it means more to them in the pocket, and this is
10. an amendment that slaps at the poor but does nothing to affect
11. the fees that a wealthy person can pay to a lawyer or the
12. insurance carrier. This is a one-sided amendment, a one-
13. sided sword which cuts at the little person, as all the amend-
14. ments have, as the attempt has always been by the other side
15. of the aisle to slap at the working man, the man that doesn't
16. have the chance to go on and get an education, but has to
17. work with his back, and that's what we're doing here. We're
18. slapping again at the little guy and not at the big guy.
19. And there's nothing in this amendment which will show that
20. the premiums on malpractice will be decreased, and that's
21. what we're talking about in the newspapers. The costs are
22. going up because of insurance premiums. What is being done,
23. if these bills pass, to cut insurance premiums for doctors so,
24. therefore, charges to the persons will be cut? Nothing. It's
25. just a surface to protect one industry, the insurance industry,
26. that's all we want to protect. I ask for a vote against this
27. amendment.

28. PRESIDING OFFICER: (SENATOR DONNEWALD)

29. Senator Palmer.

30. SENATOR PALMER:

31. Mr. President and members of the Senate, of course, since
32. I've raised my hand, several of the things I wanted to say has
33. been expressed, and of course I want something crystal clear,

1. that I am definitely looking forward to receive a fee in
2. excess of fifty thousand dollars and also in excess of a
3. hundred thousand dollars. But, there has been some frustra-
4. tion expressed by Senator Egan and Senator Lemke and Senator
5. Partee because in no way does this amendment in any way
6. solve the problems that are created in the malpractice
7. crisis. Now, you have said, Senator Glass, and I'd like
8. for you to answer me this question, that your reason for this
9. amendment is to see that more money shall inure to the benefit
10. of the injured the person. Now, why have you introduced
11. here, prior to this amendment, two or three amendments limit-
12. ing the recovery of the...of the injured person? If you're
13. looking for the dollar to get to the injured person, why
14. are you filing amendments to cap it? That does not show
15. sincerity to me. Will you answer me that question?

16. PRESIDING OFFICER: (SENATOR DONNEWALD)

17. Senator Glass.

18. SENATOR GLASS:

19. Well, Senator Palmer, as usual, you have come up with a
20. very incisive question, but let me...let me assure you that
21. this is entirely consistent. What this does is to say of
22. the premium dollars that are being paid out, whatever the
23. amount happens to be, let's see that the injured party re-
24. ceives a larger share and that the limitations placed on the
25. attorneys are...are really very modest in this bill, as I'm
26. sure you'll agree, and the other amendment is, I think, also
27. very reasonable, placing a limit on...on pain and suffering
28. of two hundred and fifty thousand dollars, so I...I don't
29. think they're inconsistent and I think that whatever is awarded,
30. a large...the largest share possible ought to get in the
31. hands of the injured party for whom's benefit I...I suspect
32. these suits are filed.

33. PRESIDING OFFICER: (SENATOR DONNEWALD)

1. Senator Palmer.

2. SENATOR PALMER:

3. Senator Glass, I must state in front of everybody here,
4. that I do not accept your answer as proper. I do not think
5. it's a correct answer, because you cannot tell me or any-
6. body here, with any degree of sincerity that if you capped
7. a recovery that you're seeking to get a more dollars to the
8. injured person and not doing it and then by doing it by
9. taking away from the attorneys' fees, which has absolutely
10. nothing to do with the recovery. The recovery is first
11. then you pay the attorney. Now, as an attorney, and both
12. you and I are attorneys, and I'd like to ask you a...the
13. constitutionality about this here. Do you think it's proper
14. to limit attorneys' fees and not limit the architect's fees
15. and not limit the carpenter's fees and not limit the butcher's
16. fees and not limit any other tradesmen and not limit any
17. other professional person, do you think that that would be
18. constitutional?

19. PRESIDING OFFICER: (SENATOR DONNEWALD)

20. Senator Glass.

21. SENATOR GLASS:

22. I think it would, Senator, and I would remind you that
23. these are contingent fee arrangements and not flat fees.

24. PRESIDING OFFICER: (SENATOR DONNEWALD)

25. Senator Palmer.

26. SENATOR PALMER:

27. Contingent or not, you are limiting fees in one profession,
28. not another. You're limiting fees in one...one profession
29. and not a trade, and one more area of constitutionality is not
30. a provision and...and a law of this nature interfering with
31. the right of persons to contract.

32. PRESIDING OFFICER: (SENATOR DONNEWALD)

33. Senator Glass.

1. SENATOR GLASS:

2. Well, Senator, as you know limitations are placed on
3. attorneys' fees under the law and for Workmen's Compensation.
4. The amount of recovery is...is, in fact, limited and I...I
5. don't think you'll find this is anymore an interference than that,
6. and I'm sure you wouldn't want to say that was unconstitutional.

7. PRESIDING OFFICER: (SENATOR DONNEWALD)

8. Senator Palmer.

9. SENATOR PALMER:

10. Just want to close and I'd come back to how Senator Bruce
11. has explained to you that Workmen's Compensation is a separate
12. Act dealing with quid pro quos. This is entirely different.
13. You have no quid pro quo here and I'm not going to start ex-
14. plaining quid pro quo because Senator Berning might come up
15. with a question there, but I...I do not accept your answer on
16. that either.

17. PRESIDING OFFICER: (SENATOR DONNEWALD)

18. Senator Harris. Senator Harris Fawell.

19. SENATOR FAWELL:

20. I...I have some mixed emotions here. I was prepared to
21. vote for this amendment because I had assumed that it pertained
22. to malpractice and possibly on to personal injury, but as I...
23. as I read the amendment, Senator Glass, and correct me if I
24. am not construing it correctly, it apparently would cover any
25. contingency arrangement in which an attorney would enter into
26. with his client. Thus, it would cover eminent domain, contract,
27. class action suits, for instance, anti-trust actions, I suppose
28. you know, any type of an action in which an attorney may con-
29. tract with his client, and thus I think it has gone much farther
30. afield than perhaps you...you intended. In addition, I would
31. ask all of you to look at subparagraph B, because it goes fur-
32. ther and states that you're going to have to have this agreement
33. in writing. It must be signed by the plaintiff or the counter-

1. claimant and of course you've got problems there: Many times
2. in class actions you...I don't know how you can possibly do
3. that and I don't know how you can do it in some cases where
4. you're representing minors, representing unknown parties. I...
5. I don't know why it is necessary that we go to the further ex-
6. tent of saying you've got to put it all in writing. What you
7. are saying is - well, if there is a contingency arrangement, be
8. assured of this, you can't get more than, and I think the per-
9. centages here are fair. I wouldn't argue with them. At even
10. a million dollar lawsuit I think you're close to two hundred
11. thousand dollar legal fee and I...I frankly think that's...
12. that's fair, but it seems to me, Senator, that it's...it's a
13. little bit of the overkill here and perhaps it's a good example
14. of something that hasn't gone through committee where we've
15. had a chance to discuss these things and come up with something
16. that I think is more in line with what you had in mind. I re-
17. peat, I can support an amendment which would limit, insofar as
18. personal injury actions in general are concerned, contingency
19. arrangements to the percentages which you have set forth here.
20. I wouldn't suggest that it be broader than that. I don't think
21. it is even necessary that it has to be in writing. I...I just
22. don't see why, and I would suggest that perhaps you might want
23. to pull this out and...and re-draft it. It perhaps could even be
24. presented tomorrow, and I think with those limitations it would
25. be much more palatable, but at this point I...I question the
26. broadness of it, the constitutionality of it. It's...it would
27. be, in many cases, impossible to be able to fulfill, and...and
28. you'd end up with somebody saying - alright, I'll charge you if
29. a client comes in and say look, I'll give you a flat fee. It's
30. two hundred and fifty thousand dollars with a wink of the eye
31. and of course we can always work things out later. You...you
32. may drive contingency agreements out and bring in flat fee arrange-
33. ments altogether. But, again, I think if we would zero in on

1. personal injury and zero in on malpractice and say here, in
2. general, a fee arrangement which we think is fair and that
3. even may have constitutional problems, but at least it wouldn't
4. have all of the added problems which I think you have...you
5. have bought by the broadness of the amendment.

6. PRESIDING OFFICER: (SENATOR DONNEWALD)

7. Senator Glass.

8. SENATOR GLASS:

9. Well, Senator...Senator Fawell, I think your...your obser-
10. vations are probably fair. The...there was an attempt on my
11. part to get this added on in committee, but it was sent to a
12. subcommittee and...and it actually didn't have that kind of de-
13. bate. I would like a chance to offer this in a form that would
14. be satisfactory to as many of the members as possible. I don't
15. know whether Senator Partee's intentions are to call this
16. on 3rd reading today. If they are I will...with...well, in any
17. event I will withdraw this and attempt to get it re-drafted in
18. the appropriate form, but I would like to have Senator Partee,
19. perhaps, respond to that question, whether it will be called on
20. 3rd reading today.

21. PRESIDING OFFICER: (SENATOR DONNEWALD)

22. Senator Partee.

23. SENATOR PARTEE:

24. The answer is affirmative and I'll tell you why. If we
25. call it today we will probably lessen the debate than if we
26. called it some other time. Everybody else is...everybody has
27. debated this pretty thoroughly today and if we wait until to-
28. morrow or another day we go right through the same thing over
29. again. This Body has a penchant for repetitiousness. Yes,
30. I'm going to call it today.

31. PRESIDING OFFICER: (SENATOR DONNEWALD)

32. Senator Glass, is it your desire to withdraw Amendment

33. No. 4...5?

1. SENATOR GLASS:

2. Well, Mr. President, in view of Senator Partee's intention
3. to call the bill and then the fact that the time is short, I
4. don't think I...I would withdraw it. I will certainly repre-
5. sent to Senator Fawell and anyone else who feels as he does,
6. that should the amendment be added, I would be glad to accept
7. modifying language to add to the bill as it goes back to the
8. House or as it goes into Conference Committee, but I think the
9. time being what it is, I will just have to ask for a roll call
10. on it as...as it stands.

11. PRESIDING OFFICER: (SENATOR DONNEWALD)

12. Senator Hynes.

13. SENATOR HYNES:

14. Well, Mr. President, I think the questions I had have been
15. raised. The points that Senator Fawell made, I think, were
16. very good ones. We don't know how far-reaching this amendment
17. may be, because it is not limited to injury cases. It goes into
18. all areas of litigation and, in fact, there is some doubt in
19. my mind as to whether it's limited even to litigation, so that
20. it's effect in consumer cases and anti-trust suits in...in various
21. class actions, condemnation cases, any kind of litigation is not
22. clear in my mind and I think that those questions ought to be
23. resolved before an amendment of this magnitude is adopted. It
24. seems to me that whenever we leave a narrow area that we are
25. concerned with and start adopting amendments that have a broad
26. general application, which is true of the four amendments we are
27. facing now, we run the risk of putting into the law a provision
28. which is going to create problems we never anticipated. And I
29. might say, also, that with respect to a portion of the bill as
30. it came over from the House, the same question arises in my mind.
31. Namely the...the amendment to the Civil Practice Act in Section
32. 41 dealing with untrue statements. I think there are some very,
33. very serious questions there as to what impact that is going to

1. have on the right of individuals to file law suits and to what
2. extent it will have a chilling affect on the willingness of
3. people to file. So, I...I think that while there may be a
4. method of...of getting this amendment into proper form at...
5. at the present moment it raises very serious questions. The
6. only unfortunate thing in my mind at this point, insofar as I
7. personally concerned, is that the amendment whether it is adopted
8. or not is going to have any affect on me. I hope in the future
9. though that I'd be in a position where it might, just as Senator
10. Donnewald has been in this...that position for a great number
11. of years. But, right now I...I think that the amendment needs
12. some work.

13. PRESIDING OFFICER: (SENATOR DONNEWALD)

14. When did I get those big verdicts? (Machine cutoff)
15. Senator Harris.

16. SENATOR HARRIS:

17. Thank you, Mr. President. I've been listening to this
18. debate as intently as I can and I may repeat some things. I...
19. I'm dead serious. I've listened to the early part of this
20. debate and I'm really concerned about the uniqueness. I
21. think the American system of jurisprudence is somewhat unique
22. in that many other civilizations restrict the right of con-
23. tingency fee representation, but we don't in America, and I
24. think it's sound. I really am persuaded by the argument that
25. that person of truly limited means with the really good case
26. can get outstanding representation if his professional is
27. willing to join with him in the award and in the amount of
28. the award and I think that militates for the common good.
29. I, also, have a very serious question and I understand that it
30. was raised by Senator Palmer, and at the expense of being somewhat
31. repititious, but when the public policy of Illinois says - you can
32. only charge this much for things - I think there is argument then
33. that can apply it beyond other professions and other

1. trades and price fixing is something about which I'm just
 2. almost psychotic. I want our society to be as free for the
 3. pressures and the influences of the economic system to
 4. ebb and flow with as little restraint as possible, and I
 5. know that no one in this Chamber questions the sponsor's
 6. sincerity or motivation. He is absolutely committed to
 7. trying to effectively enact public policy for Illinois, to
 8. assist us in resolving the serious crisis in malpractice
 9. cases and the explosion of rates of insurance for the medi-
 10. cal or health delivery systems to insure against that problem,
 11. but I am persuaded that Amendment No. 5 does little to cure
 12. that and does much to impair an overall system of professional
 13. representation that in the main has been good for us all,
 14. and so I speak in opposition to Amendment No. 5.

15. PRESIDING OFFICER: (SENATOR ROCK)

16. Senator McCarthy.

17. SENATOR McCARTHY:

18. I'll wait on the next amendment.

19. PRESIDING OFFICER: (SENATOR ROCK)

20. All right. Any further discussion on Amendment No. 5?
 21. Senator Glass may close the debate.

22. SENATOR GLASS:

23. Well, thank you, Mr. President, Ladies and Gentlemen.
 24. What this amendment does, of course, is to place a limit on...
 25. on all contingent fees as some of the speakers have mentioned
 26. and, Senator Hynes, I...I have serious concern that if we
 27. isolate the medical malpractice field and...and limit our con-
 28. tingent fees only to that field that we run more of a risk of
 29. having the bill declared unconstitutional than if we have it
 30. apply across the board. I think the risk is, in fact, too
 31. narrowly limiting the application of this kind of a limit.
 32. Now, I would also point out to the membership what it is that
 33. you are limiting an attorney to. Lets suppose an...an attorney

1. is successful in obtaining a judgement of three hundred
2. thousand dollars for his client, and he charges the customary
3. one-third of the amount collected up to fifty thousand, that
4. would mean he would recover a fee of seventy-three thousand
5. three hundred and thirty-three dollars, which is, I think,
6. a very reasonable fee indeed. I don't think this is placing
7. an unreasonable limit on the amount that is to be received by the
8. attorneys and, in fact, it does get considerably more in the
9. hands of the injured party, because in the example I gave
10. if the injured party were...if the attorney were allowed to
11. keep up to fifty percent which is sometimes the case on
12. these contracts or a third, then you could...you can see the
13. difference in numbers on a judgement of three hundred thou-
14. sand. I think it's a very reasonable amendment and I would
15. urge a favorable roll call and, Mr. President, I would re-
16. quest a roll call.

17. PRESIDING OFFICER: (SENATOR ROCK)

18. The question is, the adoption of Amendment No. 5 to
19. House Bill 3957? Those in favor of the amendment will vote
20. Aye. Those opposed will vote Nay. The voting is open. Mr.
21. President, will you vote me No? Thank you. (Machine cutoff)
22. ...voted who wish? Take the record. On that question the
23. Ayes are 20, the Noes are 25, 5 Present. Amendment No. 5
24. fails. Further amendments?

25. SECRETARY:

26. Amendment No. 6 offered by Senator Glass.

27. (Secretary reads Amendment No. 6)

28. PRESIDING OFFICER: (SENATOR ROCK)

29. Senator Glass.

30. SENATOR GLASS:

31. Well, Mr. President, Ladies and Gentlemen, this is the
32. amendment that I offered first and withdrew from the record
33. with leave of the Body in order to provide for interest to

1. be earned on periodic payments. This is the amendment, which
2. I don't think needs much discussion, it...it simply states
3. that on settlements or awards of fifty thousand dollars
4. or more, the court may provide for periodic payments when
5. the needs of the plaintiff are so acute as to require con-
6. servation of the assets resulting from the judgement. The
7. language which has been added reads as follows - "when
8. periodic payments are ordered under this section, the part
9. of the judgement of which payment is deferred shall bear
10. interest at the rate applicable to judgements generally."
11. So, that's the way the amendment reads and I would urge
12. its adoption.

13. PRESIDING OFFICER: (SENATOR ROCK)

14. Further discussion? Senator Buzbee.

15. SENATOR BUZBEE:

16. Well, I agree...with Senator Glass that this doesn't need
17. much discussion. I would just like to point out one thing,
18. that he has now made an unpalatable amendment just a wee bit
19. more palatable, because we're still restricting the right
20. of the person to their own money. If the courts decide that's
21. your money, if they decide it's my money then only I
22. will decide how my money is to be spent, or how it's to be
23. paid to me unless the courts find me mentally incompetent,
24. and then there...there's provision for that with the Conserva-
25. tor Act, and I still submit this is a bad amendment.

26. PRESIDING OFFICER: (SENATOR ROCK)

27. Senator Lemke.

28. SENATOR LEMKE:

29. I must oppose this amendment. This is another attempt
30. at class action against the working man or the poor. It's a
31. means of telling him to put all his eggs in one basket and
32. when that basket breaks and the eggs fall to the ground he's
33. out. He's out the money. There's no assurances in this

1. amendment that if this...if the money he's got his investment
2. in, which is going to be the insurance carrier, goes broke
3. he's going to be reimbursed. He's better off if he's incom-
4. petent. The court of law will...will appoint a trustee who
5. will make diversified investments and the man will be better
6. protected on his investments than having it in this way by
7. putting it in an insurance company that could go broke and
8. the guy will be out of luck. It's an old adage - you don't
9. put your eggs all in one basket. And this is what you're
10. attempting to do. I urge a No vote on this amendment.

11. PRESIDING OFFICER: (SENATOR ROCK)

12. Senator McCarthy.

13. SENATOR MCCARTHY:

14. Yeah, a question of the sponsor or anyone.

15. PRESIDING OFFICER: (SENATOR ROCK)

16. The sponsor indicates he will yield. Anyone does not.

17. SENATOR MCCARTHY:

18. All right. Senator Glass, when we started out this de-
19. bate I...I was, frankly, not familiar with what the Medical
20. Malpractice Commission was. Would you give the Body or myself,
21. particular, the ideology and structure of the Medical Mal-
22. practice Commission? Just what...what is it, who is it, that's
23. coming up with all these amendments?

24. PRESIDING OFFICER: (SENATOR ROCK)

25. Senator Glass.

26. SENATOR GLASS:

27. Senator McCarthy, it's...I think the correct title is
28. Medical Reparations Insurance Study Commission. It was chaired
29. by Director...or former Director Wilcox, the Department of
30. Insurance. Members of the Commission included, I believe,
31. three from each House, three from the Senate, three from the
32. House and it also included a substantial number of public
33. members. I believe the total membership on the Commission was

1. twenty. There were trial lawyers on the Commission as well
2. as representatives of the insurance carriers. There were
3. doctors as well as, I think, individuals representing con-
4. sumer interest and other...other medical groups. I would
5. say it was a fairly broad based Commission. It heard testi-
6. mony in Chicago and in Springfield on a very regular basis;
7. heard testimony from all segments of this problem, doctors,
8. hospitals, insurance carriers, attorneys and...and other
9. groups that were interested and concerned about it, so it
10. was a very thorough...I...I, in my opinion, Body and then
11. the job that they did was...was done in...in the last month
12. or so developing their final report and recommendations and
13. I...I know a lot of those members worked very hard on the
14. report and, as I say, this is one of their recommendations.

15. PRESIDING OFFICER: (SENATOR ROCK)

16. Senator McCarthy.

17. SENATOR MCCARTHY:

18. Am I correct in assuming that this is a continuing
19. Commission as opposed to an interim? It's listed in the
20. book. I found it just a little while ago, but it's a
21. continuing Commission?

22. PRESIDING OFFICER: (SENATOR ROCK)

23. Senator Glass.

24. SENATOR GLASS:

25. Well, I...I, frankly, can't speak to that, but if it's
26. listed that way in the book I suspect you're correct.

27. PRESIDING OFFICER: (SENATOR ROCK)

28. Senator McCarthy.

29. SENATOR MCCARTHY:

30. Well, Mr. Chairman and members of the Body, I just would
31. like to talk about this Commission a little bit, because, I
32. like, I think some of my colleagues, came in the Chamber today
33. and we thought we had been deluged with legitimate lobbying

1. efforts on behalf of the Medical Society, the Hospital
2. Association, the Nurses Association, to do something about
3. medical malpractice and not having the series of bills
4. assigned to the Insurance Committee and not the Judiciary
5. Committee, of which I am a member, I frankly came in here
6. rather unprepared, but I would like to give to the Body
7. the makeup of this continuing legislative Commission. It's
8. composed of six lawmakers, there are twelve public members
9. appointed by the Governor and two ex officio, a critique on
10. whoever was the author of this legislation creating this
11. Commission. You want to be careful about creating a Com-
12. mission where the public members outnumber the...the legis-
13. lative members, and I think the results of some of these
14. amendments which are the product bear out that critique.
15. In going through the twelve that were the public members,
16. I find one M.D. One out of twelve. I find two attorneys
17. out of the twelve. I find two hospital administrators, one
18. from the nursing, one from the...a vacancy and one just from
19. the public and four, four, Mr. President, from the insurance
20. companies. Dave Brown, Associate General Council of Lumberman's
21. Mutual, which is the Kemper Company, is a member of this...if this
22. book is any good...we see that Donald P. McCue, Vice President
23. and General Council of State Farm Mutual Automobile Insurance
24. Company is on here, Warren Osterburg an insurance agent from
25. DeKalb, Donald L. Schaffer, Vice President, Secretary and
26. General Council of Allstate Insurance Company. So I mention
27. this so that the membership might know where the majority of
28. the people come in creating this...in the structure of this
29. Commission to reflect upon what's been contained in these amend-
30. ments that come before us at this time. I rise, particularly,
31. to say that this amendment that's offered now should be de-
32. feated, because to adopt it further...further impedes the
33. travel of the bill that came out of the House Committee which

1. has cleared the Senate Committee. To adopt any amendments
2. to this bill which has cleared both legislative committees,
3. from a product such as this Commission, I think only delays
4. the day of some effective type of adjustment in the medical
5. malpractice problem, so without being vindictive in...in
6. any way I...I'm still reminded of what my father told me
7. some thirty-seven years ago. He said in the insurance busi-
8. ness it's just what Amos and Andy said - they give you all
9. the benefits in the big print and then they take it away
10. in the little print. And I'd state further, that the product of
11. this Commission fortifies the judgement I have, is that the
12. modern day aspect on the insurance companies as to their
13. stated purpose or at least the purpose that you see in
14. amendments such as offered here, is to pay the least possible
15. benefits to the policyholders and extract the maximum policy
16. ratio from those people that are insured.

17. PRESIDING OFFICER: (SENATOR ROCK)

18. Senator Partee.

19. SENATOR PARTEE:

20. Well, I was just going to say that this is a proliferation
21. of governmental beauracy. The probate court right now has
22. all of the mechanisms necessary to appoint guardians or con-
23. servators...conservators for persons who may well be incom-
24. petent, so for minors and incompetents it's already taken
25. care of. For competent adults it's a very paternalistic kind
26. of an approach. If a twenty-one year old wins the million
27. dollar sweepstakes you don't tell him how he can spend the
28. money. If a widow's husband dies and she gets a large amount
29. of insurance you don't tell her how she can spend it. We don't
30. need this. This is the most paternalistic kind of thing I
31. think I've seen and I think it has as its genesis a desire to
32. control the money by the insurance company rather than by a court.
33. The court, the probate court, is already setup to do it and

1. what it boils down to is, who keeps the money the longest
2. and who can invest it, and I think this amendment, too, should
3. be defeated.

4. PRESIDING OFFICER: (SENATOR ROCK)

5. Senator Egan.

6. SENATOR EGAN:

7. Yes, thank you, Mr. President and members of the Senate.
8. Just one...one more time I'm going to point out that we're
9. here at 3:30 in the afternoon trying to obtain relief from
10. the premiums charged for malpractice insurance and that's
11. simply, in my opinion, what we are supposed to be doing.
12. How in the devil Amendment No. 6 will ever do that is beyond
13. me, and, Senator Glass, if you could explain it to me I'd
14. appreciate it.

15. PRESIDING OFFICER: (SENATOR ROCK)

16. Senator Palmer.

17. SENATOR PALMER:

18. Mr. President and members of the Senate, I...I'm just
19. going to be repetitious. I, too, am going to say how in the
20. devil is this going to help the crisis and just like Senator
21. Partee states - it's absolutely unnecessary. Senator Glass,
22. are you familiar with the procedures now in Cook County of
23. judges that are assigned to hearing pre-trial conferences,
24. especially in malpractice cases, and if you don't know it,
25. Senator Glass, I can advise you that matters that are pro-
26. vided for, or are attempted to be provided for, in this particu-
27. lar bill, are under discussion in some of these pre-trial con-
28. ferences, and by passing this bill you might be interfering
29. with the rights of bargaining and interfering with the rights
30. of these pre-trial conferences. It is absolutely unnecessary
31. because can we proceed with these kind of procedures, we can
32. discuss partial payments, delayed payments. That is all a
33. matter of settlement, that is all a matter of people to sit

1. down and pre-trial...at a pre-trial conference. And just as
2. Senator Egan has said, the problem here is to alleviate the
3. crisis of malpractice, and we have had the benefit of a
4. supreme court decision that has told us where we have been
5. wrong. Why repeat ourselves and hurt the problems by pre-
6. senting another bill with a lot of unconstitutional pro-
7. visions? Now Senator Partee has a bill here in House
8. Bill 3957 that could pass and could be upheld by the Supreme
9. Court, but could be crippled and could be defeated in the
10. Supreme Court by the same problems, the same defects that
11. existed in the prior bill. Now, why, Senator Glass, you
12. introduced these amendments is beyond me and again if Senator
13. Egan will permit me to plagiarize a statement - how in the
14. devil is this going to help the...the malpractice crisis?
15. PRESIDING OFFICER: (SENATOR ROCK)

16. Senator Berning. Senator Harris.

17. SENATOR HARRIS:

18. Thank you, Mr. President. I may be really rising on
19. a point of personal privilege because I think that was what
20. a large part of Senator McCarthy's dialogue addressed in his
21. comments, and I just think for the record proper explanation
22. of the origin of the Commission that Senator Glass is pre-
23. senting the product of, which did not get implemented in to this
24. House Bill which was the product of the House Judiciary I Com-
25. mittee. I think we should understand that the Commission was
26. an integral part of the bill introduced by Representative
27. Berman in the House, which created a joint underwriting asso-
28. ciation and inherent in that bill was the creation of this Com-
29. mission. The bill was an administration bill I think really
30. authored in the Department of Insurance and it was really a net
31. in which to fall. It created a net in which to fall in the
32. event the entire underwriting of malpractice insurance left
33. the field and there were no basis of coverage and that bill

1. which is the law, sets up this underwriting association which
2. mandates all of the companies doing casualty business in
3. Illinois, to provide under mandated requirement a mechanism
4. for insurance against medical malpractice protection and in
5. the next step, the establishment of an adequate public policy
6. to guarantee the administration of health delivery service
7. to the twelve million some people in Illinois. Now, the
8. three Representatives that Senator McCarthy referred to were
9. Representatives as required in the law. The bill handled
10. by Representative Berman, an attorney, and handled here in
11. the Senate by Senator Nudelman, an outstanding attorney,
12. and one who I anticipate will be clothed judicially on the
13. first Monday in December this year, and he was terribly
14. sincere about the way he handled that bill a year ago, and
15. that law has contained in it the Commission, three members
16. of whom have to be representatives of the companies that
17. make up the joint underwriting association, and the instant mem-
18. bers are representatives of companies who, in fact, do not
19. write malpractice insurance. In fact, the numbers of com-
20. panies are terribly few. There are really two major com-
21. panies that give broad medical malpractice protection, but
22. those three representatives, Messrs. Schaffer from Allstate,
23. Brown from the Kemper Companies and Mr. McCue from State
24. Farm, all three of those companies do not write malpractice.
25. Those members were appointed by the Governor as representa-
26. tives of the joint underwriting association. This was a very
27. sound response to the crisis facing us. The Commission has
28. worked long and hard. There are other representatives of
29. the Commission. Senator Glass is a member, one of the legis-
30. lator members of the Commission and has done a yeoman job,
31. committed tremendous amounts of time and he is now demonstrating
32. the performance of a conscientious member of a Commission
33. offering the suggestions and the...as a result of the conclusions

1. of the work of that Commission. And I think the membership
2. of the Senate should understand that the structure of that
3. Commission is the product of legislation requested by this
4. ...this administration and acquiesced to by this General
5. Assembly a year ago.

6. PRESIDING OFFICER: (SENATOR ROCK)

7. Senator Fawell.

8. SENATOR FAWELL:

9. Well, Senator Egan asked, I think, a very appropriate question
10. when he said - how...how can this amendment relate to
11. the malpractice problem that we do have, and I suppose if one
12. were to suspect to a degree the insurance industry you might
13. answer that, Senator Egan, by saying that if you have to
14. pay at six percent, which I think is the percentage of interest
15. rates for judgements, but you can still keep that money and
16. make nine percent, the insurance companies can make a lot
17. of money by the money they retain and then if we give them
18. the benefit of the doubt they'll reduce the premiums accord-
19. ingly. That doesn't say a whole lot for what is supposed
20. to be the motivation of the amendment, though, which is purely
21. for a safekeeping for the injured party. Now, I would have
22. liked the amendment...the correction, hate to keep on criticizing,
23. Senator Glass, your amendments, but if the...the interest
24. rate, perhaps at least in the House, you could amend it so that
25. it...it is at the prevailing rate, interest rate, that can be
26. hooked to a, I think, a pretty solid base. That this, then, would
27. fully protect the injured person. He should have the right
28. to the prevailing rate. It's...the...we never keep our judge-
29. ment interest rate at what it ought to be, and maybe...maybe
30. we ought to change that, but I think if...that were altered
31. and you would consider that in the House, then I suppose we're
32. still back to the dilemma of Senator Egan's question. But, I
33. believe that at any...if any rate then the genesis for the

1. amendment makes...makes some sense.

2. PRESIDING OFFICER: (SENATOR ROCK)

3. Senator Bloom.

4. SENATOR BLOOM:

5. Yeah, well, you know, we can...fun's fun, but, you know,
6. this amendment is kind of ridiculous. I mean we can go along
7. with, you know, limiting attorneys' fees and we're all taught
8. at our short courses to break out the specials and what have
9. you in our closing arguments, but it seems to me like the
10. thrust of most of these amendments are the doctors getting
11. back at the lawyers and I don't think this Body should be
12. involved in that. Thank you.

13. PRESIDING OFFICER: (SENATOR ROCK)

14. Senator Soper.

15. SENATOR SOPER:

16. Now, I think we've beat this thing from the telephone
17. booths to the washroom and all over the Floor here. I
18. move the previous question.

19. PRESIDING OFFICER: (SENATOR ROCK)

20. You were, in fact, the last on the list, Senator Soper.
21. Senator Glass may close the debate.

22. SENATOR GLASS:

23. Mr. President, only to echo Senator Harris' comments
24. and to point out to Senator McCarthy that most of the recom-
25. mendations of this commission are, in fact, contained in
26. House Bill 3957 and the ones that were not have been offered
27. today, so it seems to me a lot of those that don't
28. really do much about the medical malpractice problem have
29. been reflected in there. This one is not one of the major
30. ones. I think it's a good one and I would urge a favorable
31. roll call.

32.

33.

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1. PRESIDING OFFICER: (SENATOR ROCK)

2. The question is the adoption of Amendment No. 6 to
3. House Bill 3957. Has a roll call been requested, Senator
4. Glass? Those in favor of the amendment will vote Aye.
5. Those opposed will vote Nay. The voting is open. Have
6. all voted who wish? Take the record. On that question the
7. Ayes are 13, the Nays are 39, none Voting Present. Amend-
8. ment No. 6 fails. Further amendments?

9. SECRETARY:

10. Amendment No. 7 offered by Senator Harris.

11. PRESIDING OFFICER: (SENATOR ROCK)

12. Senator Harris.

13. SENATOR HARRIS:

14. Thank you, Mr. President. This is the amendment that
15. I discussed with you. I think it was considered first and
16. Senator Bloom courteously pointed out that it was improperly
17. drawn by the Reference Bureau. We have now corrected that
18. and the amendment does take place on page six by deleting
19. lines seven through fifteen and inserts in lieu thereof this
20. provision, and that is that Section 21.1 would be added,
21. which is the present law with respect to medical malpractice
22. foreign substance limitation is ten years. House Bill 3957
23. has deleted that ten year statute of limitation. So, that
24. is re-instituted and then this bill...I'm sorry, this amend-
25. ment, does what I believe to be the single most important
26. thing we can do to guarantee the broad total affect health
27. delivery system to the twelve million people of Illinois by
28. changing the statute with respect to medical malpractice to
29. occurrence and discovery to two years. I mentioned to you
30. earlier that there are some significant sister states that
31. have this limitation. Michigan, Indiana, Missouri, Texas,
32. Oklahoma, and studies demonstrate that this provision will
33. be widely effective for the opportunity for a person injured

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1. to seek adequate recovery. A very interesting statistic cited
2. by the Commission and incidentally this is not a Commission
3. recommendation. I want to make certain that you understand
4. that. But, that in a study conducted by the Insurance Ser-
5. vices Office, which is a national organization that compiles
6. statistics with respect to litigation, and their findings
7. indicate that 99.2 percent of injured patients were aware
8. about their injury within two years from occurrence. Now,
9. if we, in fact, want to do something that will directly
10. shield us against this skyrocketing premium increase problem
11. for insurance against medical malpractice suits, this amend-
12. ment is one that will really get the job done. I would urge
13. you to join me in the adoption of this amendment.

14. PRESIDING OFFICER: (SENATOR ROCK)

15. Senator Partee.

16. SENATOR PARTEE:

17. I'm happy that the Senator said that this is not an
18. amendment as recommended by the Medical Malpractice Commission.
19. It is not. They worked on this problem for all...all of a
20. year. It was very, very competently staffed and they had
21. many, many witnesses. This is a report from that Commission,
22. and if you had bothered to read it, on page ninety you would
23. see that they said this -"prior to 1975 a statute of limita-
24. tions for all medical malpractice cases in Illinois was two
25. years from the date of discovery or ten years from the date
26. of occurrence whichever was shortest." Could we have just a
27. little order, Mr. President.

28. PRESIDING OFFICER: (SENATOR ROCK)

29. Yes, Sir. Will the members please be in their seats.

30. SENATOR PARTEE:

31. I...I'm sorry I didn't mean a little order. I meant a
32. lot of order. We had a little at the beginning.

33. PRESIDING OFFICER: (SENATOR ROCK)

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1. Continue.

2. SENATOR PARTEE:

3. In 1975, they say, in an attempt to reduce the long
4. tail on malpractice cases, the Legislature reduced the
5. medical malpractice statute to two years from the date of
6. discovery or five years from the date of occurrence, which-
7. ever is shorter. The Commission approves this action and
8. recommends a further reduction to four years. Now, that's
9. precisely what is in the bill. You know, a long time ago
10. in this country when someone was aggrieved the first three
11. words they...they uttered were - "I'll kill you." We are
12. perhaps a great deal more sophisticated than that now and
13. a little more civilized, so now we say - "I'll sue you."
14. Now, we must maintain an orderly method for people recouping
15. their losses and addressing their wrongs. And if the people
16. feel that the courts are fair then they'll be supportive
17. of them. If they don't think they are then they will not
18. be supportive of them. Now, this business of giving us back
19. the ten year long tail experience in malpractice of giving
20. that back to the people does not mean a great deal, because
21. foreign body aspects of malpractice is very small. Almost
22. ninety-eight percent of all instances of malpractice are
23. known within the first four years, and to extend it to ten
24. years is indeed unreasonable and would in the...in addition
25. thereto increase premiums. Now, this Commission came about
26. deciding that it should be two and four years after much,
27. much study, after much, much input...input and a great
28. amount of conversation concerning it from all aspects of the
29. ...of the people who were interested. And I think we have
30. the responsibility to protect all the people. Now, if this
31. amendment goes on, it may have some minimal affect on the
32. premiums, but concomitantly we will deny about fourteen per-
33. cent of the population what their rights are, because eighty-six

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1. percent of the...of these malpractice problems are discovered
2. within the first two years, but the other fourteen percent,
3. and that's a large part of our population, the other fourteen
4. percent are not informed within the first two year period
5. and we would effectively deny them a right to reparations for
6. their injury. Hence, the Commission, in my judgement, effect-
7. uated a compromise and brought it within the realm of reason-
8. ableness, which is most protective for most of our citizens.
9. And finally the bottom line is the consumer. The bottom line
10. is what happens for our citizens, and this, of course, in my
11. judgement would mean that we should leave House Bill 3957
12. with the two and four year statutes as it was set out, as it
13. was recommended by the Commission, as it is in the bill and
14. turn down this amendment.

15. PRESIDING OFFICER: (SENATOR ROCK)

16. Senator Buzbee.

17. SENATOR BUZBEE:

18. Well, Mr. President, I think we have the classic example
19. here of protagonist...antagonist rather, both using the...same
20. statistics to prove their point, the eighty-six percent and
21. fourteen percent that Senator Partee just quoted. I recall
22. Senator Harris in describing his amendment some hour and a
23. half ago or so, he said that eighty-six percent of the...of
24. the people who bring suit do so...they...they find their in-
25. jury or they find their wrong within the first two years so,
26. therefore, I'm a little confused as to what...this is the one,
27. by the way, that the Medical Society and...and all the others
28. have been lobbying us on, of course, and...and I'm a little
29. confused as to what this will do to the malpractice premium.
30. How it can...if only fourteen percent of the public is affected,
31. only fourteen percent...rather the claims are affected, how
32. can this have any lowering of the premium, Senator Harris?

33. PRESIDING OFFICER: (SENATOR ROCK)

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1. Senator Harris.

2. SENATOR HARRIS:

3. Well, just so that we understand the points that I made.
4. I stated that 85.9 percent...I'm sorry, 84.9 percent which
5. in round figures is almost eighty-five percent of the claims
6. studied from Illinois were filed within the two year period.
7. And the other statistic that I cited, is that in a national
8. survey 99.2 percent of the injured patients knew about the
9. injury within two years from the occurrence. Now, it's this
10. latter statistic that is important with respect to changing
11. the statute down to two years, which will impact on premium
12. rates and this is the point that Director Wilcox made last
13. week in the Insurance Committee. He stated that a two year
14. statute will really have a reducing impact on premium rates.
15. That's his testimony, and I'm persuaded that it, in fact,
16. does make sense. Now, the reason that the fifteen percent
17. do not necessarily file within the two year period now, is
18. that they're under no compulsion or pressure to do so. But,
19. 99.2 percent of the injured in the study connected...conducted
20. by the Insurance Services Office, a national statistical study
21. on this question, 99.2 percent of the injured patients knew
22. of their injury within a two year period. This will force
23. into litigation and permit a much more reasonable calculation
24. of exposure for the insurance carriers knowing that there is
25. a rational and sensible cutoff to exposure. Therein will re-
26. sult a significant premium savings. And I'm persuaded that
27. this will be in the public interest for the greatest number
28. served and affect negatively an almost infinitesimal number
29. of persons.

30. PRESIDING OFFICER: (SENATOR ROCK)

31. Senator Buzbee.

32. SENATOR BUZBEE:

33. Well, Senator Harris, I...I'm sorry. I'm still not

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1. getting the point. I understand what you're saying, but
2. I don't understand why. If 99.2 percent of the injured
3. know of their injury within the first two years and 86
4. percent or 84 percent...85 percent actually go ahead and
5. bring some sort of suit or file a claim, how can this lower-
6. ing of...of the rate rather of the time period down to two
7. years, how can that possibly lower insurance premiums?

8. PRESIDING OFFICER: (SENATOR ROCK)

9. Senator Harris.

10. SENATOR HARRIS:

11. Well, I just stated that the exposure time will be re-
12. duced greatly and the companies set up their reserves be-
13. hind their potential losses on that basis. Now, I might say
14. that that really is not the major reason why I am introducing
15. this amendment. The major reason is, the concern on the
16. part of the health delivery system, the doctors and the hos-
17. pital people who have a real fear about whether, in fact,
18. the total capability that's in place now prior to July 1, will
19. really continue to deliver health care to the extent and the
20. degree that they are doing now. Now, July 1 is an important
21. watershed date for us, and I'm convinced that if we do not do
22. something really meaningful, and there's no question Senator
23. Partee's bill, House Bill 3957, does do some important things,
24. but the single most important thing that it fails to do, I'm
25. proposing in Amendment No. 7. And I just encourage you to join
26. me in the adoption of this amendment.

27. PRESIDING OFFICER: (SENATOR ROCK)

28. Senator Knuppel. Your time has expired, Senator...

29. SENATOR KNUPPEL:

30. Mr. President and members of the Body, as much as I would
31. like to support this, if I thought it was...would truly accomo-
32. date the thing I would, but under the 1870 Constitution, and
33. I think in concept it's carried forward in the 1970 Constitution,

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1. there was a provision that there would be no wrong with-
2. out a remedy, and I think that's still a law of the State of
3. Illinois. Now, what you're doing here is, you're saying if
4. you discover one day after two years that you've been wronged,
5. that somebody has committed malpractice upon you, you're elimi-
6. nating...you're eliminating that cause of action and I believe,
7. therefore, that you're putting, as Senator Hudson Sours used
8. to say, you're putting garlic in the broth and how do you ever
9. get it out? It is unconstitutional for this reason, that...
10. that fifteen percent of the people who don't realize they
11. have an injury until two years after it occurs, you're going
12. to take their cause of action away from them. You're going
13. to say - you can't possibly have a cause of action because
14. you don't know about it and therefore you have no remedy. I...
15. I think that it...that the way the statute is drawn complies
16. with the case law of the State of Illinois, Lepsky and
17. others holding, and the only way this could possibly be con-
18. strued is the same way it's in the Act now, so this is a mean-
19. ingless amendment, and that is that it would be construed to
20. give you a cause of action lasting for two years after the dis-
21. covery, because you would have to have time to have the injury
22. evaluated and to contact an attorney you would have to have
23. time because now you're in danger under the recent case in
24. Chicago, that if you don't fully investigate a case the doctor
25. may counterclaim against you and recover damages for the good...
26. for the damage you've done to his good name. So, that as an
27. attorney you're going to have to have time if someone comes to
28. you, to investigate it. This is a self-fulfilling proposition
29. where you are automatically, and why I cannot understand, writing
30. into the statute an unconstitutional provision to have happen
31. to this law what happened to the one we passed last year. I
32. think this is foolhardy, it's dangerous, it...it will achieve
33. nothing.

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1. PRESIDING OFFICER: (SENATOR ROCK)
2. Senator Fawell.
3. SENATOR FAWELL:
4. Senator Harris, there is one question that I have and
5. I think that Senator Knuppel just hit upon it, and it, I
6. think, brings about an ambiguity on page six in what is the
7. third paragraph which is amended, wherein, you change...
8. well, you eliminate the four and you put the two, your statute
9. in there. The...the rest of the wording, however, in that
10. section still refers to the fact that there is no action for
11. damages unless suit is...is brought within two years after
12. date of which you discover. In other words, the wording is
13. still retained that you have a two year period after discovery
14. of the wrong or after notification is given to you, which I
15. think can be very misleading to everyone. What you're really
16. saying, it seems to me, is that there is no cause of action
17. unless two...within two years from the date of the occurrence,
18. omission or commission. You must bring your action. Therefore,
19. the...the language really that is on lines nineteen beginning
20. with the words "be brought more" and then going all the way
21. down to line twenty-four, can be deleted because it's...it's
22. really misleading to say that you have two years after discovery
23. in which to bring your cause of action, but in all events, you're
24. limited to two years from the date of the occurrence anyway. So,
25. it's surplusage, and I think it's ambiguous surplusage because
26. it leads the person to believe - I've got two years. At least
27. upon a cursory reading, from the date that I learned about
28. this. That's not so. Under all circumstances you've got two
29. years from the date of the occurrence. And it seems to me you ought
30. to also delete those four or five lines that deal with the right
31. to bring a cause of action within two years after date of having
32. gained knowledge or being in a position where you should have
33. gained knowledge. I think it would be much simpler to simply

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1. say - you've got two years after the date of the occurrence
2. because that in actuality is what you really are saying.

3. PRESIDING OFFICER: (SENATOR ROCK)

4. Senator Harris.

5. SENATOR HARRIS:

6. Well, thank you, Mr. President. This may be surplusage,
7. Senator Fawell. What it says is, that in...and this, of
8. course, we are just drafting an amendment to the bill as pro-
9. vided by the Reference Bureau. What it says to me is, that
10. it...you have two years from the date that you know of the
11. injury, but in no event more than two years from the date of
12. the occurrence. Now, I think that's clear. I really do.

13. PRESIDING OFFICER: (SENATOR ROCK)

14. Senator Fawell.

15. SENATOR FAWELL:

16. But, you see, one offsets the other. The occurrence...
17. let's say the occurrence takes place on the operating table.
18. I can't possibly, now, the other language is surplusage. It
19. means nothing at all. I can't possibly know before the occurrence
20. that negligence has taken place, so it means nothing at all.
21. You no longer have any rights based upon...that's right...but
22. you really...really have no rights either based upon having
23. gained knowledge, because your gaining of knowledge must, out
24. of necessity, always take place subsequent to the occurrence.
25. Therefore, you have ambiguities there that I think a Judge is
26. going to look at and say - how can the Legislature pass some-
27. thing like this? And I...I think it ought to be deleted. Now,
28. I...I think there's sense in what you have said. I...I...I've
29. followed your arguments that it gives the insurance carrier
30. some opportunity to do better actuarial prognostications, but
31. I...I also think that this is terribly confusing. In...in
32. actuality, I repeat, there is no right any longer that stems
33. from the point where you gain knowledge that you have been

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1. wronged by the negligence of the physician, because that
2. knowledge must come after not...not before the occurrence.

3. PRESIDING OFFICER: (SENATOR ROCK)

4. Senator Egan.

5. SENATOR EGAN:

6. Yes, thank you, Mr. President and members of the Senate.
7. Without belaboring it I would like to know, Senator Harris,
8. of the abuses in this area. It seems to me that all you're
9. doing is denying a cause of action, and at least, you're
10. limiting the cause of action from the existing law. You are
11. denying a person, who does not know of an injury, his right
12. to take action as a result of damage done to him, and in only
13. eighteen...or in only fifteen percent of the cases and in only
14. ...well, in only fifteen percent of the cases it occurs to me
15. that there must be some...some wrongdoing in this area that
16. has to be alleviated otherwise this is not necessary. I feel
17. that if a person discovers an injury, he should thereafter
18. have two years just like anyone else who, in fact, injured
19. and knows about it. This, in my opinion, is restrictive and
20. if it does have an affect on reducing premiums I think that
21. we are entitled to a...a factual explanation as to the dollar
22. amount.

23. PRESIDING OFFICER: (SENATOR ROCK)

24. Senator Harris.

25. SENATOR HARRIS:

26. Well, I just want to respond by saying that the statutes
27. are full of limitations that set up procedure for timely initia-
28. tion of recovery. It's an orderly way that our society has re-
29. stricted peoples' right to recovery and the fact that there is a
30. statute of limitation for the initiation of a lawsuit is not
31. something new, and...and I know you are aware of that. In this
32. unique situation, that limited area with respect to medical mal-
33. practice where we have a national problem and with respect to

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1. the potential curtailment of broad health delivery, the
2. reduction in the time for the statute of limitations to
3. timely file will, in fact, have a major impact on exposure.
4. That is a peril which the insurance company...insurance
5. companies underwrite and insure against, and I can only
6. most sincerely recommend that I am convinced, as was
7. Director Wilcox before the Committee last week, convinced
8. that this change will do as much as any one thing to re-
9. duce premiums, and on that basis I recommend Amendment No.
10. 7 to you.

11. PRESIDING OFFICER: (SENATOR ROCK)

12. Senator Newhouse.

13. SENATOR NEWHOUSE:

14. Thank you, Mr. President. One of my constituents called
15. me very early this morning to ask me to vote for the two year
16. limitation. I told her, of course, that I would take a look
17. at it when I got to Springfield. I found...and...but, I want
18. to address this as a question to the sponsor. Let's make this
19. perfectly clear. We're talking about a limitation that is two
20. years from the date of the incident and not two years from the
21. date of the discovery of the incident. Is that correct?

22. PRESIDING OFFICER: (SENATOR ROCK)

23. Senator Harris.

24. SENATOR HARRIS:

25. I think that's the result of this language, yes.

26. PRESIDING OFFICER: (SENATOR ROCK)

27. Senator Newhouse.

28. SENATOR NEWHOUSE:

29. In...in which case, Mr. President, I'm afraid that I'm
30. going to have to vote against the wishes of the person who
31. called me and I'm of course...of course have to explain to
32. them what this amendment really does. I think it's a bad
33. amendment. Two years from the date of the occurrence would

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1. be one kettle of fish, but to shut people off who may not
2. even discover the injury for a three or four year period,
3. seems to me to be unfair. I would oppose this amendment.
4. PRESIDING OFFICER: (SENATOR ROCK)
5. Senator Lemke.
6. SENATOR LEMKE:
7. Do I...can I ask a question of the sponsor, Senator Harris?
8. PRESIDING OFFICER: (SENATOR ROCK)
9. Sponsor...Sponsor indicates he will yield. Senator
10. Lemke.
11. SENATOR LEMKE:
12. What provision is put in this bill to protect the injured
13. party that's...was through an accident of an operation or some-
14. thing by a doctor and was injured and had a claim. The treating
15. doctor told him about him about his claim, but then the treating
16. doctor continued treatment and the injured party went along
17. with that treating doctor for treatment, but then when two years
18. came up and the statute ran, the doctor cut him off. What pro-
19. vision is there in this Act to perfect...to protect this man
20. from this type of duress?
21. PRESIDING OFFICER: (SENATOR ROCK)
22. Senator Harris.
23. SENATOR HARRIS:
24. Well, my response, Senator Lemke, would be, that the date
25. that is critical here would be the date of last treatment.
26. The statute would begin to run from the date of last treatment.
27. PRESIDING OFFICER: (SENATOR ROCK)
28. Senator Lemke.
29. SENATOR LEMKE:
30. My understanding of this amendment was that two years from
31. the date of discovery. Is that what we're talking about?
32. PRESIDING OFFICER: (SENATOR ROCK)
33. Senator Harris.

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1. SENATOR HARRIS:

2. No, we have concluded in my dialogue with Senator Egan...

3. I'm sorry, with Senator Newhouse and Senator Fawell that it
4. is occurrence that really is the persuasive limitation. Occurrence
5. and not discovery.

6. PRESIDING OFFICER: (SENATOR ROCK)

7. Senator Lemke.

8. SENATOR LEMKE:

9. In other words you're talking two years from when the...
10. when the negligent Act was done. Is that correct?

11. PRESIDING OFFICER: (SENATOR ROCK)

12. Senator Harris.

13. SENATOR HARRIS:

14. Well, that's precisely the fact and in the example that
15. you were describing in the first instance here, it would be
16. the date of last treatment.

17. PRESIDING OFFICER: (SENATOR ROCK)

18. Senator Lemke.

19. SENATOR LEMKE:

20. Treatment and occurrence are two different things.
21. Occurrence is when they put the knife in you and do the opera-
22. tion. Treatment, they can treat you for ten years and still
23. treat you. I mean, you can have a doctor where you discover
24. this a year later and go in for treatment, and then you're
25. getting treated and the doctor continues to treat you until
26. the statute goes, and then you blow your claim because
27. you thought he was a nice guy, and then all of a sudden when
28. he cuts you off and the statute runs and he becomes as known
29. to be the enemy. Then you go to a lawyer and your statutes
30. run and you're out of luck. So, there's no protection here.
31. It's...you're cutting down the statute. I'd rather see this...this
32. ...this type of amendment, if you're going to put a statute,
33. two years from occurrence. But, with some type of protection

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1. to the person where he's still being treated by this doctor
2. and he...he...is...he's made aware of this, but the doctor
3. continues treatment. Now, if you're talking three...two
4. years from the last treatment. Fine. But, what about a
5. case where there's no treatment and...and...and you discover
6. the thing after you're...you're...the guy's done treating
7. you. I mean, there's a problem with this amendment and...
8. and I personally have to vote against this and I urge every-
9. body to vote against it.

10. PRESIDING OFFICER: (SENATOR ROCK)

11. Any further discussion? Any other Senator wish to speak
12. before Senator Buzbee speaks a second time? Senator Knuppel
13. has already spoken. Senator Buzbee.

14. SENATOR BUZBEE:

15. Thank you, Mr. President. I don't know why I'm speaking
16. so much today except that I've got a deep concern about this.
17. And this amendment is not what it was represented to me at all.
18. I...I think we've got to understand, the people of the Medical
19. Society have got to understand and my doctors back home have
20. got to understand. This is not a two year and two year amend-
21. ment. This is strictly two years from the date of occurrence.
22. It doesn't make any difference when you find out. If you don't
23. know within two years from the date that that doctor malpracticed
24. on you, you're out of luck. That's the wordage of this amend-
25. ment. And all of my doctor friends back home who wanted me to
26. vote for this, I sure want to try to lower your malpractice
27. premiums, but I certainly don't want to open it up to the
28. point where the person has absolutely no ability to come back
29. at all on a malpractice case, and I'm going to vote No on the
30. amendment.

31. PRESIDING OFFICER: (SENATOR ROCK)

32. Senator Knuppel for a second time.

33. SENATOR KNUPPEL:

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1. Well, I just want to call attention to Section 12 of
2. Article I of the 1970 Constitution, which says - "every per-
3. son shall find a certain remedy in the laws for all injuries
4. and wrongs which he receives to his person, privacy, property
5. or reputation. He shall obtain justice by law, freely, com-
6. pletely, and promptly." And you tell me how a person who doesn't
7. know that he's been hurt until after the two years has run,
8. can find such a remedy. The argument is so clear and so
9. concise that this type of an amendment and I think your in-
10. tention may be well, is unconstitutional as I've said be-
11. fore and I didn't have the Constitution in front in me, but
12. I was sure there was a provision in the new Constitution similar
13. to Section 2, Article II of the 1870 Constitution. How can
14. you find a certain remedy for the injuries and wrongs to your
15. person if you don't even know about them yet, before they're
16. shut off?

17. PRESIDING OFFICER: (SENATOR ROCK)

18. Further discussion? Senator Harris may close the debate.

19. SENATOR HARRIS:

20. Thank you, Mr. President. I would just point out that
21. in Chapter 83 with respect to limitations for personal actions,
22. Paragraph 15 imposes a two year limit for valid initiation for
23. ...of action for recovery for personal injuries. This amend-
24. ment would limit that same period of time in the other section
25. for medical malpractice, a two year statute of limitation from
26. the occurrence of the malpractice. It will, in fact, have a
27. major impact on the burgeoning...yes, skyrocketing escalation
28. of malpractice insurance premiums, and for the most important
29. reason of all, I'm convinced that there is a serious threat
30. to the broad and effective system of delivery of health care
31. service here in Illinois. This amendment will do more than
32. all of the rest of that bill. I'm convinced of this bill to
33. guarantee its present effective availability of health care

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1. service. I urge you to join me in the adoption of Amendment
2. No. 7.

3. PRESIDING OFFICER: (SENATOR ROCK)

4. Question is, the adoption of Amendment No. 7 to House
5. Bill 3957. Those in favor signify by saying Aye. Those
6. opposed. Roll call has been requested. Roll call has been
7. requested. Those in favor of Amendment No. 7 to House Bill
8. 3957 will vote Aye. Those opposed will vote Nay. The voting
9. is open. Have all voted who wish? Take the record. On that
10. question the Ayes are 28, the Noes are 28, none Voting Present.
11. Amendment No. 7 fails. Senator Harris.

12. SENATOR HARRIS:

13. I just really think we ought to verify. Thank you.

14. PRESIDING OFFICER: (SENATOR ROCK)

15. The affirmative vote?

16. SENATOR HARRIS:

17. Well, I think in this case, both.

18. PRESIDING OFFICER: (SENATOR ROCK)

19. All right. Senator Harris has requested verification
20. of both roll calls. Secretary will read the affirmative votes.

21. SECRETARY:

22. The following voted in the affirmative. Bell, Berning,
23. Bloom, Clarke, Davidson, Fawell, Glass, Graham, Harber Hall,
24. Harris, Lane, Latherow, Merritt, Mitchler, Howard Mohr, Don
25. Moore, Morris, Nimrod, Ozinga, Philip, Regner, Roe, Schaffer,
26. Shapiro, Sommer, Soper, Weaver and Wooten.

27. PRESIDING OFFICER: (SENATOR ROCK)

28. Senator Moore is on the Floor. The roll has been verified.
29. The Ayes are 28. The Secretary will read the negative votes.

30. SECRETARY:

31. The following voted in the negative. Brady, Bruce, Buzbee,
32. Carroll, Chew, D'Arco, Daley, Demuzio, Donnewald, Dougherty,
33. Egan, Kenneth Hall, Hickey, Hynes, Johns, Joyce, Knuppel, Kosinski,

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1. Lemke, McCarthy, Netsch, Newhouse, Nudelman, Palmer, Rock,
2. Smith, Vadalabene and Mr. President.
3. PRESIDING OFFICER: (SENATOR ROCK)
4. Senator D'Arco is in his seat. The roll has been verified.
5. The Ayes are 28, the Nays are 28. The amendment fails. Further
6. amendments? Senator McCarthy, for what purpose do you arise?
7. SENATOR MCCARTHY:
8. Mr. President, I'm not certain of the amendment. I don't
9. know...how many amendments have been adopted?
10. PRESIDING OFFICER: (SENATOR ROCK)
11. Mr. Secretary, how many amendments...
12. SECRETARY:
13. One...number 1 was adopted, which was a committee amend-
14. ment and Floor Amendment No. 3 was adopted.
15. SENATOR MCCARTHY:
16. Well, having...having voted on the prevailing side on
17. Floor Amendment No. 3 which was adopted, I'd now like to move
18. to reconsider the vote by which that amendment was adopted.
19. PRESIDING OFFICER: (SENATOR ROCK)
20. Senator McCarthy has moved to reconsider the vote by which
21. Amendment No. 3 to House Bill 3957 was adopted. Any discussion
22. on that motion? Senator Glass.
23. SENATOR GLASS:
24. Mr. President, I...I thought it was indicated there were
25. two amendments that were adopted.
26. PRESIDING OFFICER: (SENATOR ROCK)
27. The motion concerns itself...Senator McCarthy has moved to
28. reconsider the vote by which Amendment No. 3 was adopted. Is
29. there discussion on that motion?
30. SENATOR GLASS:
31. Move to Table that motion.
32. PRESIDING OFFICER: (SENATOR ROCK)
33. Senator, that is not debatable. Senator Glass has moved to

1. Table Senator McCarthy's motion to reconsider the vote
2. by which Amendment No. 3 was adopted. Senator McCarthy,
3. for what purpose do you arise? That motion is non-debatable.

4. SENATOR MCCARTHY:

5. Well, I'm going to, I think, respond on a point of
6. personal...

7. PRESIDING OFFICER: (SENATOR ROCK)

8. Senator Glass, can you withhold your motion for a moment
9. so he can explain the per...

10. no, you won't?

11. Okay.

12. PRESIDING OFFICER: (SENATOR ROCK)

13. Okay, lets have a little order. There has been a re-
14. quest for a roll call on the motion to Table Senator McCarthy's
15. motion to reconsider. Senator Bruce, for what purpose do
16. you arise?

17. SENATOR BRUCE:

18. Just to clarify. We...we're on a motion to Table and
19. ...and a question of the parliamentarian. How many votes
20. will it take to Table?

21. PRESIDING OFFICER: (SENATOR ROCK)

22. A majority of those voting.

23. SENATOR BRUCE:

24. On...on...on a motion to Table? I thought there was
25. naturally a requirement of thirty on a motion to Table.

26. PRESIDING OFFICER: (SENATOR ROCK)

27. We will check that, Senator. A motion to Table, as in
28. this case to Table Senator McCarthy's motion to reconsider,
29. takes a simple majority of those voting. Okay. Now, a roll
30. call has been requested. Those voting with Senator Glass
31. in favor of the motion to Table will vote Aye. Those voting
32. with Senator McCarthy in favor of the motion to reconsider
33. will vote Nay. The voting is open. Will you vote me No,

1. Senator Partee, please? Have all voted who wish? Take the
2. record. On that question the Ayes are 30, the Nays are 25,
3. none Present. The motion to Table prevails. Any further
4. amendments? 3rd reading. On the order of House Bills 3rd
5. reading is House Bill 3958, Senator Partee. 3958. All right.
6. Had you agreed...you had agreed to call that back, Sir. I
7. understand there's an amendment pending on the Secretary's
8. Desk.

9. SENATOR PARTEE:

10. Yes, please call it back to...I'm asking leave to recall
11. it to the order of 2nd reading for the purpose of offered
12. amendments.

13. PRESIDING OFFICER: (SENATOR ROCK)

14. Senator Partee requests leave to call back House Bill
15. 3958 to the order of 2nd reading for the purpose of an
16. amendment. Is leave granted? Leave is granted. On the order
17. of House Bills 2nd reading is House Bill 3958. Mr. Secretary,
18. any amendments?

19. SECRETARY:

20. Amendment No. 1 offered by Senator Glass.

21. PRESIDING OFFICER: (SENATOR ROCK)

22. Senator Glass.

23. SENATOR GLASS:

24. Thank you, Mr. President, Ladies and Gentlemen. This
25. amendment is offered at the request of the Hospital Associa-
26. tion. The...the bill, as drafted, allows for arbitration
27. agreements between health care providers and patients and at
28. the present time I believe the language of the bill is, that
29. those agreements may be executed upon the patient's discharge
30. from the hospital. In cases...in terminal cases, of course,
31. when the patient dies there can be no such agreement entered
32. into and so, the amendment would provide that they may be
33. entered into upon hospitalization provided, however, that no

1. such agreement shall be entered into within twenty-four
2. hours of admission and also states, that should the treatment
3. result in death, all rights to revoke and cancel the agree-
4. ment presiding in a patient shall survive and be available
5. to his heirs or next of kin, and I would urge adoption.

6. PRESIDING OFFICER: (SENATOR ROCK)

7. Senator Partee.

8. SENATOR PARTEE:

9. Well, Mr. President, as you well know, I am usually a very
10. affirmative person and I hate to be negative all the time,
11. but I have some real problems with this amendment and let
12. me tell you what they are. First of all, it raises a problem
13. of adhesion contracts which would, of course, void the contract.
14. And where this contract is entered into before the medical
15. treatment is given, of course, they're then going to say that
16. arbitration was forced upon the patient because of the
17. differing bargaining position of the participants. That is,
18. the patient versus the hospital. Secondly, very often when
19. a patient goes in the hospital he's under medication, he
20. may be in shock or he may be suffering an injury within days
21. after admission so that he may not know consciously what he's
22. about and what he's doing. Number three, where a patient
23. dies during his hospital stay, his administrator can always
24. agree to arbitration and fourthly, within twenty-four hours
25. the patient is called upon to sign all kinds of forms and
26. the feeling is that he or she may sign the arbitration agree-
27. ment as just another form and not know that he giving away
28. a very sacred right, a right which Americans died for, the
29. right of trial by jury. Now, certainly there is nothing wrong
30. with the arbitration aspect and no component to this kind of
31. litigation and people ought to be under circumstances of con-
32. sciousness able to make that kind of choice. But, to force
33. it on them under circumstances of constraint and under circumstances

1. where they may have difficulty really understanding what
2. they are about, I think goes far beyond the bounds of reason-
3. ableness and the true American spirit. You just shouldn't
4. take advantage of a person under those circumstances, and
5. there's just no reason for this amendment and although I
6. am again negative, Senator, I'm going to ask that this
7. amendment not be adopted.

8. PRESIDING OFFICER: (SENATOR ROCK)

9. Any further discussion? Senator Glass may close the
10. debate.

11. SENATOR GLASS:

12. Well, thank you, Mr. President and Doctor Partee. I'm
13. going to again respectfully disagree with you, because I think the
14. risk that the bill has in its present form is that, if a
15. patient enters the hospital and immediately signs an agree-
16. ment for arbitration that may be an adhesion contract where
17. he...the claim may be made that the patient has been coerced
18. into entering into it. Allowing this twenty-four hour period
19. after admission give...gives or eliminates that risk. That,
20. of course, is the reason the hospitals have requested it,
21. and I think we've well protected the death cases by allowing
22. the next of kin or heirs to enter into such an agreement and
23. I'm afraid without this, you may have to wait until an adminis-
24. trator or executor is appointed before such an agreement can
25. be entered into and that could be well beyond any reasonable
26. time period. It might be thirty or sixty days, so I respect-
27. fully disagree with you and urge you to reconsider and I
28. think this amendment does make it a better...your bill a
29. better bill and would urge its adoption.

30. PRESIDING OFFICER: (SENATOR ROCK)

31. Ques...Senator Partee.

32. SENATOR PARTEE:

33. Well, I'll just simply say that the present bill is on

1. professions really involved in this and it's a very intricate
2. kind of involvement and the crisis depends on one or the other.
3. I'm not sure who's to blame, but I'll tell you three things
4. that brought this into focus. There is, in fact, malpractice,
5. there are, in fact, abuses of the tort system, there are, in
6. fact, frivolous suits and we live in an age now where there
7. is a great deal of higher medical expectancy caused by many
8. things. Caused by the knowledge of people on the one hand
9. that there are now more sophisticated and more therapies and
10. more procedures available to people and brought on, in fact,
11. by another rather strange phenomena called the television.
12. People who...who watch Dr. Marcus Welby and others have com-
13. menced to believe that those within the medical profession
14. are, in fact, geniuses and that they have a panacea for any
15. and all kind of disease. Those things in combination have
16. produced in the main some of our problems in this area. I
17. suggest to you that this bill will...going quite far as a
18. result of the Medical Reparations Commission study is a
19. good bill. It is not a panacea. Nothing will solve all prob-
20. lems, but it is a tremendous step forward giving to all of
21. the elements and components involved from the personality
22. standpoint, many of the things which indeed the Medical
23. Reparations Commission says will make this a better state...
24. in this area. I don't want to...take anymore time, Mr.
25. President. I think we've debated up and down. Everybody
26. knows what is in the bill and if there are any questions
27. I'd attempt to answer them, but I would just simply ask for
28. a favorable roll call.

29. PRESIDING OFFICER: (SENATOR ROCK)

30. Further discussion? Senator Bell.

31. SENATOR BELL:

32. Well, thank you, there, President Chew...or Mr. President,
33. excuse me...Senator Chew. Well, we have here with the medical

1. malpractice issue now before us on 3rd reading, a situation
2. that seems rather commonplace in the General Assembly at
3. this particular time, this particular year. We've been
4. faced with serious questions in reference to the liability
5. aspect in both the malpractice issue that's with us this
6. afternoon. It's been debated very hard and sincere in
7. reference to the 2nd reading amendments. We had the same
8. situation in reference to, in my opinion, to the Workmens
9. Compensation situation and in both cases, Mr. President,
10. members of the Senate, I think it's been a proclivity of
11. the Illinois Senate here in 1976, Senator Partee, to address
12. ourselves to really something less than meaningful aspects
13. to try to resolve what you say, and I guess we all say, is
14. a serious problem not only in the State but...but nationally.
15. And I submit to you members that we really are just doing a little
16. more than being paperhangers and that's papering over with
17. something less than can really get the job done, legislation
18. that is something less than what is really going to resolve
19. or make major steps in resolving what we all know has..has
20. to be resolved in very, very short order. And we talk about
21. the insurance industry as...as the...as the whipping boy
22. and I happen to be just an agent in it. I'm not a member of
23. any staff of any insurance company and I certainly don't think
24. that the insurance industry is not without some black marks,
25. but on the other hand when you have a narrowing of markets,
26. like we have, there's really no way to broaden the base in
27. a sufficient manner to keep premiums down, and so we have a
28. situation with the malpractice crisis as in the Workmens
29. Compensation crisis where, I suppose, the insurance industry
30. will be the whipping post. That seems to be what the other
31. side of the aisle is...is aiming towards, but I submit to you
32. that the problem is larger than that and that its base of
33. resolution were those things that we tried to address ourselves

1. in Amendment 4 in these...rather in these amendments this
2. afternoon that, in fact, have not been addressed. And the
3. same thing in reference to the Workmens Comp., because the
4. whole question relates together. There is a question that
5. we have in reference to liability in general before us
6. from society today. I suppose we have to vote for this bill,
7. it's certainly something that's better than nothing, but it's
8. not going to resolve the problems and we are doing nothing
9. more than being paperhangers here today, Mr. President.

10. PRESIDING OFFICER: (SENATOR ROCK)

11. Further discussion? Senator Glass.

12. SENATOR GLASS:

13. Well, Mr. President and Ladies and Gentlemen, the bill
14. as drafted does, in fact, contain some good provisions
15. ...it has the collateral source provision whereby fifty
16. percent of the expenses recovered from collateral sources
17. may be deducted from judgements. It also eliminates ad damnum
18. provisions so that someone suing a doctor or hospital does
19. not state the total amount of the claim and thereby eliminat-
20. ing some adverse publicity for doctors who are inadvertently
21. sued for large amounts of money and, in fact, later settle
22. for...for much less or are found not guilty. There are some
23. other good provisions in the bill and I certainly think it
24. should pass. I question very seriously how much good it's
25. going to do and I...I certainly think it's regrettable that
26. the Body is passing a watered down version of what we really
27. should be doing. This is far less than most of our sister
28. states have done and I...I regret, in particular, the failure
29. of Senator Harris' two year statute of limitations amendment
30. to beyond the bill and also the...the cap on noneconomic loss
31. as well as the limitation on contingent fees. I think we
32. really could have accomplished a lot more than we did. Senator
33. Chew, I'm looking at...that light is still green, but thank

1. you for the reminder. I'll bring my remarks to a close with
2. those comments that it is a good bill, but it's just a shadow
3. of what we ought to be doing.

4. PRESIDING OFFICER: (SENATOR ROCK)

5. Senator Buzbee.

6. SENATOR BUZBEE:

7. Well, Mr. President, I, too, am still bothered by the
8. loss of the offering or whatever of that last amendment,
9. Senator Harris' amendment, because as I understood the intention
10. of that, it was to say that we don't want to continue on and
11. let people have forever to sue a doctor and we want to put
12. a two year cap on that, but I thought it was going to be two
13. years from the date that they found out and, in fact, that
14. was not the case. It was two years from the date that the
15. ...that the mispractice or the malpractice actually took place.
16. Now, it would be very, very simple for a doctor to cover up
17. that error during that two year time period and what if he
18. never let the patient know? Are we going to be able to get
19. him on fraud? I don't think so, because he could just simply
20. say - gee, I didn't know that I had done that wrong. So, I
21. ...I think that the...I'm sure not intentionally, but I
22. think that that amendment was misrepresented and I think it's
23. a shame because I could certainly support a two year limitation
24. from the date of...of discovery on the part of the patient,
25. but I could not support a two year limitation from the date
26. of actual occurrence, because there's just no way in the world
27. that patient is going to find out within that two years. So,
28. I...I regret that and I, too, am glad to support this bill.
29. Thank you.

30. PRESIDING OFFICER: (SENATOR ROCK)

31. Any further discussion? Senator Lemke.

32. SENATOR LEMKE:

33. Mr. President and fellow members of the Senate. I think

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1. this bill now shifts the ball to the insurance industry. I've
2. seen nothing come up from the insurance industry to suggest
3. reduction in premiums. I've seen suggestions by the doctors
4. and by the lawyers, by those people that are concerned, giving
5. offered as to a bill that will remedy the malpractice crisis
6. and give some reason to lower premiums. Yet, there has been
7. no intent by the insurance companies to lower premiums and
8. I'll wait and see, because if history serves me right in the
9. State of Illinois, no insurance company is ever going to re-
10. duce their premiums once they get the rate increase. I
11. ask for a favorable roll call on the bill.

12. PRESIDING OFFICER: (SENATOR ROCK)

13. Further discussion? Senator Partee may close the de-
14. bate.

15. SENATOR PARTEE:

16. Simply to say that I'm happy Senator Glass mentioned all
17. of the very salient features of this bill and there is one
18. other consideration that we have not expressed to this moment
19. and that is, that after much debate and cogitation in the
20. House, they passed the bill over in the form that they did
21. and we certainly don't want to lose a...a bill which has some
22. meaning, which has some impact, by a lot of extraneous matters
23. in it when it goes back to the House, and I'd appreciate a
24. favorable roll call.

25. PRESIDING OFFICER: (SENATOR ROCK)

26. All right, the question is, shall House Bill 3957 pass?
27. Those in favor will vote Aye. Those opposed will vote Nay.
28. The voting is open. Have all voted who wish? Have all voted
29. who wish? Take the record. On that question the Ayes are
30. 56, the Nays are none, none Voting Present. House Bill 3957
31. having received a constitutional majority is declared passed.
32. On the order of House Bills on 3rd reading is House Bill 3958.
33. Mr. Secretary, read the bill.

1. SECRETARY:

2. House Bill 3958.

3. (Secretary reads title of bill)

4. 3rd reading of the bill.

5. PRESIDING OFFICER: (SENATOR ROCK)

6. Senator Partee.

7. SENATOR PARTEE:

8. I'd ask for a favorable roll call. This is the one we
9. just got through discussing. I'm sure everybody knows what
10. it's about.

11. PRESIDING OFFICER: (SENATOR ROCK)

12. Any discussion? Senator Nimrod.

13. SENATOR NIMROD:

14. Yes, Mr. President and fellow Senators. I just wanted
15. to mention when...when that last bill was up and I didn't
16. get a chance to speak on it. I do want to say that I do not
17. believe that the Senate is facing the answer to a crisis
18. in this problem anymore than they did Workmens Comp. I think
19. we're very remiss and we've left a lot of questions that we
20. should have answered and addressed ourselves to, unaddressed.

21. PRESIDING OFFICER: (SENATOR ROCK)

22. Further discussion? The question is, shall House Bill
23. 3958 pass? Those in favor will vote Aye. Those opposed
24. will vote Nay. The voting is open. Have all voted who wish?
25. Take the record. On that question the Ayes are 56, the Nays
26. are none, none Voting Present. House Bill 3958 having received
27. a constitutional majority is declared passed. All right, pur-
28. suant to leave heretofore granted, Senator Partee, we will
29. revert to the order of Senate Bills 3rd reading. We'll call
30. ...or ask that Senate Bill 1952, pursuant to leave granted
31. a few hours ago, be called back to the order of 2nd reading
32. for the purpose of an amendment. On the order of House...
33. Senate Bills on 2nd reading is Senate Bill 1952. Amendments,

1. Mr. Secretary.

2. SECRETARY:

3. Amendment No. 1 offered by Senator Partee.

4. PRESIDING OFFICER: (SENATOR ROCK)

5. Senator Partee.

6. SENATOR PARTEE:

7. This amendment, Mr. President and members of the Senate,
8. is a response to the recent Supreme Court decision in the
9. case of Wright versus Central DuPage Hospital Association.
10. You heard in the course of the debate today a large number
11. of references to Senate Bill 1024 which was passed last year
12. in this area. There were three features of that bill which
13. the Supreme Court said were unconstitutional. This amend-
14. ment corrects those errors and then puts 1024, as passed last
15. year, in the form which the Supreme Court would accept as
16. constitutional. Now, the limit is a very long one. It was
17. ...it has been passed out and the reason it is long is be-
18. cause we are redoing the entire bill with these three addendums,
19. and doing so on the advice of the Legislative Reference Bureau
20. who feels that the entire bill must be repassed with these
21. three amendments rather than simply to amend the existing
22. statute. Now, whether they are right or wrong doesn't make
23. a lot of difference, the point is that at least we know that
24. doing it this way it is being done properly and I'd ask for
25. a favorable roll call.

26.

27.

28.

29.

30.

31.

32.

33.

(Continued on next page)

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- 1. PRESIDING OFFICER: (SENATOR ROCK)
- 2. Any questions on the amendment? Senator Partee moves
- 3. the adoption of Amendment No. 1 to Senate Bill 1952. All
- 4. those in favor signify by saying Aye. All those opposed.
- 5. The Ayes have it. The amendment is adopted. Any further
- 6. amendments? 3rd reading. We will have intervening business,
- 7. Senator, and get right back to it. While...while we are
- 8. on the order of Senate Bills on 3rd reading...on the order
- 9. of Senate Bills, 3rd reading, Senate Bill 1630. Read the
- 10. bill, Mr. Secretary.
- 11. SECRETARY:
- 12. Senate Bill 1630.
- 13. (Secretary reads title of bill)
- 14. 3rd reading of the bill.
- 15. PRESIDING OFFICER: (SENATOR ROCK)
- 16. Senator Dougherty.
- 17. SENATOR DOUGHERTY:
- 18. Thank you, Mr. President and members of the Senate.
- 19. Senate Bill 1630 was introduced some time ago by some
- 20. public officials throughout the State, and on June...on June
- 21. the 16th, the bill was assigned by the Committee on Rules
- 22. and Assignment of Bills was assigned to my care. And I now
- 23. find this bill provides that the Detoxification Act...Alcohol
- 24. Detoxification Act will be postponed for one year. It is due
- 25. to take effect on July 1st, 1976. This measure provides it
- 26. will take...the postponement date will be effective one year
- 27. until July the 1st, 1977. Now, I will admit that due to the very
- 28. hastiness of the hour, I mean this having only two days' work
- 29. and this is now on 3rd reading, I did as much checking as possi-
- 30. ble into this bill. I discussed this bill on its beginning on
- 31. Friday afternoon, with any...many number of public officials
- 32. State-wide including police officers, and including prosectorial
- 33. officials, including hospital authorities and including to some
- 34. here in the medical profession. And they find there is a complete

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1. reason for postponing this for one year, for the reason that
2. we've never yet arrived at a reasonable figure for cost.
3. Doctor Levitt testified the other day that the, with some
4. restraint I might say, that since the bill is becoming effective
5. by...he thought it would run about one...one and one half
6. million. It could possibly go to five million. God only knows
7. how much it's going to cost because of its operations. The
8. opposition to this bill has been under the direction of a young
9. man who is in charge of this program and it's called, "The Illinois
10. Alcoholism and Drug Dependency Association." And this is a
11. professional and I made some tests on it as much as I could
12. for the reason so little time has been allowed to study this
13. bill. I did have some very effective research work done and
14. I find that the - among some of the answers I received - that
15. the hospitals of Illinois are not a hundred percent ready to
16. handle the program. Many local law enforcement officers, in-
17. cluding, possibly, but let not so state, the City of Chicago,
18. the Police Department are not yet ready to administer the pro-
19. gram. Sufficient funds to pay for the additional costs of
20. administering the program have not been made available. The State
21. Department has not fully cooperated with...with the many other
22. State agencies, hospitals, and local government units, if you will,
23. to prepare the full implementation of the bills. Some one year
24. ago I handled the same legislation to postpone the effective date
25. to this year. And I discussed it very thoroughly with Doctor
26. Visotsky who was the former director of the Department of Mental
27. Health and is head of the Department of Psychiatrics and Psychiatry
28. at Northwestern University. I tried to contact him earlier this
29. morning and failed to. However, I did receive an answer from
30. Doctor Gladstone from the University...from Northwestern University,
31. and I suggested that after discussing the operation he informed
32. me that the operation that the Northwestern had started had been
33. so much successful to the point that it instituted a pilot
34. program at loss to the YMCA where what they called a...a third

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1. stage rather than a half-stage practice and they are doing
2. it at a cost of some thirty dollars per day. But, this is
3. only what we might call half practice or quarter practice.
4. They also tell me that the...the operation is reasonably
5. successful, but the implementation of the amount of work
6. to be required of the police department to fill there full-
7. ness and they are making every reasonable effort to do so.
8. The Chicago Police Departments and particularly the area on
9. the near North side and...and Representatives of Senator
10. Netsch's district have made a great operation, but they are
11. confounded every time they pick up an intoxicated person and
12. to what hospital they can bring him to. ...But they...if they
13. can't take him there, where are they going to take him? The
14. hospitals are not yet in a position. If you will recall a
15. number of years ago, I introduced...a bill was introduced in
16. the House by a member of the House and handled by myself in the
17. Senate where we set the program of the Illinois Hospital
18. Facilities Act limiting the cost and the disbursement of hos-
19. pitals throughout the State, the operations thereof. And we've
20. been...they've been...all hospitals have been limited by that
21. in an effort to handle these situations. It is my very, very
22. directed opinion and by the calls that I've received, and be-
23. lieve me I have received any number of telephone calls, beginning
24. at noon on Friday when I arrived home from Springfield and I
25. received calls from across the State from police officers of
26. many areas, of law enforcement officers, State's Attorneys,
27. hospitals. This morning I received a statement from the Alco-
28. holism and Drug Dependency Association offering reasons why
29. this bill should be defeated. Which gave me a little further
30. cause to...to believe the motivation and the enthusiasm for
31. this program is predicated somewhat on what you say, an "operation
32. for profit", if you will. Now, I have received from this gentle-
33. man a little notice today outlining what the reasons that he
34. says he's opposed to. This is very voluminous. But, I've noticed

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1. one thing here that I might further state this, when we set
2. this program, first we started with two units. Now, we have
3. twenty-two and on August the 1st we'll have twenty-nine.
4. No one knows what the operation's cost is going to be but
5. in his letter to me he says, "Many of the nineteen transporta-
6. tion projects are already operational." The Department feels
7. that the State of Illinois would go on and so forth. We further
8. feel that eight hundred and thirty members, eight hundred and
9. thirty people of the Illinois Alcoholism and Drug Dependency
10. Association professionals are concerned. Eight hundred and
11. thirty of them. Where in the name of goodness is...is this
12. money going to come from? My only suggestion that we postpone
13. it for one more year in order to permit the State to get at an
14. effective basis of operating this. I do not desire to see
15. the defeat of the program, I want to see it implemented in
16. a proper manner and at a proper cost. It's costing entirely too
17. much money and I think further to postpone this for one more year
18. will do a major operation and set up a program that can be followed.
19. PRESIDING OFFICER: (SENATOR ROCK)

20. Further discussion? Senator Netsch.
21. SENATOR NETSCH:

22. Mr. President, I rise in opposition to this bill and I
23. would like to point out several fairly important things. In the
24. first place, if this bill passes all the way through the Legis-
25. lature and is signed by the Governor, something which I devoutly
26. hope will never occur, it means the end of the Alcoholism program
27. that we have started in this State and I don't think anyone ought
28. to be in doubt about that. It was only two years ago that
29. Senate Bill 1674 passed this Chamber by a vote of 53 to nothing.
30. That represented a strong commitment on the part of the Senate
31. and a similar commitment on the part of the House that there
32. should be a change in the attitude toward and the treatment of
33. alcoholics. Probably the number one public health problem in the

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1. United States of America. What we decided then was that we wanted
2. to decriminalize alcoholism and begin to set up a method
3. by which those who are public alcoholics could get into a
4. treatment network. Everyone since then, and there have
5. remember, two delays of this bill already for one year periods.
6. Everyone who is in the alcoholism business and I have been
7. in touch with most of them by now, believes that this
8. program should start on July 1 of this year. No one pretends
9. that all of the problems are going to be solved on July 1.
10. There are things that we will have to find out when we get
11. started, but we are agreed that we will never find out those
12. problems until we actually put the program into effect and give
13. it a chance to begin working. It is not true that the people
14. who are involved in this do not want the program to go ahead.
15. For example, Senator Dougherty referred to a...one of the
16. model or demonstration programs in the Eighteenth Police
17. District in Chicago involving Northwestern University, Doctor
18. Visotsky and the Eighteenth District Police. I've talked to
19. Doctor Visotsky for several hours over the weekend. He is
20. distressed that this program may be put a halt to at this point.
21. He has done everything he can to see that it is ready to go
22. ahead at that time. Just this morning, I talked to Commander
23. Sheehan, who is the head of the Eighteen District Police
24. in Chicago, and while I declined to accept the fact that this
25. is a...a pork barrel for my district, it is true that we have
26. a very high incidence of arrests for public intoxication in the
27. Eighteenth Police District. Those...the police in that area
28. have been very happy with the way it worked. The first few
29. days were sort of a nightmare. Since then, in the four months
30. since then, it has gone very well. It...he came as a great
31. surprise to him that anyone would think that it should not
32. go ahead. They are ready to go. Again, they do not believe
33. that there may not be some problems after it becomes effective

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1. but they devoutly believe that this is a major improvement,
2. both for the police, for those who are the victims of
3. alcoholism and for all of the communities involved. It is
4. not true that we do not know the cost of this program. The
5. line items in the appropriation for the Department of Mental
6. Health are very clear. They are 8.8 million dollars and much
7. of that money, as a matter-of-fact was there before, because the
8. Department has a responsibility for these people whether or not
9. we let this much more humane and sensible program go ahead.
10. What I am saying now, is that if you vote to delay this
11. for one more year, there is no way that we can keep together
12. all of the private ents and public agencies which have put a
13. great deal of time into trying to get this program ready
14. to go now. We will not be able to keep together the State
15. officials who are involved and responsible for it. The whole
16. thing is probably going to collapse around us and we will be set
17. back another five or ten years in doing something about public
18. alcoholism that we all know we must do. I would remind you
19. that this legislature made a strong, firm, unequivocal
20. commitment to this program when it adopted the bill two years
21. ago. Let us, not now, let it go down the drain.

22. PRESIDING OFFICER: (SENATOR ROCK)

23. Further discussion? Senator Davidson.

24. SENATOR DAVIDSON:

25. Mr. President and members of the Senate, I rise in opposition
26. to this bill. Most of you were a party to and supporter of
27. the legislation which created this Act two years ago. Now,
28. we have delayed it twice. The most important thing, you talk
29. about cost, let's talk about cost if this bill would happen.
30. Now, any person who deals in the realm of public life know
31. that a good percentage of the policeman's time and the court's
32. effort are involved with public intoxication or you and I
33. calmly call the man who was arrested as a drunk. This bill is to

bring about...is to rehabilitate this individual if possible.
But, more importantly is get him off of the roll and let the
policemen and the court go back to doing what they're supposed
to do. And one other big item which no one's addressed itself
to about cost where this...if this bill would pass would add
to it, would be the very thing known as the increased cost of
Public Aid. Tremendous number of the Public Aid cases are all
alcoholics. They get arrested, they're thrown in a drunk tank,
he's there for one night, one day, one week, while he's in jail
his family are qualifying automatically for back on Public Aid.
When he gets out - he qualifies. You're doing nothing to re-
cycle this individual to be a gainful employed individual.
You're compounding the problem. Let's talk about cost that
will happen if this bill is passed. Let's defeat this bill.
Get this program started. It has to start. That eight and
a half million dollars which is in the Mental Health Budget,
they, in questioning in Appropriation, as you were there, as I,
the Director of Public Health said they're ready to go, knowing
they will have problems, but you can't crank up, you cannot
crank up. All of you have dealt with volunteers and community
associations. You can't crank up the groups that's been cranked
up the last two years to implement this. I urge you to defeat
this bill.

PRESIDING OFFICER: (SENATOR ROCK)

Let's have some order. Senator Soper.

SENATOR SOPER:

Thank you, Mr. President. Now, I think I have a little
expertise in this field. I was a prosecutor for about twenty-
six years. I've seen many drunks come before the court.
I usually tell a few jokes or something, but I'm not kidding right
now. There's no way you're going to cure a drunk unless he wants
to be cured. And when you get the alcoholic that comes in, you
talk about..Senator Davidson talks about sending them back

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1. to his family. That man comes before...when he was before the
2. suburban courts, we talked to the family. The family would
3. come in and we talked to the fellow. He had been there
4. three or four times, he'd come back. In and out, in and out.
5. Finally, when he made up his mind that he wanted to be sober,
6. you got him sober. But, if he didn't make up his mind there
7. was no way you could do anything with him. I've seen fellows
8. that have come in so many times and we'd clean them up, give them
9. some money, give them a bath, get them a job, where would
10. he be the next day? He'd have those old clothes he had on before,
11. he'd sell the clothes we gave him and he'd have a bottle
12. of wine, he'd be back on it. Now, if you talk about saving
13. money...about saving money, you're going to save money by
14. taking every drunk that doesn't want to get sober and he's
15. not going to be sober, and you send him to a hospital, think
16. of how many people you're going to have in that hospital to take
17. care of him. You talk about his family, that's...those aren't
18. the kind of drunks we're talking about. The...the family
19. man, if he comes in, the Judge talks to him, you sit down with
20. him a little bit, you can get him sober. Now, as far as this
21. program is concerned, you talk about eight million dollars, sure,
22. two years ago, we had a surplus here of two hundred and fifty
23. to three hundred million. We had a cushion. Everybody said,
24. sure, take the drunks off the street, don't put them in the tank,
25. and we'll save a lot of money. But, that's not true. We don't
26. have that cushion today and we can't spend that so called
27. eight million...I'm being a little disturbed here. Will you
28. take this on Senator Netsch's time, please?

29. PRESIDING OFFICER: (SENATOR ROCK)

30. Senator Netsch. Senator...

31. SENATOR SOPER:

32. If you all want together in a conference, I'll help
33. you a little bit. You don't mind, do you, Senator? But, I...I

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1. wish you would listen to this because you've never been to
2. a real court. You came over. Well, thanks. But, Senator
3. Netsch is not interested in this part of the discussion. She...
4. maybe she's got all high-class drunks where she comes from,
5. see, and if she says they need the best hospital at two hundred
6. dollars a day and four...four or five people watching him.
7. If you've ever seen...seen a drunk that had DT's it would take
8. a few guys to hold him in bed, and he'd wreck a couple of
9. hospital rooms for you, and if he's not determined to cure
10. his DT's, you're not going to cure them. So, if we're
11. going to get in a program, let's wait 'til we've got about two
12. hundred and fifty million left...left in the coffers that we
13. don't know what...what to do with and let's give these habitual
14. drunks a little summer vacation or a winter vacation in the
15. best hotels or what we call hospitals at this time, and...and
16. then we'll be able to afford it. Right now, we can't afford
17. it. These are different times, Senator Netsch, these are
18. two years later and two hundred and seventy-five million
19. dollars less.

20. PRESIDING OFFICER: (SENATOR ROCK)

21. Senator Schaffer.

22. SENATOR SCHAFFER:

23. Mr. President, I rise in opposition to this bill.

24. There's been a fair amount of discussion here, a fair amount
25. of it has been pretty thoroughly off the point. This bill,
26. in all deference to its sponsor, who I have tremendous respect for,
27. isn't a bill to delay this program, this is a bill to destroy
28. this program. Senator Netsch has correctly indicated that the
29. two years that have gone by have seen a rather large effort
30. on the Department...on the behalf of the Department of Mental
31. Health to establish Detox. programs throughout the State. You
32. all will recall that we had a meeting here last week which Senator
33. Netsch announced twice. Senator Netsch and I were the only

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1. Senators who showed up. The Representative of the Municipal
2. League didn't even bother to show up, although he was instrumental
3. in wanting the meeting called. I can only speculate what he was doing
4. while the meeting was going on. I grilled the people from the Department
5. of Mental Health for the better part of two and a half hours
6. about whether they were ready to go July 1, and I'd say
7. we could only call that exchange thorough. I'm convinced that
8. they are ready. I'm also convinced that they're going to have
9. problems. But, I have to say in all candor, were we to
10. start July 1, October 1, January 1, July 1 of next year,
11. or July 1 ten years from now, that first year is going to be
12. filled with problems. Very shortly this legislature is
13. going to adjourn and we're all going back to our district
14. and give pious speeches about drug abuse to all the teenagers
15. that will care to listen to us, and they're going to laugh
16. right up their sleeves at us because they know darn well
17. that compared to alcohol and the problem...the alcoholic
18. in this State, drug abuse isn't even in the running. Now, we've
19. laughed about this, I'm sure we've all had a few drinks and laugh
20. about it and I can imagine who bought the drinks, while we're
21. on the subject. This program should go forth July 1. If you
22. want to destroy the program, let's put a bill in to repeal it
23. and admit to the public that we aren't concerned about the
24. alcohol problem in this State. And this is a problem that
25. isn't just in Chicago or in Cook County, this transcends
26. all geography, all classes, all wealth, poor. Senator Berning,
27. ride the late train out from Chicago to your neighborhood
28. and tell me there isn't a problem with alcohol. You just walk
29. the streets of Springfield at night and you know there's a
30. problem. There is not a place in this State that does not have
31. a problem. For us to turn our backs on the major medical problem,
32. on the pretense that we aren't ready, is an absolute betrayal
33. of the faith of the people who sent us here. This bill should be
34. defeated. This program should go forth, and there will be problems

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1. on this program. You can count on it. But, we have made
2. tremendous progress in the last two years to get this program
3. ready to go. The Hospital Association has cleared the way, they
4. know their problems have been overcome. The...the municipal
5. people who have bothered to ask a few questions, and I might
6. add, there have been few of them that bothered to ask, they
7. just got scared and...and saw ghosts in closets, have had their
8. questions answered. This program should go forth and in all
9. deference to the sponsor, who is a fine and honorable gentleman,
10. I hope this bill will be defeated.

11. PRESIDING OFFICER: (SENATOR DONNEWALD)

12. Senator Rock.

13. SENATOR ROCK:

14. Thank you, Mr. President, Ladies and Gentlemen of the
15. Senate. I rise in support of Senate Bill 1630 and in support
16. of Senator Dougherty's comments. Two previous speakers
17. have said that Senate Bill 1630 is not just a delay, it's
18. a destruction of this program. I categorically deny that.
19. I think we are all aware and many of us who sat in the Appropriations
20. Committee last Thursday night or Friday night or whenever it
21. was, I'm losing track of time, and listened to the Director
22. of the Department of Mental Health at great length, at about
23. 7:00 o'clock in the evening, explain to us or attempt
24. to explain in response to a question from me as to what, in fact,
25. the Department had done since the delay of last year. There
26. is no question but that the Department feels that intramurally
27. within the Department, they are ready to go. There are, however,
28. a number of communities in this State and a lot of people
29. in this State who don't feel that they're ready to go. There is
30. no reason why some of the money, if not all of the money, and I won't
31. say all because I don't think they need it all, cannot be left
32. in the budget to implement this program prospectively. We simply
33. are not ready on July 1st, but, to say that Senate Bill 1630

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1. attempts to destroy the effects of Senate Bill 1270 that we
2. all voted for two years ago is simply inaccurate. After I
3. left that committee meeting and finally got home, I got a chance
4. to read my local newspaper and they had a meeting on Thursday,
5. June 10 in my community and the Department of Mental Health
6. and Developmental Disabilities has blocked out certain regions
7. of the city I represent, and the West side area, bounded
8. by the western city limits which is Austin Boulevard,
9. Diversy Avenue, the Kennedy Expressway, Kinsey Street and
10. the Stevenson, is to be served by an alcoholism center to be
11. located either at Hay Market House which is 12 South Peoria,
12. or the Salvation Army at 509 North Union. The gentleman from my
13. community who's the board president of the Austin Developmental
14. Center charged to the representatives of the Department,
15. this newspaper reports, that the new program is geared
16. to Skid Row alcoholics and will not help the people in the Austin
17. area, which is the area I represent. Police figures show
18. that the Austin district, the 15th district, had only four hundred
19. and seventy-eight arrests for public intoxication last year
20. while the Monroe Street, the 12th district, which is within
21. the confines of this West side district, had eighty-five hundred
22. public intoxication arrests last year. The spokesman for
23. Loretto Hospital, which hospital is in my community and I sit
24. on its Board of Directors, a spokesman for that hospital said,
25. "to ask a hospital to take on a detoxification program is an
26. impossibility when hospitals are already involved in many similar
27. programs on an outpatient basis." The Assistant Director of the
28. Illinois Department of Public Aid for the northern region, indicated
29. at this meeting that public assistance will not be available
30. to pay for detoxification, contrary to what we heard last
31. week. What Senator Dougherty is...is saying by virtue of Senate
32. Bill 1630 is a statement that I rise in support of, that we are
33. simply not, on July 1, 1976, ready to go. This program should
34. be delayed and I would urge a favorable vote.

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1. PRESIDING OFFICER: (SENATOR DONNEWALD)

2. Is there further discussion? Senator Dougherty may
3. close the debate.

4. SENATOR DOUGHERTY:

5. Senator Rock and others, I listened to Senator Schaffer,
6. I listened to Senator Davidson. I, too, supported this bill
7. at its passage and I thought...I still think it's a good measure.
8. However, we're just not ready to move into it. This morning
9. I talked to Doctor Gladstone of the Northwestern University
10. who directs the program of laws for the YMCA. Subsequently,
11. I talked to Dr. Visotsky just a few moments ago and I talked...
12. told him of the program, he said, I will agree to the...I do...
13. I last year did support the one year...however, I feel that
14. the best way to handle this measure would be at this time
15. to maintain the pilot programs that are now invoked to
16. keep right on operating these pilot programs where money
17. has been appropriated for, but to postpone if necessary,
18. 'til next year, the operation of these twenty-nine units that
19. have been set up by a group of people who I do know not
20. whether they're psychiatric, or they're medical, or what
21. are they? We have to determine the amount of staff required.
22. No one knows that the voluminous amount of money that might
23. be required at this point in time and I...I'm listening to Doctor
24. Levitt the other day and I'm not so sure that he was enthused...
25. as enthusiastic as he sounded for the reason that he didn't
26. know just how much money was going to be needed, he wasn't quite
27. sure. He pointed eight point million. I know that. I listened
28. to it. However, I...I'm worried and disturbed about the staffing of
29. this. The rank of staff, the professional and so forth. And the
30. definitions of hospital program, we don't have...not got it,
31. Not-for-profit hospitals, community hospitals, private hospitals
32. and public hospitals. The Public Aid has agreed that they will
33. support at a...one of these persons for a five days at a hundred

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1. dollars a day and no more. From then on, they're on their
2. own. Now, I don't know how far we're going to go. All I
3. ask...I'm supportive of the program and I mean this from the
4. bottom of my heart. But, I do believe we need one more year for
5. the implementation and I ask support of the members.

6. PRESIDING OFFICER: (SENATOR DONNEWALD)

7. Question is shall Senate Bill 1630 pass? Those in favor
8. vote Aye. Those opposed vote Nay. The voting is open.
9. Have all those voted who wish? Take the record. On that
10. question the Ayes are 33, the Nays are 21, none Voting Present.
11. Senate Bill 1630 having received a constitutional majority
12. is declared passed. Senate Bill...Senator Partee.

13. SENATOR PARTEE:

14. I assume you were getting ready to call 1952, but just
15. before that, I'd like to, on a point of personal privilege,
16. inform you that in the Southwest gallery, are the wives of
17. two of our members, Mrs. Bob Egan, and Mrs. Mike Brady.
18. And I'd ask them to stand and be recognized by the Senate.
19. And in the President's gallery, is the family of Senator
20. Morris and I'd like for them to stand and be recognized
21. by the Senate.

22. PRESIDING OFFICER: (SENATOR DONNEWALD)

23. Senate Bills on 3rd reading. Senate Bill 1952, Senator
24. Partee. Just a moment, Senator Egan for what purpose do you
25. arise?

26. SENATOR EGAN:

27. Yes, while we were on that order of business, Mr. President,
28. I would like to introduce Mr. James Gallagher who is a very
29. close friend and a constituent from the northwest side of the
30. City of Chicago. Jim with his family. Would you rise and
31. be recognized. Thank you.

32. PRESIDING OFFICER: (SENATOR DONNEWALD)

33. Read the bill.

1. SECRETARY:
2. Senate Bill 1952.
3. (Secretary reads title of bill)
4. 3rd reading of the bill.
5. PRESIDING OFFICER: (SENATOR DONNEWALD)
6. Senator Partee.
7. SENATOR PARTEE:
8. Again, this is a bill we just amended to adjust the
9. problems which arose in the Supreme Court in the Wright
10. versus Central DuPage Hospital Association case. I think
11. it needs no further explanation. If there are questions
12. I'll attempt to answer them.
13. PRESIDING OFFICER: (SENATOR DONNEWALD)
14. Senator Glass.
15. SENATOR GLASS:
16. Well, thank you, Mr. President. I would like to direct
17. a question to the sponsor.
18. PRESIDING OFFICER: (SENATOR DONNEWALD)
19. He indicates he will yield.
20. SENATOR GLASS:
21. Senator Partee, I think it might be well if you were
22. to distinguish between this bill and...39...House Bill 3958,
23. which created the possibility of the parties entering into
24. arbitration which I believe can be binding in this...this
25. bill which reinstates the Medical Review Panel. It just
26. occurs to me that the membership would be...should be familiar
27. with these two options because they are somewhat similar and
28. I suppose they both could become law, but it...it would give,
29. it seems to me, two alternative approaches for the parties
30. to...to dispose of a case before it went to court, and...but,
31. I question whether you...whether you feel that they would both
32. be necessary or if one is preferable to the other since they...
33. they will conceivably both become the law.

1. PRESIDING OFFICER: (SENATOR DONNEWALD)
2. Senator Partee.
3. SENATOR PARTEE:
4. Thank...thank you, Dr. Glass, for your very...your very
5. embracive question. The question embraced really the answer
6. and it would, of course, give two options and it would make
7. it easier for people to approach either that they desired.
8. There is a difference between the two and I'm happy that
9. your question points that out. Thank you.
10. PRESIDING OFFICER: (SENATOR DONNEWALD)
11. Is there further discussion? Senator Bruce.
12. SENATOR BRUCE:
13. Thank you, Mr. President and members of the Senate. I've
14. had a chance to go over the amendment as proposed, which is
15. substantial in nature, and there are problems that I think still
16. exist with it in light of the Wright opinion. The Wright opinion
17. was the one that struck down our activity of last year and
18. particular in two regards that is addressed by the amendment.
19. First of all, the judicial function of the panel as composed
20. in our original legislation and that proposed change in this
21. amendment and secondly, is the right to a trial by jury, which
22. I think probably has been handled appropriately by the amend-
23. ment and my questions really or problems that are raised are
24. to the question of a judicial function of the panel and that
25. is the fact that the judge shall preside over and make all
26. procedural decisions on the questions of evidence and rulings
27. of matter of substantive law. That seems to clarify the problem...
28. PRESIDING OFFICER: (SENATOR DONNEWALD)
29. Senator, just a moment. I see Senators all over the Floor,
30. not in their seats, unauthorized personnel on the Floor and
31. there's still Senators not in their seats. Would the Senators...
32. would the Senators please return to their respective seats and
33. may we have order? Senator Bruce.

1. SENATOR BRUCE:

2. Yes. Well, the...the problem comes up in page 5 and 6
3. of the amendment which we are trying to insure that only the
4. judge makes rulings of substantive law and evidence, and we
5. get into the top of page 6, paragraph 2, in which it states
6. in the last sentence of that paragraph that the panel, how-
7. ever, may call witnesses, examine evidence, call for additional
8. or particular evidence and may examine or cross-examine wit-
9. nesses as...as it may determine to be appropriate. That seems
10. to exclude it from the requirements as set forth in the first
11. paragraph of Section 58.6 which it says - the judge shall
12. make all determinations. Let me cite the one example I think
13. the problem...the problem as it presents itself. That is, what
14. if one of the panel members wants to examine one of the wit-
15. nesses and the judge wants to make the ruling that, in fact,
16. that examination is not relevant. Under the first paragraph
17. of that section it seems to say that his ruling is binding.
18. However, under the second paragraph it seems to say that what-
19. ever they deem to be appropriate. The line says - as it may
20. determine to be appropriate. I take in that instance that "it"
21. is determined by the panel, the three member panel, is a judge,
22. a lawyer and a doctor. If the judge and the lawyer and the
23. doctor don't agree, a two to three decision...a two to one de-
24. cision, then the cross-examination could be required. Additionally,
25. I think the...laundry list of things that they may
26. require...witnesses, evidence, particular evidence, examine or
27. cross-examine, seems to go well beyond and they are not re-
28. stricted in any way by the rules of evidence as the judge would
29. be, and I think that that is a deficiency in this paragraph
30. which may be fatal to the proposition before us. In addition, in
31. the third paragraph they may consider, the panel again not the
32. judge, and I think that all these determinations should state
33. the judge shall, it says the panel shall consider the pleadings,

1. the evidence and again we're back to what they determine to
2. be the evidence, including discovery, hospital and medical records,
3. whether or not the judge has determined them to be relevant to
4. the case, affidavits and such witnesses and exhibits as the
5. panels may call. Now, we get into a very serious problem, I
6. think, of the judge who has now been, in paragraph 1, given
7. the right to make the evidentiary and substantive law decisions
8. being overturned by the panel on what it deems to be "appro-
9. priate." Now, finally, I think that the...there is...an
10. error in the third paragraph and it says that they may call
11. witnesses or introduce matters into evidence. This seems to
12. give the panel the right to introduce matters not discussed
13. in two or three evidentiary powers that even the judge would
14. not have. Now, finally, in Section 58.7 the language is
15. indelicately drawn, perhaps, and that is, the panel shall
16. make its determination according to the applicable substantive
17. law as determined by the judge on the panel. Perhaps it could
18. be better drafted but it seems that they make first the de-
19. termination and the determination is also made by the judge on
20. substantive law. I would point out that in the Wright opinion,
21. their big problem was, and quoting from the Wright opinion it
22. says "the application of the principles of law is inherently
23. a judicial function". Again, well, I know that we're taking
24. a little more time here, but it seems to me we've got an
25. amendment that is lengthy in nature and we have already taken
26. this to the Supreme Court once. I'd like to avoid that on
27. the second time. Well, Senator Chew wishes to close off de-
28. bate. I just think there are some...some problems that have
29. not been answered. That this is an amendment that was left
30. on our desks very late today. A bill that was heard in com-
31. mittee and it seems to me that...that it does not answer the
32. Wright opinion, particularly as it relates to judicial functions
33. being attributed to non-judicial members of the panel.

1. PRESIDING OFFICER: (SENATOR DONNEWALD)

2. Senator Partee.

3. SENATOR PARTEE:

4. Well, I certainly want to say that I've always known
5. that Senator Bruce has a very sharp and penetrating and
6. incisive mind, but it is overly sharp because it ignores some-
7. thing rather basic. 58.6 says and shall make all...relating to
8. the judge,"shall make all rulings on matters of a substantive
9. law to be followed,"and then when there are references follow-
10. ing that to the"panel". Senator Bruce in his determination
11. of what it means has forgotten, perhaps, that the judge is
12. still a member of the panel and the panel then makes those
13. decisions. But, matters relating to admissibility of
14. evidence, competency of witnesses, relevancy of the testimony
15. offered, all have to be decided by the judge. Once he has
16. made that decision he is not then taken off the panel. He
17. is still a part of the panel and then the panel then makes
18. the decision commensurate with and pursuant to the rulings
19. which he has made. So, it is not inconsistent. The language
20. is not indelicate. They are words of art.

21. PRESIDING OFFICER: (SENATOR DONNEWALD)

22. Is there further discussion? Senator Bloom. Senator
23. Bloom.

24. SENATOR BLOOM:

25. One little question of the sponsor. On page 2, line 13,
26. was pointed out to me by Senator Sommer, that on motion of
27. either party to terminate the deliberations the court shall,
28. now, that's not precatory, and it says if either party goes
29. to court and says, "let's stop the panel". The court has to stop
30. it. Now, is...is that a correct interpretation?

31. PRESIDING OFFICER: (SENATOR DONNEWALD)

32. Senator Partee.

33. SENATOR PARTEE:

1. I don't know if Senator Sommer had a...what kind...what
2. kind of...what kind of fee he charged you, but he gave you
3. correct advice, Sir. That is true.

4. PRESIDING OFFICER: (SENATOR DONNEWALD)

5. Senator Bloom.

6. SENATOR BLOOM:

7. So, in other words the panel, you know, gets together
8. and...and if somebody doesn't like the ruling or the way
9. things are going, you go to court anyway. Correct?

10. PRESIDING OFFICER: (SENATOR DONNEWALD)

11. Senator Partee.

12. SENATOR PARTEE:

13. In accordance with the Wright decision, yes. W-r-i-g-h-t.

14. PRESIDING OFFICER: (SENATOR DONNEWALD)

15. Is there further discussion? Senator Bruce. Second
16. time around.

17. SENATOR BRUCE:

18. Yes. I'd just point out to Senator Partee that the
19. problem in...in paragraph 2 as I read it, is...is one of
20. not a close reading by this Senator, but the word "panel" as
21. in the sentence - the panel, however, may call - should read
22. the judge, however, may call witnesses, examine evidence and
23. so forth and so on as he determines. As it says - examine
24. or cross-examine witness as it may determine. And the problem
25. is, I think is what you mean to say - as the judge may deter-
26. mine to be appropriate. And finally in the third paragraph -
27. the judge shall consider the pleadings, the evidence, so forth
28. and so on or the panel may consider subject to in the last line
29. that the judge may rule into evidence and allows these matters
30. into evidence, and I think that would clarify the problem,
31. but it seems to me that the panel may overrule the judge be-
32. cause it...it says very definitely - the "panel" shall consider,
33. the "panel" may call, and I think what you meant to say in all

1. those instances, subject to the right of the judge to make
2. the determination as set forth in paragraph 1 or other
3. language, but it certainly sets forth two separate procedures,
4. or three at least in the three paragraphs. The first one the
5. judge makes the ruling, the second one that the panel may
6. call its own witnesses and examine any evidence and make even
7. requests for a particular evidence and it does not say that
8. that's subject to the provisions in paragraph 1. Maybe they
9. are and maybe sharp lawyers will be able to fight it out,
10. but it seems to me the best thing to do is to make it clear
11. that the judge will make all evidentiary ruling.

12. PRESIDING OFFICER: (SENATOR DONNEWALD)

13. Senator Partee may close the debate.

14. SENATOR PARTEE:

15. Well, I just think that Senator Bruce is still...

16. PRESIDING OFFICER: (SENATOR DONNEWALD)

17. Just a moment. I'm...just a moment, Senator. I'm sorry.

18. Prior to closing. Senator Harris, do you wish recognition?

19. Senator Harris.

20. SENATOR HARRIS:

21. Well, really, just a brief question. I don't want to
22. enter into the debate, but, Mr. President...Senator Partee,
23. I...the arbitration provisions of the second bill in the earlier
24. two House bills that we dealt with in the...the product of
25. House Judiciary I Committee. It just seems to me in all candor,
26. I have not carefully gone through this bill, but it does
27. does seem to me that it's a redundancy now that...that Senate
28. Bill 1952 is a redundancy, in regard to the enactment, hopefully,
29. of House Bill 3958. Is that...is that a fair conclusion?
30. I'm sure your answer is going to be No, but I...I really need
31. some persuading, I guess, that this bill is...is necessary in
32. the light of the passage of 3958.

33. SENATOR PARTEE:

1. Well, let me say, Senator, that there are options for
2. people in both bills. Even if both bills passed, at the
3. time of their signing if the Governor had the notion, as
4. you have, that it would be redundant, he can then excise
5. one or the other and we'd still have a law on the subject.
6. With things being as they are here, it would be my preference
7. to pass both of them and have those options open and avail-
8. able to the Governor. One of these bills, 1957, has to go
9. back to the House. I'm not certain what it will wind up
10. in in a conference committee. I think I'd rather overdo
11. it than underdo it.

12. PRESIDING OFFICER: (SENATOR DONNEWALD)

13. Senator Harris.

14. SENATOR HARRIS:

15. Well, just one other question. Isn't it true that if
16. this bill becomes law you can have the...I don't want to
17. use the word conciliation, but you can have the...the action taking
18. place and when either party elects to discontinue and litigate,
19. the two parties are bound to go ahead litigate. Is that not
20. correct?

21. SENATOR PARTEE:

22. Without a question, Senator.

23. SENATOR HARRIS:

24. Okay. Thank you.

25.
26.
27.
28.
29.
30.
31.
32. (Continued on next page)

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- 1. PRESIDING OFFICER: (SENATOR DONNEWALD)
- 2. Senator Partee, do you wish a roll call? The question
- 3. is, shall Senate Bill 1952 pass? Those in favor vote Aye.
- 4. Those opposed Nay. The voting is open. Have all those voted
- 5. who wish? Have all those voted who wish? Take the record.
- 6. On that question the Ayes are 52, the Nays are none, 2 Voting
- 7. Present. Senate Bill 1952 having received the constitutional
- 8. majority is declared passed. Senator Daley...(Machine cutoff)
- 9. ...Daley as to...Senate Bills on 2nd reading, as to 1997.
- 10. That was recalled to the order of 2nd reading. Do you wish
- 11. to consider amendments at this time? Do we have leave to
- 12. return to the order of Senate Bills on 2nd reading? Leave
- 13. is granted. Are there any amendments?
- 14. SECRETARY:
- 15. Amendment No. 1 offered by Senator Harris.
- 16. PRESIDENT:
- 17. Senator Harris.
- 18. SENATOR HARRIS:
- 19. Thank you, Mr. President. This amendment attempts to
- 20. save the procedure set forth in the Motor Vehicle Code which
- 21. presently permit a judge to order treatment, but still do
- 22. not minimize the seriousness of this...of the crime of driving
- 23. while intoxicated, and I know that the effort of the committee
- 24. to proceed with this supervision procedure that has obtained,
- 25. in Cook County particularly, and also to some extent in Lake
- 26. and DuPage, is a laudable and worthy effort and I don't quarrel
- 27. with it. I just want to point out that the seriousness of
- 28. this particular offense, drunken driving if you please, just
- 29. should not be treated lightly and the importance of the section
- 30. in the Motor Vehicle Code should be separated from the pro-
- 31. visions of this supervision procedure being enacted into the
- 32. Unified Code of Corrections by the provisions of Senate Bill
- 33. 1997. Now, that's the thrust of this amendment. The language

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1. is very simple. It just states that this section, with respect
2. to the Unified Code of Corrections, this section does not
3. apply to persons charged with offenses involving the driving
4. of a motor vehicle under the influence of intoxicating liquor.
5. That section in the Motor Vehicle Code sets forth a treatment
6. option that a judge can proceed with, but the seriousness,
7. the offense, is not eliminated. I urge the adoption of
8. the amendment.

9. PRESIDENT:

10. Senator Rock.

11. SENATOR ROCK:

12. Thank you, Mr. President. Ladies and Gentlemen of
13. the Senate, as the sponsor of Senate Bill 1629 which attempted
14. to deal with this question, I would commend the Committee on
15. Judiciary for the bill which is currently before us, Senate
16. Bill 1997, as being the work product of that Committee and,
17. frankly, a better bill than was 1629. This whole question
18. arose, as I'm sure everyone knows, as a result of a supreme
19. court...case, People versus Breen, which came down early
20. this year, wherein the court said that, absent appropriate
21. legislation, a trial judge is without authority to place a
22. defendant on supervision. By the terms of Senate Bill 1997
23. we are providing the statutory authority for that kind of
24. an order, and that kind of an order has, in fact, been utilized
25. in the County of Cook, the County of Lake and the County of
26. DuPage, those counties that have large volumes of these kinds
27. of offenses. By virtue of Amendment No. 1 Senator Harris is
28. apparently trying to say and does, in fact, say that whatever
29. you do with respect to supervision it doesn't apply to persons
30. charged with the offenses involving the driving under...of a
31. motor vehicle under the influence of intoxicating liquors,
32. and he attempts to justify that on the basis that he would wish
33. to save that provision in the Motor Vehicle Code which calls for

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1. a two or three day program in one of the alcoholic treatment
2. centers or some other similar program. I would say to him,
3. and say to the members of this Floor and to you, Mr. President,
4. that 1997 in no way affects or would have any deleterious
5. effect on that Motor Vehicle Code provision. What this bill
6. does recognize, is a current practice in those counties wherein
7. the volume is large and some disposition other than an abso-
8. lute conviction has to be affected. In counties other than
9. those mentioned the common practice is to reduce that charge
10. of driving under the influence and, in fact, accept a plea
11. of guilty for reckless or some other lesser charge. I don't
12. have any quarrel with that. I am dealing, however, with a
13. recognizable fact that in the County of Cook, particularly,
14. in the City of Chicago these charges, in fact, are not reduced,
15. and so in those cases in the misdemeanor courts of our city
16. and the boys courts and the domestic relation courts and in
17. the traffic courts the judge has to have this option. And to
18. say by virtue of Amendment No. 1 the judge can do it, but not
19. in this kind of a case, I think is simply destructive of the
20. purpose of intent of Senate Bill 1997, and I would urge opposi-
21. tion to this amendment.

22. PRESIDENT:

23. Senator Daley.

24. SENATOR DALEY:

25. Mr. President and fellow Senators, in regards to this
26. amendment, we fully discussed it before the Judiciary Committee.
27. The concept of this amendment of taking out drunk driving
28. offenses out of this supervision bill, and I think it's a bad
29. amendment. The Committee saw fit to send the bill without
30. this amendment and I'd ask for a No vote on this amendment.

31. PRESIDENT:

32. Senator Egan.

33. SENATOR EGAN:

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1. Thank you, Mr. President and members of the Senate.
2. I...I commend Senator Harris in his intention as...as I
3. did commend you, Senator, when we passed the Implied Con-
4. sent Bill several years ago, the consequence of which
5. has been not to take from the roads persons who are driving
6. under the influence, but rather to allow a more difficult
7. task for the police to arrest an offender, number one, and
8. a more difficult task for the courts to convict the offender,
9. number two. So, that the consequence of that bill, as the
10. statistics will show, has been to reduce...not to reduce the
11. number of intoxicants who are driving, but to reduce the num-
12. ber of cases against the total number of intoxicants who are
13. driving and to reduce the convictions of those who were arrested.
14. And I suggest that the consequence of this amendment would be
15. contrary to the intention and I'll explain it this way. The
16. supervision provision would allow for those intoxication pro-
17. grams to continue to provide help for those who know that
18. they need help. This will promote pleas of guilty in cases
19. of driving under the influence of intoxicating liquor. For
20. that single reason supervision should be allowed for the in-
21. toxicated person who drives. Particularly, the intoxicated
22. person who has a habit of driving while intoxicated. It...
23. it promotes his plea of guilty in the court. The court can
24. then put him on supervision and if he attends to the problem
25. of driving and drinking, that will remove the drunk driver from
26. the road a lot quicker and a lot better than will a finding
27. of guilty even to the law itself, which, in fact, has been
28. reduced by the Implied Consent Bill. So, I think that the in-
29. tention is very excellent, but it does, I think, in fact, do
30. just the opposite from which it is intended, and for that
31. reason I urge the membership to reject the amendment. Thank you.

32. PRESIDENT:

33. Senator Roe.

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1. SENATOR ROE:

2. Mr. President and members of the Senate, I should at
3. the outset indicate to the Body that, should the bill be
4. in the form that it is offered at this point in time on
5. 3rd reading, I'm going to vigorously oppose its passage.
6. However, I am opposed to this amendment no matter what
7. happens to the bill on 3rd reading up or down, and it's
8. for this reason. Drunken driving is the most serious driving
9. offense in the State of Illinois, however, there are a num-
10. ber of substantive misdemeanors such as contributing to the
11. sexual delinquency of a minor, aggravated battery, which
12. will be eligible for supervision if this bill passes. I
13. don't think it's constructive to pick and choose, however
14. meritorious Senator Harris may feel this amendment is, as
15. to what offenses and traffic and misdemeanors should be
16. covered by supervision and which should not, because I
17. think if this amendment goes on the bill and the bill passes
18. in this form, that there will be other offenses such as,
19. perhaps, the ones that I have just mentioned that may be
20. excluded from supervision. I think the issue is a larger
21. issue and that is, whether or not we ought to allow supervision
22. for the whole category of offenses of traffic misdemeanors
23. and I think that there is a bill alive as far as felonies are
24. concerned. I stated my position on the bill if it stays in
25. its present form, but I nevertheless would oppose this amend-
26. ment.

27. PRESIDENT:

28. Senator Don Moore.

29. SENATOR MOORE:

30. Thank you, Mr. President and members of the Senate.
31. I, also, rise in opposition to this particular amendment.
32. I think the question of the severity of supervision in
33. Cook, Lake and DuPage Counties has been hit upon. I don't

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1. believe it was mentioned that the bill did go through the
2. Judicial Advisory Council. It was recommended to us. We
3. split it up because they thought that there should be class
4. 3 and 4 felonies included, which there was severe question
5. on. We wanted to confine it to misdemeanors and to the
6. Motor Vehicle Code. But, one main reason I have to rise
7. in opposition, Mr. President, is that you can...a person can
8. be convicted of the offense of driving a motor vehicle under
9. the influence of intoxicating liquor, and under the present
10. statute, or narcotic drugs. Now, in this particular amendment
11. narcotic drugs is eliminated, so that in other words someone
12. arrested, if this amendment were adopted, of driving a vehicle
13. under the influence of narcotic drugs, he would be eligible
14. for supervision, but if it was under the influence of intoxi-
15. cating liquor, he would not be eligible for supervision, and
16. on that basis I have to oppose the amendment.

17. PRESIDENT:

18. Senator Fawell.

19. SENATOR FAWELL:

20. Well, I...I rise in support of this and I'm...I can't
21. follow some of the arguments. We hear a lot these days about
22. being hard on criminals and when one looks at the slaughter that
23. takes place on our highways and the number of accidents that
24. are attributable to those who just drink too much and then get
25. behind the wheel. I think if there's one area where we ought
26. to all agree it is that when one is found to be intoxicated
27. while driving a motor vehicle, that it shall be a conviction
28. against his record. And by leaving this in we are giving the
29. courts the ability to be able to weasel out of that conviction.
30. As I understand the consent law as it is now drawn, for instance,
31. you can have supervision under the Implied Consent laws. The
32. only difference is that you will get that conviction and you
33. will lose your driving privileges as well you ought to lose

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1. your driving privileges. Now, there may be other areas where
2. we ought to also consider deleting them from the provisions
3. of this law and, frankly, if we don't pass an amendment such
4. as this, I'm not going to, for one, support the bill at all.
5. I...I think that it...the...

6. PRESIDENT:

7. Time, Senator.

8. SENATOR FAWELL:

9. ...people of the State of Illinois realize that this
10. bill would have the affect of just giving one more out to
11. our prosecutors or to our judges to let the drunk off the
12. hook, that they would certainly do a lot of communicating
13. with us. So, I strongly...

14. PRESIDENT:

15. Time, Senator.

16. SENATOR FAWELL:

17. ...support...support the amendment. Thank you, Mr. President.

18. PRESIDENT:

19. Any further discussion? Senator Harris may close the
20. debate on Amendment No. 1.

21. SENATOR HARRIS:

22. Well, I think Senator Fawell has summed it up beautifully.
23. My point is pure and simple that I want to protect the serious-
24. ness of a conviction under the Motor Vehicle Code under the
25. Implied Consent Law and that does permit for a minimum of two
26. days of treatment at the discretion of a judge and that's
27. a minimum. The period of treatment can be considerably more
28. than that at the discretion of the judge, but the fact is, that
29. the conviction will be a matter of record and driving while
30. intoxicated will be the important and serious crime that it
31. ought to be identified. And the suggestion that supervision
32. will just cure all that, seems to me to be a result that will
33. minimize the seriousness of this crime against society that

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1. we just should not tolerate and I urge you to join me in
2. the adoption of this amendment.

3. PRESIDENT:

4. The question is, on the adoption of Amendment No. 1
5. to Senate Bill 1997. Those in favor will say Aye. Opposed
6. Nay. The no...the Nays have it. The amendment fails. Do
7. two members seek a roll call? A roll call is requested.
8. The question is on the adoption of Amendment No. 1. Those
9. in favor will vote Aye. Opposed will vote Nay. The voting
10. is open. Have all voted who wish? Take the record. On
11. that question the Ayes are 25, the Nays are 26. The amend-
12. ment fails. A verification of the roll call has been requested.
13. Which do you seek, Sir? The negatives are requested. Now,
14. will the members be in their seats. Will the Secretary call
15. the roll for the negative vote on this amendment.

16. SECRETARY:

17. The following voted in the negative. Brady, Carroll,
18. Chew, D'Arco, Daley, Donnewald, Dougherty, Egan, Kenneth
19. Hall, Hynes, Johns, Joyce, Kosinski, Lane, Lenke, Don Moore,
20. Nudelman, Palmer, Rock, Roe, Savickas, Smith, Soper, Vadalabene,
21. Welsh and Mr. President.

22. PRESIDENT:

23. Senator Johns, Senator Carroll is in his seat. That
24. should be the first place to look. The roll call has been
25. verified. Any...any...any further amendments?

26. SECRETARY:

27. Amendment No. 2 offered by Senator Daley.

28. PRESIDENT:

29. Senator Daley.

30. SECRETARY:

31. (Secretary reads Amendment No. 2)

32. SENATOR DALEY:

33. Mr. President and fellow Senators...

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1. PRESIDENT:

2. Senator Daley.

3. SENATOR DALEY:

4. ...this is a clarification amendment whereby we in-
5. cluded violations of local government traffic ordinances
6. which had to be included. It was agreeable by both sides.

7. PRESIDENT:

8. Any further discussion? Senator Daley moves the adoption
9. of Amendment No. 2 to Senate Bill 1997. Those in favor vote
10. Aye. Opposed Nay. Ayes have it. Amendment No. 2 is adopted.
11. Any further amendments? Any amendments from the Floor. 3rd
12. reading. Senate Bill 1998, Senator Daley. Read the bill.

13. SECRETARY:

14. Senate Bill...Senate Bill 1998.
15. (Secretary reads title of bill)
16. 3rd reading of the bill.

17. PRESIDENT:

18. Senator Daley.

19. SENATOR DALEY:

20. Mr. President and fellow Senators, this is Senator D'Arco's
21. bill which he sponsored in the Senate and he will speak on
22. this bill.

23. PRESIDENT:

24. ...Senator D'Arco.

25. SENATOR D'ARCO:

26. Thank you, Mr. President. What this bill does, it amends
27. the...the statute as regards to conditional discharge and pro-
28. bation, to provide that, in Section 562, subparagraph D, that
29. anyone who has been convicted of an offense and placed on pro-
30. bation or conditional discharge can...the order can be vacated
31. for misdemeanors, class 3, class 4 felonies and the judgement
32. of guilty vacated. This really is a little different than
33. supervision in that the judge has the discretion after he places

1. a person who has been convicted of an offense, either a
2. felony, a misdemeanor or petty offense, he places him on
3. probation or conditional discharge. He can and...vacate
4. the finding after a period of time, which would be the
5. probation period or the conditional discharge period, and
6. the person wouldn't have no arrest record or conviction
7. record after that period of time that the probation or con-
8. ditional discharge was served. It is in the same order
9. as Senator Daley's bill except that it applies not only
10. to misdemeanors but also applies to class 3 and class 4
11. felonies. I would ask for a favorable consideration.
12. Oh, yeah, one other thing I'd like to mention. It applies
13. to class 3 and class 4 felonies, but it does not apply
14. where the use of force against a person or use of a dangerous
15. weapon is involved, so if there's a class 3 or class 4 felony
16. where the use of force or the use of a dangerous weapon is
17. involved, this provision would not apply. I would answer
18. any questions and seek a favorable roll call. Thank you.

19. PRESIDENT:

20. Senator Bell.

21. SENATOR BELL:

22. Thank you, Mr. President, Senator D'Arco, it would
23. seem like the bill that you're talking about here makes it
24. easier for a judge to let a felon off the hook. How, in fact,
25. does Senate Bill 1998 address itself to the crime issue that
26. we have as far as taking offenders off the street and putting
27. them in the slammer?

28. PRESIDENT:

29. Senator D'Arco, do you know what a slammer is?

30. SENATOR D'ARCO:

31. Being from the West Side I'm familiar with the lingo,
32. but...but, what...what you're saying and let me get it straight.
33. No...you're addressing yourself to a very serious problem and

1. the problem has many ramifications. What...what the intent
2. of this bill was; it really wanted to address itself to
3. first offenders, primarily, who did commit a felony and were
4. in a position that they made a mistake and they had no prior
5. arrest record, so that the judge and sometimes so the judge
6. could feel that if he placed the person on probation or con-
7. ditional discharge and that period...within that period the
8. person was a good citizen and didn't violate any of the con-
9. ditions that he could impose and the conditions are listed
10. in the statute. If the judge felt that he abided by those
11. conditions, at that point since he was a first offender and
12. he had no prior arrest record instead of giving him a con-
13. viction record he could...which would live with him for the
14. rest of his life and really hamper him and in whatever endeavor
15. he chose to involve himself in in the future. Instead of do-
16. ing that he could enter a supervision order and vacate the
17. finding and then there would be no conviction record, and
18. that was...is the primary intent of this bill and it really
19. doesn't address itself to solving the overall problem of...
20. people committing felonies and...and punishing them and send-
21. ing them to jail, because we all want to see justice administered
22. properly, but that problem really doesn't address itself in
23. this bill.

24. PRESIDENT:

25. . . . Senator Bell.

26. SENATOR BELL:

27. Well, thank you, Senator D'Arco. I didn't mean to be
28. facetious before. I come from Will County where we have proba-
29. bly the largest number of State institutions for incarcerating
30. felons of any particular spot in the State of Illinois, and
31. I...I got to tell you, the people of Will County would look
32. very...would look down on this particular type of legislation
33. as not being really what's necessary to help try to resolve

1. the problems of crime. I used the term "slammer" before,
2. because that's just terminology that's used up there in reference
3. to Stateville or to Joliet or some of the other institutions
4. in the area, and it seems to us that this type of legisla-
5. tion, while it's in such form as to try to address itself
6. to rehabilitation, that the people up in my area feel that re-
7. habilitation has been what we've been talking about for years
8. and years in this State and hasn't really addressed itself
9. to the problems of getting rid of crime, and it would...it's
10. my opinion, Senator D'Arco, that...that as you explained
11. Senate Bill 1998, it would to me seem that it would make it
12. very easy for a judge to do what they do too much of right
13. now and that's allow offenders and felons back out in the
14. street to commit those offenses again and again, and I think
15. it's, personally, the wrong type of legislation that's needed
16. in this...I don't think it's needed in this State. I think
17. we need the exact opposite.

18. PRESIDENT:

19. Senator Soper.

20. SENATOR SOPER:

21. Thank you, Mr. President. Now, I can understand if a
22. first offender comes before a judge and the judge gives him
23. supervision and watches the man for two years, but in most
24. cases where there are class 3 and class 4 felonies they'll
25. say two years, the first six months in the county jail or...
26. and then he serves the six months and if he comes out...I
27. don't know about this...this just taking the record and wiping
28. out the record. After a fellow serves six months or so in
29. the county jail, or any jail, I think that ought to be avail-
30. able to the police to know who the fellow is if he's picked
31. up again. If you just erase that record and there's no...
32. then there's no second offense. If the...if the crime isn't
33. serious enough and if the...if the judge believes that he can

1. be helped, I think supervision is the proper remedy, but to
2. say that you're going to erase a conviction after the fellow
3. has been in jail and he comes out and then erase that con-
4. viction I...I think the conviction should stand in case some-
5. thing happens and you have a second offender, or at the least
6. the police should know who they're dealing with. And I'll
7. say that maybe in some places that somebody was convicted of
8. a crime and then he has remorse and so forth, but today the
9. young people if they're sixteen, seventeen, eighteen, nine-
10. teen years of age, I know the judges take this into considera-
11. tion and they really, as our friend from Will County says, they
12. don't put them in the slammer. I come from the suburbs and
13. I don't know where the slammer is, but I suppose that must
14. be the jailhouse. I think this should be defeated.

15. PRESIDENT:

16. Senator Nudelman.

17. SENATOR NUDELMAN:

18. Thank you, Mr. President. I'd like to address myself
19. to the remarks of Senator Bell and point out that this bill...
20. this bill does not...does not the affect the problem of pro-
21. bation or conditional discharge. This merely adds one additional
22. condition to such probation or conditional discharge. It's
23. not going to increase the numbers of probations or conditional
24. discharges or decrease the numbers of such orders. It merely
25. means that in the appropriate condition and I think we all
26. recognize that there are appropriate conditions and appropriate
27. cases, that in appropriate condition and appropriate case the
28. judge can in addition order that the...that the...the defendant,
29. upon concluding his probation period or the period of con-
30. ditional discharge, not have a record. This...the record,
31. however, of this arrest and the order is not destroyed, Senator
32. Soper. It's kept by the court and should this defendant again
33. run afoul of the law and have additional problems with the law,

1. the second time up the judge and the police are fully aware
2. of what happened in the first instance. I commend this
3. bill to you. I think that under all of the circumstances
4. that we are trying to...to effectuate in this State relative
5. to our criminal law procedures. This is a good bill under
6. the proper situation with the proper defendants it...it
7. effectuates the ends of justice and we should pass this bill
8. so that minor first offenders and...and people involved in minor
9. crimes should be given a second chance. I think it's worthy
10. of your affirmative action.

11. PRESIDENT:

12. Senator Savickas. Senator Egan. He will be closing
13. the debate. Senator Egan.

14. SENATOR EGAN:

15. Yes, Mr. President and members of the Senate, I...I
16. would just like to point out that there is merit in this
17. bill, because I think it addresses itself primarily to the
18. young offender who gets in trouble once in his life. A
19. nineteen year old boy goes out and steals a car. I think
20. that's what the intention of the bill is for. However, I
21. am troubled, Senator D'Arco, with those...with the language
22. using...while in the use of force or while in the use of a
23. dangerous weapon. I don't think that covers necessarily kid-
24. napping, abortion, other class 3 and 4 felonies and perhaps
25. I'd ask you if you could take it out of the record so that we
26. can refine that.

27. PRESIDENT:

28. Senator D'Arco.

29. SENATOR D'ARCO:

30. I will take it out of the record. Thank you.

31. PRESIDENT:

32. Take it out of the record. Senate Bill 1997. You want
33. to go back to that one? Senator Daley. 1997.

1. SECRETARY:
2. Senate Bill...

3. PRESIDENT:
4. ...Wait just a moment. I...

5. SENATOR DALEY:
6. Mr. President and fellow Senators. Senator Roe asked
7. me to hold the bill. Move it to 3rd reading and hold it and
8. I'll bring it back from 3rd reading tomorrow. He wants to
9. place another amendment on it. Is it on 3rd?

10. PRESIDENT:
11. No, it's on 3rd now.

12. SENATOR DALEY:
13. Okay. I'm going to hold it till tomorrow.

14. PRESIDENT:
15. Fine. A Message from the Governor. For what purpose
16. does Senator Kosinski arise?

17. SENATOR KOSINSKI:
18. A personal privilege, Mr. President.

19. PRESIDENT:
20. State your point, Senator.

21. SENATOR KOSINSKI:
22. It's a great pleasure for me to introduce in the Presi-
23. dent's gallery the very lovely Mrs. Johns, the wife of Senator
24. Johns.

25. PRESIDENT:
26. Would she stand and be recognized by the Senate? Senator
27. Kenny Hall, for what purpose do you arise?

28. SENATOR KENNETH HALL:
29. I wanted to know if would be in order to ask leave of
30. the Senate for waiving the six day rule for a hearing in Local
31. Government Committee tomorrow morning on House Bill 3973. I've
32. talked to Senator Dougherty...

33. PRESIDENT:

1. Is leave granted? Leave is granted. Senator Vadalabene.
2. SENATOR VADALABENE:
3. Yes, thank you, Mr. President and members of the Senate.
4. Since we're on that order. I would like to have leave to
5. waive the six day rule and have House Bill 3582 heard in the
6. Revenue Committee tomorrow morning.
7. PRESIDENT:
8. Is leave granted? Leave is granted. Senator Chew.
9. SENATOR CHEW:
10. My...my sponsorship of 3937, and I believe Senator Hall
11. just made a motion on it...was that it, Senator Hall?
12. PRESIDENT:
13. No, not on your bill at all.
14. SENATOR CHEW:
15. Oh, well, I...I'm sorry. 3973. I'm sorry.
16. PRESIDENT:
17. Senator D'Arco.
18. SENATOR D'ARCO:
19. I would ask leave of the Senate to hear House Bill 3138 in
20. the Judiciary Committee on Thursday.
21. PRESIDENT:
22. Is leave granted? Leave is granted. Senator Bruce.
23. SENATOR BRUCE:
24. Yes, Mr...Mr. President and members of the Senate. I've
25. spoken to Senator Harris and Chairman of the Revenue Com-
26. mittee and I would now move that the six day notice rule be
27. waived relative to Senate Bills 2004, which is sponsored by
28. Senator Netsch, and 2005 and 2006 both sponsored by myself.
29. The Cash Management Initiative Program. Ask that they be
30. heard in Revenue Committee tomorrow.
31. PRESIDENT:
32. First time I knew about it, Senator. Is leave granted?
33. Leave is granted. A Message from the Governor.

1. SECRETARY:
2. A Message from the Governor by Curtis. R. Jensen,
3. Assistant to the Governor.
4. Mr. President...
5. PRESIDENT:
6. Just a moment. Now, will the members be in their seats,
7. please. Now, we are winding it down and let's have some
8. order, please. Thank you.
9. SECRETARY:
10. Mr. President - The Governor directs me to lay be-
11. fore the Senate the following message. To the Honorable Mem-
12. bers of the Senate, the 79th General Assembly, I hereby with-
13. draw the nomination of Allyn R. Sielaff of Pawnee to be a Mem-
14. ber of the Illinois Commission on Delinquency Prevention for
15. a time expiring January the 17th, 1977, which nomination was
16. previously communicated to you in my message dated March 31st,
17. 1976 and recorded in the Journal of March the 31st, 1976.
18. Respectfully submitted, Daniel...Walker.
19. PRESIDENT:
20. Executive Appointment. Committee Reports.
21. SECRETARY:
22. Senator Daley, Chairman of Judiciary Committee, reports
23. that the committee by a record vote sponsors a bill with the
24. following title for introduction in the Senate.
25. (Secretary reads title of bill)
26. Senator Daley, Chairman of the Committee on Judiciary,
27. reports that the committee by a record vote sponsors a bill
28. with the following title for introduction in the Senate.
29. (Secretary reads title of bill)
30. PRESIDENT:
31. Introduction of Bills.
32. SECRETARY:
33. Senate Bill...

1. PRESIDENT:

2. ...Just a moment. For what purpose does Senator Bruce
3. arise?

4. SENATOR BRUCE:

5. Well, in making my motion a moment ago I inadvertently
6. left out three bills that I understand are also in Revenue,
7. which are also part of the Cash Management Program. 2007,
8. 08 and 09, which the series would be 04, 05, 06, 07, 08, 09.
9. I'm sorry I left out three of those that...sponsors by Senators
10. Hickey and Wooten. I would ask leave that those be...that
11. the six day notice be waived and those bills also be heard,
12. and I've talked to the Chairman and Senator Harris.

13. PRESIDENT:

14. Talked to Senator Harris and the Chairman. I think...
15. I suppose that's all you need to....Is leave granted? Leave
16. is granted. Senator Kenneth Hall.

17. SENATOR KENNETH HALL:

18. Thank you, Mr. Speak...Mr. President. I inadvertently
19. left out that...to ask leave for discharge of the Committee
20. on Rules, so that the six day rule could be waived, that I
21. might have a hearing in Local Government Committee tomorrow
22. on House Bill 3973.

23. PRESIDENT:

24. Is leave granted? Senator Harris.

25. SENATOR HARRIS:

26. What's the bill do, Senator Hall?

27. PRESIDENT:

28. Senator Kenneth Hall.

29. SENATOR KENNETH HALL:

30. It's a Committee bill that creates the depressed areas land
31. use, Senator Harris.

32. PRESIDENT:

33. It's a House Committee Bill, Senator.

1. SENATOR KENNETH HALL:

2. It's a House Committee Bill, Senator...Senator Harris.

3. PRESIDENT:

4. Is leave granted? Leave is granted. Senator...Senator
5. Dougherty.

6. SENATOR DOUGHERTY:

7. Mr. President, I would like to ask waive of the House
8. Rule on...on House Bill 3851...3973 as sponsored by Senator Hall.
9. 3851, I would like to have the Rules Committee discharged and
10. be turned over to the Committee on Local Government for hear-
11. ing tomorrow morning. And, also, 3332 by Senator Graham and 3956 by
12. Senator Berning.

13. PRESIDENT:

14. Is leave granted? Leave is granted. Senator Philip.

15. SENATOR PHILIP:

16. As long as everybody is in the mood, Mr. President. I'd
17. like to move to discharge the Rules Committee for House
18. Bill 3976 and to suspend the six day rule and have it heard in
19. Local Government tomorrow.

20. PRESIDENT:

21. Someone has asked for an explanation of what that bill
22. does.

23. SENATOR PHILIP:

24. It is a bill that allows one county, the County of DuPage,
25. to put up and remodel court houses, the tax rate.

26. PRESIDENT:

27. Is leave granted? I got Senator Fawell not to object,
28. so leave is granted. Senator Savickas, for what purpose do
29. you arise?

30. SENATOR SAVICKAS:

31. I just wanted to know if that was a tax increase bill
32. that Senator Philip put in?

33. PRESIDENT:

1. Senator Philip says yes.

2. SENATOR SAVICKAS:

3. Well, thank you.

4. PRESIDENT:

5. Senator Dougherty.

6. SENATOR DOUGHERTY:

7. I just wanted to get the correct number of that bill is

8. all.

9. PRESIDENT:

10. Senator...Senator Philip.

11. SENATOR PHILIP:

12. House Bill 3976.

13. PRESIDENT:

14. 3976, Senator. Did you get it? Fine. Now, just a

15. moment...just a moment. The Secretary must send for all of

16. those bills 'cause they must be read a first time. Everyone

17. that you've made a motion concerning. Would the Secretary

18. read...just a moment...would the Secretary read the numbers

19. of the bills that we've just talked about so we'll...that

20. we've discharged from Rules, so you'll...now, will the mem-

21. bers be in your seats. You've just made motions on bills

22. discharging them from Rules. We're going to give a list of

23. them, so we'll make certain that yours was included.

24. SECRETARY:

25. 30...3851, 3973, 3332 and 3956 along with the 3976

26. that I just read. Okay.

27. PRESIDENT:

28. As to that list...Senator Kenneth Hall makes a motion

29. that all those bills be read a first time and that those

30. bills also bypass the Committee on Assignment of Bills and

31. be assigned to the respective committees as requested by the

32. members. All in favor say Aye. Senator Vadalabene, for what

33. purpose do you arise?

1. SENATOR VADALABENE:
2. I don't recall him saying House Bill 3582.
3. PRESIDENT:
4. Well, what...what was your motion, Senator?
5. SENATOR VADALABENE:
6. To have it heard...the six day rule and have it heard
7. in Revenue Committee tomorrow morning.
8. PRESIDENT:
9. It was not in Rules was it?
10. SENATOR VADALABENE:
11. Thank you, Mr. Chair...thank you, Mr. President.
12. PRESIDENT:
13. Yeah, it's...it's distinguished from the others as it
14. was not in the Rules Committee.
15. SENATOR VADALABENE:
16. Thank you, Mr. President.
17. PRESIDENT:
18. Sure. Senator Harris.
19. SENATOR HARRIS:
20. Well, now, are these all committee bills, or are these
21. bills individually sponsored or what?
22. PRESIDENT:
23. I don't have a list of them, Senator, but these were all
24. bills pursuant to individual motions made by individual Senators.
25. I don't know which are committee...
26. SENATOR HARRIS:
27. Well, I don't think...I'm...
28. PRESIDENT:
29. ...and which are not committee.
30. SENATOR HARRIS:
31. ...I don't think any of these have been discussed with
32. me except Senator Bruce's request with respect to those bills
33. set for Revenue, and I just...I...you know, I really...

1. PRESIDENT:
2. Well, as to Senator Philip, his is a Committee
3. bill that I...that I can see...
4. SENATOR HARRIS:
5. Okay.
6. PRESIDENT:
7. Senator Don Moore's....
8. SENATOR HARRIS:
9. ...are committee bills. Okay. Well, the Committee bills
10. I have no problems with...
11. PRESIDENT:
12. And Senator Kenneth Hall's is a Committee. I think
13. they were...I think of that group all are Committee bills.
14. Is that correct? Is there any in the group that are not?
15. I know Philip...how many persons are listed there? Senator
16. Philip, Senator Hall, who else? Senator Harris, of the
17. four bills, they're all Committee bills. Some of them were
18. already in committee. The Rules Committee was discharged of
19. only two of those, both of which are Committee bills. So,
20. the purity is...
21. SENATOR HARRIS:
22. Okay.
23. PRESIDENT:
24. ...maintained. Read the bills.
25. SECRETARY:
26. House Bill 3851.
27. (Secretary reads title of bill)
28. House Bill 3976.
29. (Secretary reads title of bill)
30. 1st reading of the foregoing bills.
31. PRESIDENT:
32. Introduction of Bills.
33. SECRETARY:

1. Senate Bill 2010, introduced by the Judiciary Committee.

2. (Secretary reads title of bill)

3. Senate Bill 2011, introduced by the Judiciary Committee.

4. (Secretary reads title of bill)

5. 2nd reading...1st reading of the foregoing bills.

6. PRESIDENT:

7. Senator Daley.

8. SENATOR DALEY:

9. Mr. President and fellow Senators, this is the two
10. bills that Senator Harris pointed out earlier in regards
11. to the procedure. I would like to make a motion to discharge
12. the Rules Committee from further consideration and place
13. Senate Bill 195...Senate Bill 2010 and Senate Bill 2011 on
14. the order of 2nd reading.

15. PRESIDENT:

16. Senator Daley moves to bypass...no, to discharge the
17. Rules Committee from further consideration of these bills
18. and to bypass the Committee on Assignment of Bills and fur-
19. ther, that the bills be placed on the order of 2nd reading
20. without reference to a committee. All in favor will say Aye.
21. Opposed Nay. The Ayes have it. The bill...2nd reading.
22. Rather than to go through the...there are several...may I
23. have your attention? There are several amendments on the
24. Secretary's Desk to House Bills on 2nd reading and to Senate
25. Bills which are now on 3rd reading. We will not go through the
26. entire list. If you'll come down and tell the Secretary
27. which bills are ready now with the amendments we will...we
28. will deal with those. Senator Rock.

29. SENATOR ROCK:

30. Thank you, Mr. President, I have House Bill on 2nd,
31. 3308. I understand that Senator Harris or someone from that
32. side has an amendment to which I have already agreed, if...if the
33. amendment is placed up there.

HB 3308
2nd Reading
6-21-76

1. PRESIDENT:

2. Are we ready on that? House Bills on 2nd reading on
3. page 5. House Bill 3308. There are no amendments on the
4. Secretary's Desk, I am informed.

5. SENATOR ROCK:

6. There will be one shortly. Yeah.

7. PRESIDENT:

8. Senator Harris is recognized on the Amendment
9. as soon as it's read.

10. SENATOR HARRIS:

11. All right.

12. SECRETARY:

13. House...

14. PRESIDENT:

15. Read the bill.

16. SECRETARY:

17. House Bill 3308.

18. (Secretary reads title of bill)

19. 2nd reading of the bill. No committee amendments. One
20. Floor Amendment offered by Senator Harris.

21. PRESIDENT:

22. Senator Harris.

23. SENATOR HARRIS:

24. Mr. President, as I understand it the thrust of the bill
25. is to provide for a ten day notice...I'm sorry, continuance
26. clarification and the notice as provided in the bill provided
27. for notice by telephone. All this amendment does is provide
28. for notice to be given in the form as all other...juvenile
29. court notice requirements, as I understand it.

30. PRESIDENT:

31. Senator Rock.

32. SENATOR ROCK:

33. Thank you, Mr. President. The amendment is a good one

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1. and I wholeheartedly agree with it and did agree to accept
2. it in Committee. I would move its adoption.

3. PRESIDENT:

4. Senator Harris moves the adoption of Amendment No. 1
5. to House Bill 3308. All in favor will say Aye. Opposed
6. Nay. The Ayes have it. Amendment No. 1 is adopted. Any
7. further amendments? Any amendments from the Floor? 3rd
8. reading. For what purpose does Senator Vadalabene arise?

9. SENATOR VADALABENE:

10. Yes, thank you, Mr. President and members of the Senate.
11. On the Secretary's Desk is Amendment No. 1 to House Bill 2115.
12. What this amendment does, it puts it in line with Senate Bill
13. 1719, the Usury Bill, exactly the way we went sent it over
14. to the Senate and I would appreciate a favorable vote.

15. PRESIDENT:

16. Read the bill first.

17. SECRETARY:

18. House Bill 2115.

19. (Secretary reads title of bill)

20. 2nd reading of the bill. No committee amendments. One
21. Floor Amendment offered by Senator Vadalabene.

22. PRESIDENT:

23. Senator Vadalabene.

24. SENATOR VADALABENE:

25. Yes, thank you, Mr. President and members of the Senate.
26. This puts it exactly in line with Senate Bill 17...

27. PRESIDENT:

28. 2115, yes. Continue, Senator.

29. SENATOR VADALABENE:

30. This puts it exactly in line with Senate Bill 1719,
31. the Usury Bill, that we sent over last week.

32. PRESIDENT:

33. Any further discussion? Senator McCarthy.

1. SENATOR McCARTHY:
2. Yes, we've had staff on both sides check this and it
3. is in the same condition as Senator Vadalabene represents to
4. the Body. One minor exemption it just talks about the
5. Board of Governors of the Federal Reserve Board, otherwise,
6. it's in the same shape.
7. PRESIDENT:
8. Any further discussion? On the adoption of...Senator
9. Merritt.
10. SENATOR MERRITT:
11. I'm...I'm sorry, Mr. President. Is he offering an
12. amendment?
13. PRESIDENT:
14. Yes, Amendment No. 1.
15. SENATOR MERRITT:
16. That...that...I read that and I would agree with what
17. Senator McCarthy has said that it does put it in the same con-
18. dition.
19. PRESIDENT:
20. On the adoption of...Amen...on the adoption of House
21. Bill 2115, Amendment No. 1. Those in favor will say Aye.
22. Opposed Nay. The Ayes have it. Amendment No. 1 is adopted.
23. Any further amendments? 3rd reading. Senator Davidson, are
24. you ready with the amendment on 1304? Read the bill.
25. SECRETARY:
26. House Bill 1304.
27. (Secretary reads title of bill)
28. 3rd...2nd reading of the bill. No committee amendments. One
29. Floor Amendment offered by Senator Davidson.
30. PRESIDENT:
31. Senator Davidson.
32. SENATOR DAVIDSON:
33. Mr. President and members of the Senate, the Committee

1. on recommendation this Do Pass, that this bill be amended
2. to where the words - a descendant of ex-union Illinois Soldier
3. would be included, so therefore the lineage would be continued.
4. And I move the adoption of the amendment.

5. PRESIDENT:

6. Any lineage discussion? Senator Davidson moves the adoption
7. of Amendment No. 1 to House Bill 1304. All in favor will say
8. Aye. Opposed Nay. The Ayes have it. The amendment is adopted.
9. Any further amendments? 3rd reading. Is Senator Buzbee on
10. the Floor? Yes, he's here. We have a couple of amendments
11. here, Senator, one on two bills, do you desire to move them
12. at this point? Pardon. What are the numbers of the bills,
13. please?

14. SECRETARY:

15. 3377 is one of them. It is an appropriation bill.

16. PRESIDENT:

17. Hold that one. The other one? The other one is also
18. ...if it disturbs you. Is Senator Philip about? You want
19. 3815? 3818, I'm sorry. It's on 3rd reading. It's an appro-
20. priation bill. No, 3818 is Senator Bruce's bill. Your amend-
21. ment. Fine. Senator Bruce isn't on the Floor, so we...oh,
22. is he? Fine. Do you want to handle that now, 3818, the re-
23. cycling bill? No. Hold the bill he says. Resolutions.

24. SECRETARY:

25. Senate Joint Resolution No. 80, introduced by Senator
26. Palmer. It's extending the date of a committee.

27. PRESIDENT:

28. Senator Palmer.

29. SENATOR PALMER:

30. Mr. President and members of the Senate, this is a re-
31. quest of the special committee to investigate the problems
32. concerning the administration of Unemployment Insurance Act,
33. requesting that this Senate resolve that the reporting date

1. of the Joint Committee be extended to November 17th, 1976.

2. PRESIDENT:

3. Is leave granted? Leave is granted. I'm sorry, that
4. is a resolution. I thought it was a motion. Senator Palmer
5. moves to suspend the rules...the rules for the immediate con-
6. sideration of this resolution. All in favor say Aye. Opposed
7. Nay. The rules are suspended. Senator Palmer now moves the
8. adoption immediately of this resolution. All in favor will
9. say Aye. Opposed Nay. The rules are...the resolution is
10. adopted.

11. SECRETARY:

12. Senate Resolution 396, introduced by Senators Mitchler,
13. Weaver and others and it's congratulatory.

14. PRESIDENT:

15. Senator Mitchler.

16. SENATOR MITCHLER:

17. Mr. President and members of the Senate. This is a con-
18. gratulatory resolution for the 1976 Premier Boys State. I'd
19. ask for suspension of the rules and immediate consideration
20. and adoption. I would like for the record, Mr. President,
21. before you adopt that, to list the 1976 officers. They were
22. here Friday, but inasmuch as we were not in Session they could
23. not be introduced. The Governor, Harold W. Otto of Arcola,
24. Lt. Governor, Scott K. Shrader of Champaign, Secretary of
25. State, Joseph Boehn of Loves Park, Comptroller, Doug Matson of
26. Rushville, Attorney General, Charles Colburn of Jacksonville
27. and the Treasurer, Darrel Speed of Joliet. I would ask for
28. suspension of the rules and immediate consideration and adoption
29. of the resolution.

30. PRESIDENT:

31. Any discussion? Senator Mitchler moves for the suspension
32. of the rules for the immediate consideration of this resolution.
33. All in favor will say Aye. Opposed Nay. The rules are suspended.

1. Senator Mitchler now moves for the immediate adoption of
2. this resolution. All in favor will say Aye. Opposed Nay.
3. The Ayes have it. The resolution is adopted.

4. SECRETARY:

5. Senate Resolution 397, introduced by Senator Partee.
6. It's congratulatory.

7. PRESIDENT:

8. Senator Donnewald moves that the rules be suspended for
9. the immediate consideration of this congratulatory resolution
10. and asks that all Senate members be added as sponsors. All
11. in favor for the suspension of the rules motion say Aye.
12. Opposed Nay. The rules are suspended. Senator Donnewald now
13. moves for the immediate adoption of this resolution. All in
14. favor say Aye. Opposed Nay. The resolution is adopted. Any
15. further business to come before the Senate? Just a moment.
16. There's one announcement I'd like to make so that...may I have
17. your attention? The Senate, when it adjourns this evening, will
18. be in adjournment until 10:30 tomorrow morning. It is the
19. Chair's desire to work tomorrow from 10:30 on the Floor 'til
20. 2:00 o'clock the time for setting of the Appropriations Com-
21. mittee. The Appropriations Committee will meet at 2:00 and
22. then there will be a meeting and there will be a Floor Session
23. of the Senate tomorrow night at 7:30. Now, the purpose for
24. that is we will be getting out of here early Wednesday because
25. of the Joint Senate Dinner. So, we'll work tomorrow from 10:30
26. till 2:00 and then back tomorrow night at 7:30. Any further
27. discussion? The Senate stands adjourned till 10:30 tomorrow
28. morning.