

STATE OF ILLINOIS  
90TH GENERAL ASSEMBLY  
HOUSE OF REPRESENTATIVES  
TRANSCRIPTION DEBATE

117th Legislative Day

April 29, 1998

Speaker Madigan: "The House shall come to order. The House shall come to order. The Members shall be in their chairs. We shall be led in prayer today by Pastor Joel Mendenblich with the New Life Church in New Lenox. Pastor Mendenblich is the guest of Representative Renee Kosel. The guests in the gallery may wish to rise and join us in the invocation."

Pastor Mendenblich: "Shall we pray? Dear Father, in the quiet of this moment, we still our hearts before You. We thank You for this opportunity to gather together for a representative government, for freedom, for liberty. As a representative of the people, I pray, Lord, for these Representatives, ask, Lord, Your blessing upon them. Give them wisdom. May they be quick to listen and slow to speak and may You bless them as they do justice, love, mercy, and walk humbly with You. In the name of Jesus I pray. Amen."

Speaker Madigan: "We shall be led in the pledge of allegiance by Representative Hartke."

Hartke - et al: "I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all."

Speaker Madigan: "Roll Call for Attendance. Representative Currie."

Currie: "Thank you, Speaker. Please let the record show that Representative Lang is excused today."

Speaker Madigan: "Mr. Cross."

Cross: "Thank you, Mr. Speaker. If the record would reflect that Representative Biggert is excused today."

Speaker Madigan: "The Clerk shall take the record. There being 116 Members responding to the Attendance Roll Call, there is a quorum present. Mr. Clerk."

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Clerk Rossi: "Committee Reports. Representative Hannig, Chairperson from the Committee on Livestock Management, to which the following Bill was referred, action taken on April 28, 1998, reported the same back with the following recommendations: 'do pass as amended' Senate Bill 1707. Representative Woolard, Chairperson from the Committee on Agriculture and Conservation, to which the following Bill was referred, action taken on April 28, 1998, reported the same back with the following recommendation: 'do pass as amended' Senate Bill 1195. Representative Carol Ronen, Chairperson from the Committee on Children and Youth, to which the following Bill was referred, action taken on April 28, 1998, reported the same back with the following recommendation: 'do pass Short Debate' Senate Bill 1384. Representative David Phelps, Chairperson from the Committee on Elementary and Secondary Education, to which the following Bill was referred, action taken on April 28, 1998, reported the same back with the following recommendations: 'do pass as amended' Senate Bill 1610. Representative Bugielski, Chairman from the Committee on Financial Institutions, to which the following Bill/s was/were referred, action taken on April 29, 1998, reported the same back with the following recommendation/s: 'do pass Short Debate' Senate Bill 1694. Representative Mary Flowers, Chairman from the Committee on Health Care Availability and Access, to which the following measure was/were referred, action taken on April 29, 1998, reported the same back with the following recommendation/s: 'do pass as amended Short Debate' Senate Bill 1420. Representative Coy Pugh, Chairman from the Committee on Human Services, to which the following Bill/s was/were referred, action taken on April 29, 1998, reported the same back with the

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following recommendation/s: 'do pass Short Debate' Senate Bill 1286. 'Do pass as amended Short Debate' Senate Bill 1315. 'Do pass as amended Short Debate' Senate Bill 1372. 'Be adopted' House Resolution 423. Representative Tom Dart, Chairman from the Committee on Judiciary I--Civil Law, to which the following Bill/s was/were referred, action taken on April 29, 1998, reported the same back with the following recommendation/s: 'do pass Short Debate' Senate Bill 1328 and Senate Bill 1884. 'Do pass as amended Short Debate' Senate Bill 1259, Senate Bill 1544 and Senate Bill 1602. Representative Shirley Jones, Chairman from the Committee on Public Utilities, to which the following Bill/s was/were referred, action taken on April 29, 1998, reported the same back with the following recommendation/s: 'do pass as amended Short Debate' Senate Bill 1567. Representative Hoffman, Chairman from the Committee on Transportation and Motor Vehicles, to which the following Bill/s was/were referred, action taken on April 29, 1998, reported the same back with the following recommendation/s: 'do pass Standard Debate' Senate Bill 1222, Senate Bill 1364, Senate Bill 1875. And 'be adopted' House Resolution 395. Representative Dan Burke, Chairman from the Committee on Executive, to which the following Measures was/were referred, action taken on April 29, 1998, reported the same back with the following recommendation/s: 'do pass Short Debate' Senate Bill 1508, Senate Bill 1598, Senate Bill 1612, Senate Bill 1711 and Senate Bill 1838. 'Do pass as amended Short Debate' Senate Bill 1246, Senate Bill 1292, Senate Bill 1306, Senate Bill 1475, Senate Bill 1561, Senate Bill 1599, Senate Bill 1701 and Senate Bill 1878."

Speaker Madigan: "Agreed Resolutions."

Clerk Rossi: "House Resolution 435, offered by Representative

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Zickus; House Resolution 436, offered by Representative Giglio; House Resolution 437, offered by Representative Slone; House Resolution 438, offered by Representative Currie; House Resolution 439, offered by Representative Brady; House Resolution 440, offered by Representative Brady; House Resolution 442, offered by Representative Tenhouse; House Resolution 444, offered by Representative Joe Lyons; House Resolution 445, offered by Representative Novak; House Resolution 446, offered by Representative Skinner; House Resolution 447, offered by Representative Leitch; House Resolution 448, offered by Representative Myers; and House Joint Resolution 61, offered by Representative Gash."

Speaker Madigan: "Representative Kosel. Mr. Clerk, I believe you have a House Resolution 443. Would you read that Resolution?"

Clerk Rossi: "House Resolution 443, offered by Representative Biggert."

"WHEREAS, The members of the Illinois House of Representatives wish to congratulate Barbara M. Wheeler on being named President of the National School Boards Association; and

WHEREAS, Barbara Wheeler earned her undergraduate degree in Non-Western History from Saint Dominic College in 1969; she received her Teaching Certificate from Elmhurst College in 1972; she joined the Community High School District 99 Board of Education in Downers Grove, serving as President from 1976 to 1987, and then again from 1994 to 1995; Mrs. Wheeler graduated from the DePaul University College of Law in 1980, and went on to serve as an Assistant State's Attorney in Cook County from 1980 to 1982, before going into private practice; and

WHEREAS, Mrs. Wheeler continued to serve the community in

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addition to her practice of law; she has been an active member of the Illinois Association of School Boards, serving as President from 1987 to 1989 and Vice President from 1985 to 1987; Mrs. Wheeler has been a speaker at many conventions around the country, speaking on educational matters; she has advised and consulted the Chicago Board of Education, fifty-seven school districts across Illinois, the New York School Boards Association, and the Institute for Educational Leadership; and

WHEREAS, Mrs. Wheeler has received awards from the Illinois State Board of Education, the Illinois Association of School Administrators, and the Illinois Association of School Boards; Mrs. Wheeler is a volunteer with the Illinois Department on Aging, George Williams College, the Downers Grove Chamber of Commerce, and the Downers Grove YMCA; she is a member of the Chicago Bar Association, the Illinois Bar Association, and the American Bar Association; and

WHEREAS, Barbara Wheeler brings expertise and dedication to her new position as President of the National School Boards Association; therefore, be it

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETIETH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we congratulate Mrs. Barbara M. Wheeler on being named President of the National School Boards Association; through her many achievements, her hard work, and her efforts to work with educators within the State of Illinois, she has proven herself capable of doing a great job in this position; and be it further

RESOLVED, That a suitable copy of this resolution be presented to Barbara M. Wheeler."

Speaker Madigan: "Ladies and Gentlemen. The Chair recognizes

Representative Kosel at the podium for the purpose of an

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announcement. If everybody could give us your attention, please. Representative Kosel."

Kosel: "Thank you very much, Ladies and Gentlemen of the House of Representatives. It is with great pleasure that I introduce to you today one of Illinois' own citizens, someone who has worked with dedication and fortitude for Boards of Education across this state, and now, across the nation, Barbara Wheeler."

Wheeler: "I'd like to thank Speaker Madigan and the Members of the House, and especially Representative Biggert and Kosel, and I thank you for this special honor, not only for myself, but on behalf of all School Board Members in Illinois who work long, hard hours to provide opportunities for our future... The children in the public schools in Illinois. I believe in public education. It is the institution of local government closest to the people. The public schools are where many of us learn to accept and respect other people and to rejoice in our sameness and our diversity. We became life-long learners in the public schools. It is for each of us to keep that institution strong and a part of our nation's strength. We are the nation we are today because of the public schools. Sometimes in all the rhetoric, people fail to remember the critical role the Board of Education plays in our communities. Sometimes, I think, we're the Rodney Dangerfields of the... of our community. It's real hard for us to get people's respect. We need to keep in mind that, behind every successful public school program, there is a local Board of Education working to create an environment that leads to student achievement. The local Board of Education is the solution to most of the problems that confronts education today. Keep in mind the legacy of

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the public schools. Who put man on the moon? Public school graduates. Who protects our freedoms in the armed forces? Public school graduates. What do Colon Powell, Kami Granado, captain of the gold medal winning women's olympic hockey team, Harrison Ford, Astronaut May Jemison, and the Bulls' Michael Jordan all have in common? They are graduates of the public schools. The public schools have, are, and will continue to make Illinois a good place to live and work, make our nation strong and the world a better place to be. So, I thank you this morning for this honor and the privilege of speaking with you."

Speaker Madigan: "The question is... 'the adoption of the Resolution?' Those in favor of the Resolution say 'aye'; those opposed say 'no'. The 'ayes' have it. The Resolution is adopted. Congratulations. The Chair recognizes Representative Hannig for the purpose of an announcement. Mr. Hannig, for the purpose of an announcement."

Hannig: "Yes, yes, thank you, Mr. Speaker and Members of the House. Just briefly, we have a couple of distinguished gentlemen on the floor with us. Mr. Samuelson is heard on WGN radio where he works as the Agricultural Service Director, and he's with us today. He is joined by John Huston as well, and they're here working for issues that have to do with the extension services here in Illinois. And I think we need to give them a welcome to the Illinois House of Representatives."

Speaker Madigan: "Mr. Fritchey."

Fritchey: "Thank you, Mr. Speaker. I rise on a point of personal privilege. I'm happy to welcome down Representatives from the John G. Shed Aquarium. Every year over... almost 2 million people visit the aquarium and take advantage of the

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educational resources that they provide. That includes over a quarter million students of this city and this state that are able to visit and attend the aquarium free of charge, in result, in part, from the funding that they receive from this Body. The aquarium is down here today with presentations, and they will be hosting a breakfast for Legislators tomorrow. I ask that you please join me in welcoming them down to Springfield for their annual visit. Thank you very much."

Speaker Madigan: "On the order of the Agreed Resolutions, the Chair recognizes Mr. Black."

Black: "That's... thank you very much, Mr. Speaker. I have an inquiry of the Chair."

Speaker Madigan: "Mr. Black."

Black: "Yes, thank you, Mr. Speaker. I have an inquiry of the Chair and it's a... an inquiry in the interest of good government, open government, sunshine law, if you would. Who are these people in these suits? Should we know their names? I'm not sure who's in either one of those suits and is that Snupolupogus or Big Bird... and Mr. Fritchey is not behaving himself with the person in the orange. This is an outrage, Mr. Speaker. Who's behind those things? Mr. Fritchey, where's your hand? Mr. Speaker, at what time in today's session did you lose control? I... it's been in the last minute or so, hasn't it? Where's that gavel?"

Speaker Madigan: "Goes in a hurry... goes in a hurry, like other things. We're on the order of the Agreed Resolutions, and Representative Currie moves for the adoption of the Agreed Resolutions. Those in favor say 'aye'; those opposed say 'no'. The 'ayes' have it. The Agreed Resolutions are adopted. For what purpose does Representative Monique Davis seek recognition?"



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Davis, M.: "Well, we just wanted Representative Black to know that the yellow one is a sea horse and the orange one is an octopus and that he can visit those at the aquarium in the City of Chicago at any time for a very small fee."

Speaker Madigan: "On the order of Senate Bills - Second Reading, page 5 of the Calendar, there appears Senate Bill 1370. Mr. Clerk, what is the status of the Bill?"

Clerk Rossi: "Senate Bill 1370, a Bill for an Act amending the Long Time Owner Occupant Property Tax Relief Act. Second Reading of this Senate Bill. No Committee Amendments. No Floor Amendments. No Motions filed. The Notes that have been requested on the Bill have been filed."

Speaker Madigan: "Third Reading. Senate Bill 1386. Mr. Clerk, what is the status of that Bill?"

Clerk Rossi: "Senate Bill 1386, a Bill for an Act in relation to visitation rights. Second Reading of this Senate Bill. No Committee Amendments. No Floor Amendments. No Motions filed. The Notes that have been requested on the Bill have been filed."

Speaker Madigan: "Third Reading. Senate Bill 1500. What is the status of that Bill?"

Clerk Rossi: "Senate Bill 1500, a Bill for an Act amending the Kaskaskia Regional Port District Act. Second Reading of this Senate Bill. Amendment #1 was adopted in committee. No Motions have been filed. No Floor Amendments approved for consideration. The Notes that have been requested on the Bill have been filed."

Speaker Madigan: "Third Reading. Mr. Clerk, let's go back to Senate Bill 1386. The House Sponsor indicates that he wishes that Bill to be left on the order of Second Reading, so place the Bill on the Order of Second Reading. Senate Bill 1755. What is the status of that Bill?"

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Clerk Rossi: "Senate Bill 1755, a Bill for an Act to amend the Probate Act of 1975. Second Reading of this Senate Bill. No Committee Amendments. No Floor Amendments. No Motions filed. The Notes that have been requested on the Bill have been filed."

Speaker Madigan: "Third Reading. On the order of Constitutional Amendments - Second Reading, there appears SJR 52. Mr. Clerk, how many times has this Amendment been read in full?"

Clerk Rossi: "Senate Joint Resolution 52 has been read in full on two occasions."

Speaker Madigan: "Mr. Clerk, read the resolution for a third time."

Clerk Rossi: "Senate Joint Resolution Constitutional Amendment #52"

RESOLVED, BY THE SENATE OF THE NINETIETH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that there shall be submitted to the electors of the State for adoption or rejection at the general election next occurring at least 6 months after the adoption of this resolution a proposition to amend Section 15 of Article VI of the Illinois Constitution as follows:

ARTICLE VI  
THE JUDICIARY

(ILCON Art. VI, Sec. 15)

SECTION 15. RETIREMENT - DISCIPLINE

(a) The General Assembly may provide by law for the retirement of Judges and Associate Judges at a prescribed age. Any retired Judge or Associate Judge, with his or her consent, may be assigned by the Supreme Court to judicial service for which he or

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she shall receive the applicable compensation in lieu of retirement benefits. A retired Associate Judge may be assigned only as an Associate Judge.

(b) A Judicial Inquiry Board is created. The Supreme Court shall select two Circuit Judges as members and the Governor shall appoint four persons who are not lawyers and three lawyers as members of the Board. No more than two of the lawyers and two of the non-lawyers appointed by the Governor shall be members of the same political party. The terms of Board members shall be four years. A vacancy on the Board shall be filled for a full term in the manner the original appointment was made. No member may serve on the Board more than eight years.

(c) The Board shall be convened permanently, with authority to conduct investigations, receive or initiate complaints concerning a Judge or Associate Judge, and file complaints with the Courts Commission. The Board shall not file a complaint unless five members believe that a reasonable basis exists (1) to charge the Judge or Associate Judge with willful misconduct in office, persistent failure to perform his duties, or other conduct that is prejudicial to the administration of justice or that brings the judicial office into disrepute, or (2) to charge that the Judge or Associate Judge is physically or mentally unable to perform his duties. All proceedings of the Board shall be confidential except the filing of a complaint with the Courts Commission. The Board shall prosecute the complaint.

(d) The Board shall adopt rules governing its procedures. It shall have subpoena power and authority to appoint and direct its staff. Members of the Board who are not Judges shall receive per diem compensation and necessary expenses; members who are Judges shall receive necessary expenses only. The General Assembly by law shall appropriate funds for the operation of the Board.

(e) An independent A Courts Commission is created consisting

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of one Supreme Court Judge selected by that Court as a member and one as an alternate, ~~who--shall-be-its-chairman,~~ two Appellate Court Judges selected by that Court as members and three as alternates, and two Circuit Judges selected by the Supreme Court as members and three as alternates, and two citizens selected by the Governor as members and two as alternates. Members and alternates who are Appellate Court Judges must each be from a different Judicial District. Members and alternates who are Circuit Judges must each be from a different Judicial District. Members and alternates of the Commission shall not be members of the Judicial Inquiry Board. The members of the Commission shall select a chairperson to serve a two-year term.

The Commission shall be convened permanently to hear complaints filed by the Judicial Inquiry Board. The Commission shall have authority after notice and public hearing, (1) to remove from office, suspend without pay, censure or reprimand a Judge or Associate Judge for willful misconduct in office, persistent failure to perform his or her duties, or other conduct that is prejudicial to the administration of justice or that brings the judicial office into disrepute, or (2) to suspend, with or without pay, or retire a Judge or Associate Judge who is physically or mentally unable to perform his or her duties.

(f) The concurrence of four ~~three~~ members of the Commission shall be necessary for a decision. The decision of the Commission shall be final.

(g) The Commission shall adopt comprehensive rules to ensure that governing its procedures are fair and appropriate. These rules and any amendments shall be public and filed with the Secretary of State at least 30 days before becoming effective.

(h) A member of the Commission shall disqualify himself or herself, or the other members of the Commission shall disqualify a member, with respect to any proceeding in which disqualification

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or recusal would be required of a Judge under rules of the Supreme Court, under rules of the Commission, or by law.

If a Supreme Court Judge is the subject of a proceeding, then there shall be no Supreme Court Judge sitting as a member of the Commission with respect to that proceeding. Instead, an alternate Appellate Court Judge not from the same Judicial District as the subject Supreme Court Judge shall replace the subject Supreme Court Judge. If a member who is an Appellate Court Judge is the subject of a proceeding, then an alternate Appellate Court Judge shall replace the subject Appellate Court Judge. If an Appellate Court Judge who is not a member is the subject of a proceeding and an Appellate Court Judge from the same Judicial District is a member, then an alternate Appellate Court Judge shall replace that member. If a member who is a Circuit Judge is the subject of a proceeding, then an alternate Circuit Judge shall replace the subject Circuit Judge. If a Circuit Judge who is not a member is the subject of a proceeding and a Circuit Judge from the same Judicial District is a member, then an alternate Circuit Judge shall replace that member.

If a member of the Commission is disqualified under this Section with respect to any proceeding, that member shall be replaced by an alternate on a rotating basis in a manner provided by rule of the Commission. The alternate shall act as member of the Commission with respect to that proceeding only.

(i) The Commission and shall have power to issue subpoenas.

(j) Members and alternates of the Commission who are not Judges shall receive per diem compensation and necessary expenses; members and alternates who are Judges shall receive necessary expenses only. The General Assembly shall provide by law for the expenses and compensation of the Commission.

This Constitutional Amendment takes effect upon approval by the electors of this State. Third Reading of this Senate Joint

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Resolution Constitutional Amendment."

Speaker Madigan: "Mr. Brady."

Brady: "Mr. Speaker, Ladies and Gentlemen of the House. I think the Clerk did an ample job of reading into the record exactly what this Constitutional Amendment does. It is identical to House Joint Resolution Constitutional Amendment 20, which passed out of this Body with 110 favorable votes. I ask for your favorable support."

Speaker Madigan: "Mr. Black."

Black: "Thank you very much, Mr. Speaker. Inquiry of the Chair. Did Mr. Brady present the Bill? I mean, the Amendment. He has presented that?"

Speaker Madigan: "I believe he did."

Black: "Alright, just a... it's a simple matter, but confusion seems to reign. The board shows SJR 52 and, in fact, this is Senate Joint Resolution Constitutional Amendment 52. Is the board not able to reflect that this is more than a Senate Joint Resolution?"

Speaker Madigan: "Mr. Clerk."

Clerk Rossi: "The Board is not able to reflect that this is a Senate Joint Resolution Constitutional Amendment because the Senate does not differentiate between Senate Joint Resolutions and Senate Joint Resolution Constitutional Amendments."

Black: "Well, is it legal to ask us to vote on SJR 52 when, in fact, it's SJRCA 52? There's a big difference, to me, between a Joint Resolution and a Constitutional Amendment."

Speaker Madigan: "Mr. Black."

Black: "Yes."

Speaker Madigan: "As you know, we have no control over the Senate."

Black: "I certainly share that."

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Speaker Madigan: "So they've chosen to number their Resolutions as they have done it and so, we have received this as it came from the Senate. The best we can do is to advise our Members that this is a Constitutional Amendment."

Black: "Well, I hope they are all advised. Mr. Speaker, just a further inquiry, is this one of these issues that we should run by the Cook County Courts to get a Constitutional decision? I'm just afraid that they may say that since we didn't put 'CA' on the board that this Amendment may not be Constitutional. Remember, I talked to you about, perhaps, we could get these positions from the Cook County Courts in advance, maybe then a few months afterwards, see."

Speaker Madigan: "Are you referencing the recent decision relative to straight party voting?"

Black: "No, I thought the Gentleman in that case, obviously a learned, intelligent and very studious Judge, but the Budget Implementation Act, I was a little concerned about that. But, that Judge, obviously a fine fellow, going on to bigger and better things. Well, Mr. Speaker, now that we've cleared up the confusion over CA, would the Sponsor of the Resolution yield?"

Speaker Madigan: "The Sponsor yields, Mr. Brady."

Black: "Yes, Representative Brady, didn't we pass this just last week under the guidance of Representative Lang?"

Brady: "Representative, we passed House Joint Constitutional Amendment Resolution 20. Representative Lang and myself sponsored that legislation. It sits over in the Senate in Second Reading. We have a deadline, Representative, to make sure that this gets on the ballot..."

Black: "Okay."

Brady: "If we were to pass this today, it would ensure that it would be placed on the ballot and for that reason, we're

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calling the Resolution."

Black: "Is this identical to the House version?"

Brady: "Yes."

Black: "Well, what happens if the Senate later passes our version, and we pass this version, and we get two Constitutional Amendments on the ballot? What happens then? The one with the most votes wins?"

Brady: "I'm sorry, what was the last comment?"

Black: "Well, as the Speaker said so eloquently, and I agree with him, we're never sure what the Senate's going to do."

Brady: "You're right."

Black: "Now, if the Senate approves the House Joint Resolution Constitutional Amendment and we approve the Senate Joint Resolution that they don't call a Constitutional Amendment, then could both of them end up on the ballot?"

Brady: "Representative, I'd ask the Parliamentarian to respond to that question."

Black: "Yes, that might be a good Parliamentarian... inquiry of the Parliamentarian. Mr. Kasper, what if the Senate passes the Resolution that's currently in their chamber, and then we pass this today, and we have two Constitutional Amendments. Do we go in alphabetical order? H comes before S or does the Resolution that gets the most votes pass?"

Parliamentarian Kasper: "Representative, I believe that the Resolutions appear on the ballot in chronological order by, in the order in which they were approved by the General Assembly."

Black: "Aren't you... when you give an opinion, aren't you supposed to say, 'On behalf of the Speaker'?"

Parliamentarian Kasper: "I apologize, Representative. On behalf of Speaker Madigan."



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Black: "Well, I... you must have, thank you because when I started here, there was a Parliamentarian with years of experience and he always said that, and I noticed that you don't always give credit to the Speaker. You should watch yourself. Well, thank you very much, Representative Brady and the Parliamentarian. It appears that the Senate wants their Resolution on the ballot so that they can claim full credit and not let the House Resolution get on the ballot. But I say to my friends in the Senate, if you want to take the credit, then you also must take the responsibility for this Constitutional Amendment. But I think, Representative Brady, in the absence of Representative Lang, you're doing a very good job of obfuscating this issue."

Brady: "Representative, I thank you for that comment, and I think your comments are well taken."

Speaker Madigan: "Mr. Cross."

Cross: "Thank you. Will the Sponsor yield?"

Speaker Madigan: "Sponsor yields."

Cross: "Representative Lang, could you, do you mind answering a few questions, I mean Representative Brady?"

Speaker Madigan: "Mr. Brady yields."

Brady: "Representative, I'd be thrilled to answer any questions you might suggest to put in front of me, and I appreciate the opportunity and the interest you show in this particular Resolution."

Cross: "Is this the Bill that you've been working on over the past year, Representative, or last two years?"

Brady: "This is the Resolution we've worked on for some time, Representative."

Cross: "Is this the Bill the Governor's Office asked you to handle."

Brady: "This Resolution, Representative, is a Resolution which I

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have had dialogue with the Governor's Office about."

Cross: "I apologize for calling it a Bill, Bill."

Brady: "That's okay, Tom."

Cross: "But, let me ask you in all seriousness, I think there's a lot in this Bill that, quite frankly, people aren't aware of and probably don't know what they're voting on. With the respect to the issue of impeachment, Representative, does this Resolution change the Constitution in any way with respect of our ability to impeach a member of the judiciary?"

Brady: "No, Representative, I think you're confusing that with a Civil or Subject Matter Resolution sponsored by Representative Schoenberg, which would have rewritten everything as it dealt with this."

Cross: "I..."

Brady: "This Resolution does not deal with articles of impeachment."

Cross: "I'm not... I'm not confusing it. I just want to make sure that it's not in there."

Brady: "Representative, I didn't mean to say you were confused. I know you know it. I just wanted to clarify."

Cross: "What is this Resolution do with respect to the Judicial Inquiry Board?"

Brady: "Nothing."

Cross: "So the makeup of the Judicial Inquiry Board remains the same in the event this Resolution passes?"

Brady: "Correct, Representative. This simply, specifically rather, deals with the Courts Commission."

Cross: "Can you tell us how this Resolution changes the makeup of the Courts Commission?"

Brady: "Yes, I can, Representative. It... provides that the Courts Commission shall consist of seven members appointed

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as follows: one Supreme Court Judge appointed by that court, two Appellate Court Judges appointed by that court, two Circuit Judges appointed by the Supreme Court, and two citizens appointed by the Governor. It also provides for alternatives to serve if a member is disqualified, requires the Commission to adopt comprehensive rules and, I think, that's in brief, the new composition and the effect of this Resolution as it affects the Courts Commission."

Cross: "Representative, does this Resolution address, in any way, the issue of vacancy in membership on the Courts Commission?"

Brady: "Vacancies in the office of a member or alternate member are filled for the remainder of the term in the manner the original appointment was made, Representative."

Cross: "How does this Resolution deal with the issue of disqualification of Commission members?"

Brady: "A member of the Commission shall disqualify himself or herself or other members of the Commission shall disqualify a member with respect to any proceeding which disqualification or recusal will be required of a Judge under the rules of the Supreme Court, under rules of the Court Commission, or by law."

Cross: "It does not appear, Bill, in this Resolution that we would end up with any new staff for the Courts Commission, is that correct? That would stay the same."

Brady: "That is my interpretation, Representative."

Cross: "Alright. Do the duties of the Court Commission remain the same?"

Brady: "Yes."

Cross: "Does the... do the issues surrounding the confidentiality of the proceedings of the Courts Commission remain the same?"

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Brady: "Yes, they do, Representative."

Cross: "Alright, I know there may be some others that have questions to ask. Thank you for your time, Representative. I have no further questions."

Speaker Madigan: "Mr. Ryder."

Ryder: "Point of Order, Mr. Speaker."

Speaker Madigan: "State your point."

Ryder: "Mr. Speaker, on this piece of legislation, this Resolution, I will be voting 'present' because of a potential conflict of interest. I'd like to show that for the record please, Sir."

Speaker Madigan: "Thank you. Mr. Biggins."

Biggins: "Mr. Speaker, will the Sponsor yield?"

Speaker Madigan: "The Sponsor yields."

Biggins: "How many votes will this take to pass the House?"

Brady: "This takes a three-fifths majority, Representative."

Biggins: "Well, how much is that?"

Brady: "That would be three-fifths of 118."

Biggins: "And how many is that?"

Brady: "I believe that's 71, Representative."

Biggins: "Alright now, if it gets the three-fifths to get out of the House, how many votes does it take for it to pass throughout the whole State of Illinois?"

Brady: "Representative, I believe it requires 60%. One moment, please. It would require three-fifths of those voting on the question or majority of those voting in the election."

Biggins: "So, the three-fifths is consistent both within the Legislature and with the general voting public."

Brady: "I'm sorry, Representative."

Biggins: "The three-fifths, then, is consistent from both the Legislature... the legislative body and from the voting public."

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Brady: "Except for the fact that it could also pass if a majority of those voting in the election were to support..."

Biggins: "What percentage would that be, though... just 50%?"

Brady: "Fifty-one percent."

Biggins: "Pardon?"

Brady: "Fifty-one percent."

Biggins: "I'm sorry. Mr. Speaker, Mr. Speaker, I'm having a little trouble hearing the responses from my colleague. Representative Brady, could you... again explain this to me? It takes three-fifths to pass out of here today. Jerry? Right?"

Brady: "Correct."

Biggins: "And it takes three-fifths, no, no, no, I think you gave me two different answers on what it would take for it to be, come... pass the voters in November. What percentage would it need? It's either 50 or..."

Brady: "Representative, it's my understanding that the Amendment would be deemed effective if approved by three-fifths of those voting on the question, or a majority of those voting in the election."

Biggins: "Well, isn't that two different answers?"

Brady: "Not two different answers. The Constitution calls for an either/or situation, Representative."

Biggins: "Could you clarify for me, Mr. Speaker, what the percentages are. I think Representative Brady says there's three-fifths on one end and a majority on the other."

Speaker Madigan: "Well, the intent of the convention was to, as usual, make it difficult to amend the Constitution. But if the question gets to a vote of the people, there was a preference given in the language to provide that there... it could be easier to pass; and therefore, if you meet either one of the requirements, which is a majority of the

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total vote cast in the election or a three-fifths majority of those voting on the question, then the Amendment is adopted. That was the intent of the convention."

Biggins: "Thank you."

Speaker Madigan: "The Chair recognizes Mr. Granberg for the purpose of an announcement. Mr. Granberg. Please give your attention to Mr. Granberg."

Granberg: "That would be a first. I'd like to introduce two Members, former Members, who are with us here today. Representative, former Representative John Ostenburg and former Representative Tom Walsh, who are joining us here today."

Speaker Madigan: "Mr. John Turner."

Turner, J.: "Thank you, Mr. Speaker. Will the Sponsor yield?"

Speaker Madigan: "The Sponsor yields."

Turner, J.: "Representative, could you just briefly, so the Body will know, since we're changing the Commission, explain exactly what the Courts Commission does and what their duties are."

Brady: "The Courts Commission is convened permanently to hear complaints filed by the Judicial Inquiry Board. The Commission has the authority, after notice and public hearing, one, to remove from office, suspend without pay, censure or reprimand a Judge or Associate Judge for willful misconduct in office, persistent failure to perform his duties, or other conduct that is prejudicial to the Administration of Justice or that brings the Judicial Office in disrepute; or two, to spend (suspend) with or without pay, or retire a Judge or Associate Judge who is physically or mentally unable to perform his duties."

Turner, J.: "Now, how does that differ from the power that the Judicial Inquiry Board has?"

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Brady: "Representative, it's my understanding that the Judicial Inquiry Board brings cases, determines whether or not cases should be brought before the Courts Commission."

Turner, J.: "So, the Judicial Inquiry Board makes an original decision, like a probable cause decision, whether or not the Commission should hear a case?"

Brady: "They investigate it to that extent, Representative."

Turner, J.: "Alright. I know that you have worked extremely hard on this measure. In fact, I think the one you worked on originally was a bit different than the one we now have before us, at no fault of your own, of course. It's better, obviously, to run this than nothing at all, and this is a good measure. But was there not a different method for selecting the Commission under the original proposal that you had, prior to the Bill being changed for political expediency?"

Brady: "Representative, there were two differences. One difference was that a Bill that I had originally sponsored created an Appeal Body, which would have been made up in the Supreme Court; therefore, it did not allow for a member of the Supreme Court to serve on the Courts Commission. It also authorized that the public members would be selected by the Supreme Court, where this authorizes the public members to be selected by the Governor of the State."

Turner, J.: "Are there any restrictions or qualifications, I guess I should say, for the members of the public who will serve on the Commission?"

Brady: "I don't believe so, Representative."

Turner, J.: "And as I understood, it's kind of hard to hear, but, as I understood your explanation a second ago to my prior question is that the Governor under this proposal will now select the two members of the public, whereas under your

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proposal, the Supreme Court would have selected those two members."

Brady: "That's correct."

Turner, J.: "Now, do you know why it was requested that the Bill be changed from the way you had originally drafted it so that the Governor would select the two members of the public, rather than the Supreme Court?"

Brady: "The Governor asked that that be done."

Turner, J.: "I understand that, but what is the underlying reason for that?"

Brady: "I believe his reasoning was that he did not want the Supreme Court to have the authority or the power of the authority to select more than just its members. I don't want to speak for him, and I don't necessarily state that I would be in full concurrence with that, but that would be my perception of his thoughts."

Turner, J.: "Well, did they discuss that with you or, you know, I notice that you're trying to..."

Brady: "... I want to retract that, because I don't think I could speak for the Governor on that issue. Those are my observations as the Bill, excuse me, the Resolution was presented in committee."

Turner, J.: "Did the Governor's Office speak with you about changing the Bill in the fashion that we're discussing?"

Brady: "We had discussions."

Turner, J.: "Alright, once the Commission has made a decision, can that be appealed? Does it go to the Supreme Court? Does it..."

Brady: "Not under this Resolution, Representative..."

Turner, J.: "Does it under existing law?"

Brady: "No, they can't under existing law either."

Turner, J.: "So, this decision that the Commission would make is



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a final decision, not appealable; it's the edict, that's it."

Brady: "That's my understanding, Representative, and that's our intent."

Turner, J.: "And then what is the enforcement arm or mechanism of this final nonappealable decision that is made by the Commission?"

Brady: "Representative, according to the Statutes of this state, the decision would be implemented."

Turner, J.: "Representative, let me commend you. I'm sure we have other questions, so I don't want to take any more time, but I know you worked very hard on this. I know the Bill's been changed just a bit from the way that you'd originally drafted it; but certainly, you deserve a tremendous amount of credit for the work you put into this very important issue. And I would urge all my colleagues to vote 'yes'. Thank you, Representative."

Speaker Madigan: "Mr. Durkin."

Durkin: "Thank you, Mr. Speaker. Will the Sponsor yield?"

Speaker Madigan: "The Sponsor yields."

Durkin: "Representative Brady, are Members of the General Assembly prohibited from serving as or being appointed to this Commission because you are allowing two citizens to be appointed? Would that preclude a Member of the General Assembly?"

Brady: "Representative, I don't think there's any prohibition against Members of the General Assembly serving."

Durkin: "What is the annual operating budget for the Illinois Court Commission?"

Brady: "We don't know."

Durkin: "Alright. Is there anything in this Resolution which gives the Illinois Courts Commission the power to

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subpoena?"

Brady: "Repre... it's our intention, Representative, and I believe it's in the Amendment that they would have the power to subpoena. If not in the Amendment, they would have that through the rules, which would govern their procedures."

Durkin: "Right, will this Commission have the authority to compel testimony from individuals?"

Brady: "That's our intention, Representative."

Durkin: "Well, if a person is subpoenaed, he goes in front of this Commission and for whatever reason refuses to testify, is there any type of sanction which exists within the law presently or you are amending, or not amending, which you are placing on this Constitutional Amendment, which will either force testimony or their person will be sanctioned through some way for refusing to testify before the Commission?"

Brady: "Representative, clarify. Under current law, and we are not changing this, it states on page four of paragraph I, line 15, 'The Commission shall have the power to issue subpoenas.' I don't know that I am... I don't have the authority to speak on your question, Representative. I think there would be laws that would govern this state. It would take precedence over any intention, which I would clarify, and I'm not expert enough to know that. For instance, if someone could plead under the Fifth Amendment..."

Durkin: "Well, it doesn't say that in this Resolution, and I think in order for this Commission to have, perhaps have some more teeth, you would want to be able to state that they do have the power to compel testimony and to hold individuals in contempt if they refuse to comply with the

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subpoenas that have been issued by this Commission."

Brady: "I would support the protection individuals have in that regard, as they have under present law, Representative."

Durkin: "Alright, well, that was a great answer, whatever it was. Anyway, on page 3, this says, 'The Commission shall adopt comprehensive rules.' And now, first of all, would those rules have to go through JCAR or are they going to have this unilateral right to promulgate their own rules?"

Brady: "Would you repeat your question, Representative?"

Durkin: "Certainly. On page 3, it states that the Commission shall adopt rules. Now, will the Commission be able to unilaterally promulgate their own rules, or are they going to have to go through, I believe, JCAR?"

Brady: "Representative, these rules are subject to their rule making authority, and it's my understanding that that is the sole authority which they must adopt those rules under."

Durkin: "Alright, maybe just one more question. It says that they shall adopt comprehensive rules. Now, every other piece of legislation I see it says, 'a certain commission or agency has the ability to adopt rules', but this is allowed to...allowed to... adopt comprehensive rules. Now, I'm just kind of curious why... the word 'comprehensive' is in this particular Resolution when I've never seen that in any other piece of legislation from any other... when we give an agency the authority to rule make?"

Brady: "Representative, we added that in the same vein that we added provisions that would require recusal of members. And if there were instances as in instances of conflict of interest where a member ought to be recused, we thought that in the past, the rules weren't comprehensive enough. And we are enlightening the rule making authority or the

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body that makes the rules to please be as comprehensive as possible."

Durkin: "Well, thank you, Mr. Brady. To the Resolution. I respect what Representative Brady has done over the past year. He's done a lot of hard work on this issue, something that's been very near to him. I will just state, for my purposes, I think it should be part of the legislative intent that if the individual does not comply with the subpoenas which are issued from this Courts Commission, that they should be held in contempt of court and there should be some type of sanction available, at least through some type of civil or criminal contempt. Representative, do you feel that the defendant should be, as well?"

Brady: "Are you suggesting that the... that all parties be subject to the contempt of court rule or all parties excluding the defendant?"

Durkin: "My suggestion is that... that the Commission, if they issue a subpoena, whether or not the... I don't know if the Fifth Amendment privilege exists at this stage, because this is an administrative hearing. And, as far as I remember that, there is no Fifth Amendment privilege. But my only notion is that we, well, it does not specifically state that. I think this Commission should have, at least, some type of enforcement power with respect to the issues of subpoenas, cause I know if... there will be people in years to come who will seek to have that subpoena quashed or they will just refuse to testify, and I just think that the Commission should, at some... some time later, perhaps with their own rule making, should be given some type of authority to hold these people in contempt."

Speaker Madigan: "Mr. Roskam."

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Roskam: "Thank you, Mr. Speaker. Will the Sponsor yield?"

Speaker Madigan: "The Sponsor yields."

Roskam: "Representative Brady, I noticed in the analysis that the, I don't care about your club sandwich getting cold, I notice in the analysis that the legislative branch is cut out, really, of this appointment making process. The judiciary has a role; the executive has a role. Can you tell me what role the Legislature has in forming this commission?"

Brady: "I would suggest that the role we have is the role which is taking place right here and that is to amend the Con... to propose to the citizens of Illinois to amend the Constitution."

Roskam: "Well, I can understand that, but wouldn't you admit that once the Constitutional decision is made, in other words, once the Amendment is taken care of, we're out of the loop, insofar as the appointment of the members are concerned?"

Brady: "The answer is yes."

Roskam: "Is there any reasoning behind that, other than that this is an initiative of the Governor?"

Brady: "To the extent that we felt the Courts Commission didn't act in accordance with removal, we would still have the power of impeachment."

Roskam: "But there's no restraining influence or no qualification that's outlined in this Constitutional Amendment in terms of the membership of the public member, isn't that right?"

Brady: "That is correct."

Roskam: "So, you could have... you could have someone that really has no legal knowledge whatsoever who could be appointed to this Commission making decisions about the lives of members of the judiciary who've been accused of some wrongdoing. Isn't that possible?"

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Brady: "That is possible, and some would suggest that a legal background may not, a member who didn't have a specific legal background may be a refreshing addition to the Commission. Others have also suggested that academicians who are involved in this subject who might be attorneys could also be refreshing additions to the Commission."

Roskam: "But those are people that would arguably have a strong, at least, a legal background or some foundation in the law. Let me just switch gears slightly. Does the Senate have a role as they do in so many other things in terms of confirming members of Commissions or confirming people? Will these public members have to submit to anybody's authority or anybody's scrutiny?"

Brady: "No, Representative."

Roskam: "So, no Senate confirmation, no... nothing articulated in the Amendment insofar as qualifications are concerned. Wouldn't you see those as weaknesses and opportunities for us to strengthen this a little bit?"

Brady: "Representative, we didn't consider to that extent. I believe that if we are going to allow members to be appointed by members beyond the judiciary that the Governor would be the most likely and prudent nominator, and I believe strongly that the Governor of Illinois would make that decision in a responsible way and, therefore, I, where Senate confirmation certainly wouldn't hurt, at this point in time, I'm not sure it's necessary, in my opinion."

Roskam: "Thank you for your answers."

Speaker Madigan: "Mr. Kubik."

Kubik: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. I think that this is a very important debate. I'm not sure that many people are listening to this debate. What I would like to do is address some of the questions

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which have been raised on this issue and I think that, frankly, this Amendment, or this Constitutional... proposed Constitutional Amendment is a very good Amendment. Let me address some of the issues because of having served on the Heiple Commission, one of the issues that was raised during that whole process was the fact that all of the members of the Courts Commission were either members of the Supreme Court or they were appointed by the Supreme Court. And as a consequence, when the Courts Commission investigated a Supreme Court Justice, there were some questions as to whether or not that decision was an appropriate decision. So, and there was some question because all of these people who sat on the Courts Commission were appointed by the Supreme Court, there was some feeling that there wasn't enough independence involved. So I think that the Resolution that is before us, by allowing the Governor, who is out of the realm of this whole impeachment and disciplinary process, to appoint two citizens who have no connection to the process onto the Courts Commission, will strengthen the Courts Commission. Let me further point out that, in reference to the previous speaker's question regarding why the Legislature should not do the appointing, I think that the appropriate mechanism is the Governor, because as we saw in the Heiple situation, there was a Courts Commission proceeding and ultimately, as you know, especially with the Supreme Court, the Legislature may ultimately act on a proceeding that's before the Courts Commission in an impeachment proceeding. So, by appointing or having the appointment process to the Courts Commission, I, again, think that it robs the independence of that particular Commission. So, I think that allowing the Governor to make these appointments probably strengthens

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the Courts Commission and the independence of the Courts Commission. So, I think that Representative Brady has taken this issue through many, many hoops, and has finally come up with a very good Constitutional Amendment, which I think, I hope will restore some of the integrity in the judiciary that might have been lost over the last couple of years, given some of the circumstances that we've seen. I think this is a strong Amendment and it ought to be adopted and I would support SJR 52."

Speaker Madigan: "Mr. Brady to close."

Brady: "Thank you, Mr. Speaker and Ladies and Gentlemen of the House. I appreciate the interest of the Members and I appreciate those Members' support. I ask for your favorable consideration."

Speaker Madigan: "The question is, 'Shall this Constitutional Amendment be adopted?' Those in favor signify by voting 'aye'; those opposed by voting 'no'. Have all voted who wish? Have all voted who wish? Have all voted who wish? Have all voted who wish? The Clerk shall take the record. On this question, there are 114 people voting 'aye', 1 person voting 'no'. This Constitutional Amendment, having received the Super Majority Vote, is hereby declared passed. For what purpose does Mr. Mitchell seek recognition?"

Mitchell: "Thank you, Mr. Speaker. I rise on a Point of Personal Privilege."

Speaker Madigan: "State your point."

Mitchell: "Thank you, Mr. Speaker. Ladies and Gentlemen of the House, I'd just like to advise that on the Republican side of the aisle your very courteous and very efficient young pages are all from, pretty much all from, Bureau Valley North Middle School in Walnut, Illinois. They are: Carl



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Meyer, Nathalie Haurberg, Holly Willstead, Dustin Marquis, Andrew Blackert, Joanna Stoller, Jamie Dienslake, Rebecca DeBrock, Kristie Monier, Debbie Gothard, and they're here with their teacher Kathy Haurberg and a parent sponsor, Larry Meyer, and I would like for you to all welcome them to Springfield, Illinois. Secondly, there are two other pages, if I might have just one more second, and that happens to be Kelsey Manning and her mother Lynn Manning from Rockford, Illinois, who's a good friend of my daughter, Emily Mitchell, who's a page today, and she's here with her mother, my wife, Jan Mitchell and it's also Jan's birthday. Happy birthday, honey. Thank you, Mr. Speaker."

Speaker Madigan: "Mr. Clerk, House Resolution 448. Read the Resolution."

Clerk Bolin: "House Resolution 448."

"WHEREAS, The Members of the Illinois House of Representatives wish to congratulate Nauvoo-Colusa High School's basketball team on winning the State championship; and

WHEREAS, This win was the first for Nauvoo-Colusa; the team beat teams ranked number four, two, and one in the State to win their championship game; the Vikings beat the Spring Valley Red Devils after a heated match, with the Red Devils leading by as many as eight points several times in the game; and

WHEREAS, The team is made up of: Managers Rebecca Pope, Sarah Hasek, and Larissa Gayton; Coaches Reno Pinkston and Frank Gayton; players Kellen Ferneti, Brian Griffiths, Doug Siegfried, Dave Hamma, Pat Weaver, David Griffiths, Marshall Staff, Paul Goetz, Joe Wilson, Kenny Haas, and Emmett Reidner; Principal Ron Yockey can be proud of this fine team; therefore, be it

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RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETIETH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we congratulate the Vikings of Nauvoo-Colusa High School on bringing home the championship; and be it further

RESOLVED, That a suitable copy of this Resolution be presented to the Vikings."

Speaker Madigan: "The Chair recognizes Representative Myers at the podium."

Myers: "Thank you, Mr. Speaker. It's my great pleasure to introduce to all of you in this Body and the State of Illinois the championship team of Division 1-A Basketball. The Vikings of Nauvoo-Calusa provided a very exciting season for the parents and the faculty and the other students, as well as the neighbors in the area. We watched many of the games on T.V. and saw that the Nauvoo-Calusa Basketball Team never quit; and indeed, that fighting spirit that they have went on to provide them a state championship. It's my distinct honor and pleasure to introduce you to the championship basketball team, Nauvoo-Calusa Vikings. I won't introduce each one of them individually. The Resolution has done that, and so I congratulate the team on a very successful year."

Speaker Madigan: "The question is, 'The adoption of House Resolution 448?' Those in favor say 'aye'; those opposed say 'no'. The 'ayes' have it. The Resolution is adopted. Is there anything further to come before the Body? There being nothing further, Representative Currie... Representative Currie moves that the House does stand adjourned until 1:00 p.m. tomorrow, providing perfunctory time for the Clerk. Those in favor say 'aye'; those opposed say 'no'. The 'ayes' have it. The House does

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stand adjourned."

Clerk Rossi: "There being no further business, the House  
Perfunctory Session will stand adjourned."