

78TH GENERAL ASSEMBLY

MARCH 22, 1973

1. PRESIDENT:

2. The Senate will come to order please. The prayer
3. will be delivered by the Reverend Larry Maffett of the
4. First United Methodist Church of Springfield. Reverend
5. Maffett.

6. (Prayer given by Reverend Maffett)

7. Thank you very much. Nice having you here with us. Thank
8. you. Reading of the Journal. Senator Soper.

9. SENATOR SOPER:

10. Mr. President, I move that we postpone reading of
11. the Journals of March 20 and 21st pending the arrival of
12. the printed Journal.

13. PRESIDENT:

14. Senator Soper has moved postponement of the reading of
15. the March 20 and 21st Journals until the arrival of the
16. printed Journal. All in favor signify by saying aye. Con-
17. trary nay. Motion is carried. There will be a Republican
18. Caucus in M-1 immediately. The Senate will be in recess for
19. at least a half hour. We will attempt to conclude our dis-
20. cussions in a half hour. Senator Partee.

21. SENATOR PARTEE:

22. There will be a Caucus of the Democratic Party in...on
23. the sixth floor caucus room immediately.

24. (RECESS)

25. SERGEANT-AT-ARMS:

26. I know it's on...there's no juice. There will be a
27. Democratic Caucus on the sixth floor immediately. Demo-
28. cratic Caucus on the sixth floor immediately.

29. (RECESS)

30. SERGEANT-AT-ARMS:

31. There will be a Democratic Caucus on the sixth floor
32. immediately.

33. (AFTER RECESS)

34. PRESIDENT:

1. Senate will come to order. All right. Messages from the
2. House.

3. SECRETARY:

4. A message from the House by Mr. Selcke, Clerk.

5. Mr. President, I am directed to inform the Senate that the House
6. of Representatives has passed bills of the following titles,
7. in the passage of which I am instructed to ask concurrence of
8. the Senate to wit: HB 254, 230, 231, 239, 211, 226, 282, 284,
9. 292, 296, 299, 305, 306, 315, 360, 286, 314, 318, 355, 361,
10. 283, 371, 372, and 390.

11. PRESIDENT:

12. Committee reports.

13. SECRETARY:

14. Senator Graham, the Chairman of the Committee on Assignment
15. of Bills reports the following assignments: To the Committee
16. on Appropriations, SB 381 and 397. Committee on Education,
17. SB 391. Committee on Elections and Reapportionments, SB 383, 384
18. and 393. To the Committee on Executive, SB 399. Committee on
19. Insurance and Financial Institutions, SB 388, 389 and 390.
20. Committee on Judiciary, SB 386 and 392. Committee on Local
21. Government, SB 380, 382, 385, 394 and 395. Committee on
22. Transportation and Public Utilities, SB 387 and 396.

23. Senator Berning, the Chairman of the Committee on Pensions and
24. Personnel reports SB 121 with the recommendation that the bill
25. Do Pass. SB 161...with the recommendation that the bill Do Pass
26. as amended. Senator Fawell, the Chairman of the Committee on
27. Education reports SB 201, 250 and 271 with the recommendation
28. the bills Do Pass. Senator Sours...

29. PRESIDENT:

30. I'm advised that some of our guests are using cameras. The
31. rules of the Senate do not provide for the taking of pictures
32. when we are in Session. Would our guests please cooperate with
33. our rules? For what purpose does Senator Scholl arise? Senator
34. Scholl.

March 22, 1973
SB 278

1. SENATOR SCHOLL:

2. I would like to ask permission to introduce a group of
3. students from Immaculate Conception School in my District, school
4. that my children go to. And they're standing up there in the ...
5. the audience. And I'd like to give them a big welcome.

6. PRESIDENT:

7. Would they rise? Proceed with the Committee reports.

8. SECRETARY:

9. Senator Sours, the Chairman of Committee on Judiciary,
10. reports SB 181, 199, 215 and 216 with the recommendation
11. the bills Do Pass. HB 237 with the recommendation the bill
12. Do Pass. Senator McBroom, Chairman of the Committee on
13. Appropriations, reports SB 183, 185, 186, 278 and 315 with
14. the recommendation the bills Do Pass. SB 184, 302 and 311
15. with the recommendation the bills Do Pass as amended.
16. Senator Ozinga, the Chairman of the Committee on Executive,
17. reports SB 234 with the recommendation the bill Do Pass.
18. SB 31 with the recommendation the bill Do Pass as amended.
19. Senate Joint Resolution number 19 with the recommendation
20. that the Resolution be adopted. Senator Ozinga, the Chair-
21. man of the Committee on Executive to which was referred the
22. Governor's message of March 6, reports the same back in part
23. with the recommendation that the Senate advise and consent
24. to the appointment of Howard R. Fricke to be Director of the
25. Department of Business and Economic Development for a term
26. expiring the third Monday in January ... 1975. Senator
27. Ozinga, Chairman of the Committee on Executive, to which
28. was referred the Governor's message of January 29, reports
29. the same back in part with the recommendation that the
30. Senate reject the nomination of David Fogel to be Director
31. of the Department of Corrections for the term expiring the
32. third Monday in January, 1975.

33. PRESIDENT:

1. Senator Ozinga.

2. SENATOR OZINGA:

3. Mr. President, I would now move that the Senate resolve
4. itself into Executive Session for the purpose of confirming
5. some of these appointments of the Governor which have just
6. been read.

7. PRESIDENT:

8. Senator Ozinga has moved that the Senate resolve itself
9. in Executive Session. All in favor signify by saying aye.
10. Contrary nay. The Senate is resolved into Executive Session.
11. Senator Ozinga has been recognized, Senator ... for do you
12. have an inquiry, or ... Senator Partee, do you have a Par-
13. liamentary inquiry?

14. SENATOR PARTEE:

15. A Parliamentary inquiry in terms of all the persons involved
16. who were before the Committee. I am given to understand
17. that a request was made by the Governor for one of those
18. persons to not be returned today in ... in the person of Mr.
19. Fogel. And, I'm wondering if what he is suggesting now would
20. bring Dr. Fogel into the entire motion?

21. PRESIDENT:

22. Are you ... well, I think your question is directed to
23. the Chairman. Senator Ozinga ... did you hear Senator Partee's
24. question?

25. SENATOR OZINGA:

26. I have received no request directly from the Governor,
27. however, I have heard by hearsay that there was a request,
28. however, I thought that was resolved and the Governor in-
29. formed that we were going to hear it today. Now, that's as
30. far as I'm concerned.

31. PRESIDENT:

32. The Chair might add that I personally have informed the
33. Governor that the matter of delay on the Committee action

1. on Director Fogel, was not possible to be responded to
2. and that it was the wish of this side ... the Majority
3. side to proceed with the determination of the matter today.
4. Senator Partee.

5. SENATOR PARTEE:

6. Then that makes it clear that the communication
7. was communicated from the Governor to the Republican
8. Caucus asking for a week's delay and that was denied.
9. The record's clear on that.

10. PRESIDENT:

11. That ... that's correct ... the determination was
12. to deal with this issue today. Senator Ozinga.

13. SENATOR OZINGA:

14. Mr. President, I would now move that the Senate
15. advise and consent to the nomination of Howard Fricke to
16. be Director of the Department of Business and Economic
17. Development for a term expiring on the 3rd Monday in
18. January, 1975.

19. PRESIDENT:

20. The question is, does the Senate advise and consent
21. to the nomination just made? The Secretary will call the
22. roll.

23. SECRETARY:

24. Bartulis, Bell, Berning, Bruce, Buzbee, Carroll,
25. Chew, Clarke, Conolly, Course, Daley, Davidson, Donnewald,
26. Dougherty, Fawell, Glass, Graham, Harber Hall, Kenneth
27. Hall, Hynes, Johns, Keegan, Knuepfer, Knuppel, Kosinski,
28. Latherow, McBroom, McCarthy, Merritt, Mitchler, Howard
29. Mohr, Don Moore, Netsch, Newhouse, Nimrod, Nudelman,
30. Ozinga, Palmer, Partee, Regner, Rock, Roe, Romano, Saperstein,
31. Savickas, Schaffer, Scholl, Shapiro, Smith, Sommer, Soper,
32. Sours, Swinarski, Vadalabene, Walker, Weaver, Welsh, Wooten,
33. Mr. President.

*Now Confirmation
of David Fogel
March 22, 1973*

1. PRESIDENT:

2. Senator Nudelman, aye. Senator Graham, aye. Senator
3. Daley, aye. On that question the ayes are forty-eight.
4. The nays are none. The nomination having received a vote
5. of a majority of the members elected, as required by the
6. Illinois Constitution is declared advised and consented to.
7. Senator Ozinga.

8. SENATOR OZINGA:

9. And now, Mr. President, as Chairman of the Executive
10. Committee, I must move in accordance with the Constitution,
11. and therefore, I move that the Senate advise and consent
12. to the nomination of David Fogel to be Director of the
13. Department of Corrections for a term expiring on the third
14. Monday of January, 1975.

15. PRESIDENT:

16. You've heard the motion. Senator Carroll is recognized.

17. SENATOR CARROLL:

18. Mr. President, thank you. I rise to a point of
19. Parliamentary inquiry. And by way of background, it's
20. my understanding, and I was present at the time that the
21. Executive Committee was meeting in 212, ... beyond it's
22. appointed hour that a point was made prior to the motion
23. upon which Senator Ozinga has now brought before the
24. Body of the Senate that that Committee stand adjourned.
25. The reason being that it was beyond the appointed hour
26. and under the set rules, although temporary, under the
27. set rules of the Senate there was another committee ...
28. scheduled for that room at that time. I would call the
29. attention to the presiding officer that the rules of
30. the Senate, the temporary rules, set the agenda that we
31. adopted a special amendment yesterday to Rule Five and,
32. I'm sorry that's not the one, but we did adopt ... an
33. agenda of committees that the committee was set for a

1. time and date. Once that motion having been made, all
2. action by that committee was beyond the rules, was beyond
3. the time limit and it would have taken action by the
4. Senate to...it would of taken action by the Senate to
5. extend the time of the committee. I would, therefore,
6. submit to the presiding officer and the Parliamentarian
7. that our rules, being silent on the point, we once again
8. have to turn to Robert's Rules, and under Rule 47 that
9. vote becomes null and void, and that nomination is still
10. in committee.

11. PRESIDENT:

12. Senator Sours.

13. SENATOR SOURS:

14. Mr. President, Ladies and Gentlemen of the Senate,
15. I'm certain that by this time, it is tradition and practice
16. and necessity as well as dependent upon the exigencies
17. of all of our situations that we can never run on
18. schedule, Senator. To take a technical position in a
19. situation like this would just about strip the validity
20. and the legality of just about everything in the Statute
21. book, and for that reason, I would hesitate to suggest
22. your comments or speeches, they just don't work in the
23. Legislative Assembly, such as ours.

24. PRESIDENT:

25. The Chair...Senator Carroll.

26. SENATOR CARROLL:

27. Thank you, Mr. President. To answer Senator Sours,
28. I was not present at some of those specious meetings or...
29. or void statute. I don't think the question was raised,
30. and therefore, could not be put at this time. I am raising
31. it at this time, as to this particular action. The point
32. was made in committee, I don't believe the point was made
33. in those other committees on those other occasions to

1. which you are referring in the past odd ... odd numbered
2. of years. In this particular Committee, that particular
3. point was raised. That particular point having been raised,
4. the record was clear on that point. Any action taken after
5. that point, under our rules, unless they had been prior to
6. had been suspended is null and void in my opinion under
7. Rule 47.

8. PRESIDENT:

9. Senator Newhouse.

10. SENATOR NEWHOUSE:

11. Thank you, Mr. President. Mr. President, I talked with
12. Senator Carroll prior to the ... making the point that he
13. just made, and I'm in agreement with it. Further, there were
14. some other problems connected with the meeting in terms
15. of the motions that were made and the recognition of those
16. motions. It seems to me, we are about to make a delib-
17. eration on one of the most important appointments that we
18. will have during this Session. And, in view of that, Mr.
19. President, I'd like to make a substitute motion that this
20. appointment, consideration be held over for a week, and
21. I'd ask for a roll call on that motion.

22. PRESIDENT:

23. Will you withhold your motion until I respond to
24. Senator Carroll? ... I think it appropriate for me to do that.

25. SENATOR NEWHOUSE:

26. Thank you. I will be recognized at that time?

27. PRESIDENT:

28. Yes.

29. SENATOR NEWHOUSE:

30. Thank you, Mr. President.

31. PRESIDENT:

32. The Chair rules that the action of the Committee is in
33. proper form, the report thereof is in proper form, that's

1. my reference, that the Committee chose to continue its
2. deliberations and on the basis of custom and practice which
3. has been repeatedly observed here, in this instance of a
4. committee meeting beyond its scheduled appointed hour, that
5. the question raised by Senator Carroll is not germane to the
6. action of the Senate, that the motion before the Senate,
7. and we have acted now on the nomination of Mr. Fricke,
8. which is included in the committee report of the meeting
9. of the Executive Committee yesterday. So the ruling is,
10. that Senator Ozinga's motion is properly before the Senate
11. for action by the Senate on the question of advise and
12. consent. Senator Carroll.

13. SENATOR CARROLL:

14. Thank you, Mr. President, I would just suggest again
15. to the Chair that the action on Fricke is not challenged
16. not because of the report, but because of the time
17. elements involved. That the point was raised at a proper
18. time, in my opinion, and that any action that transpired
19. after that, even if, I may refer to Robert's, even if it
20. was unanimous, is still null and void. I would suggest
21. further on another point if I might, I would ask that the
22. Secretary read the message that he received from the com-
23. mittee report. It's my understanding

24. PRESIDENT:

25. Well, the message has been read.

26. SENATOR CARROLL:

27. I would ask that he ... all right, it's my understand-
28. ing that the Governor's message that the recommendation ...
29. report from the committee on the Governor's message is that
30. they recommend rejection. That is the words, as my under-
31. standing of the report submitted to the Secretary of the
32. Senate. I... if that is correct, I find nothing within
33. our Constitution or rules that allows us to vote on such a

1. question and that the Chairman of the Committee has
2. at least stated a motion different than the report that
3. was submitted, and I think that would be in violation
4. of our rules.

5. PRESIDENT:

6. Well, I don't think we are nailed and limited to a
7. precise expression contained in a committee report. Rule
8. 7 clearly states that on the question of nominations the
9. motion shall be, shall the Senate advise and consent to
10. the nomination just made. That language is clear. And
11. the sense of the Senate shall also be clear in its response
12. to that question. The recommendation is phrased in the word
13. rejection, that is true, but we are not limited precisely
14. to an action exactly and literally to that kind of a ... of
15. ... phraseology. It's the position of the Chair that the
16. sense of the Senate will be expressed in the motion prescribed
17. by Rule 7 which clearly states that the Senate advise and
18. consent. The action of the Senate will, and incidently I
19. might further observe, that there is no requirement that the
20. Senate accept a recommendation by any committee. As I
21. stated yesterday, a majority is what is required, and we've
22. dealt with this issue in the past, and the ruling is that ...
23. the ruling is that the motion is properly before us and Rule
24. 7 requires us to express ourselves in that form. Senator
25. Carroll.

26. SENATOR CARROLL:

27. May I just make ... not to belabor the point, but for
28. the record make a point. It's my understanding, and I again
29. was present, although not a member that the Committee did
30. vote on a motion to advise and consent. That motion did not
31. receive the affirmative vote of the committee and under
32. our normal procedures that motion and that nomination would
33. still be within the control of the Committee. That it was

1. not a motion made to reverse that roll call, and therefore,
2. report it out. But that after Senator Partee's objection
3. to the continuation of the committee, a second motion was
4. placed by Senator Graham which was that we reject. I
5. would suggest to the Chair that that motion not only because
6. of the time limitations but because of the form of the motion
7. was null and void, that we do not have the power to make
8. a motion to reject or to nonconfirm and that the motion
9. to confirm as required by our rules and the Constitution,
10. having failed to receive a majority vote, is still within
11. the committee, and it would take further committee action
12. next week to report that nomination out.

13. PRESIDENT:

14. Your ... your observation is noted. The Chair now re-
15. cognizes Senator Newhouse for the purpose of a substitute
16. motion.

17. SENATOR NEWHOUSE:

18. Mr. President, I would like at this time to renew my sub-
19. stitute motion and just by way of reinforcement for that motion
20. point out to you and the Body that the precedent suggested by
21. the Senator from the other side of the aisle is not on all fours
22. with the precedent we have with the case that we have before us.
23. We have here not a case simply of a committee running past the
24. time, but of a time the objection being raised, at the time the
25. objection being raised in this forum. So, I would suggest that
26. there is a substantial difference and in the view of that dif-
27. ference, a weeks delay in this very important appointment will
28. not be harmful. I therefore renew my motion, and would ask for
29. a roll call on it.

30. PRESIDENT:

31. Senator Newhouse moves to postpone consideration of the
32. nomination of ... nomination of David Fogel for one week. On
33. that motion, all in favor signify by saying aye. Contrary

1. no. The Secretary will call the roll. Two members have
2. requested a roll call. The question is...the question is,
3. shall consideration of the nomination of David Fogel be
4. postponed for one week? The Secretary will call the roll.
5. Will the members please be in their seats.

6. SECRETARY:

7. Bartulis, Bell, Berning, Bruce, Buzbee, Carroll,
8. Chew, Clarke, Conolly, Course, Daley, Davidson, Donnewald,
9. Dougherty, Fawell, Glass, Graham, Harber Hall,...Harber
10. Hall, Kenneth Hall, Hynes, Johns, Keegan, Knuepfer, Knuppel,
11. Kosinski, Latherow, McBroom, McCarthy, Merritt, Mitchler,
12. Howard Mohr, Don Moore, Netsch, Newhouse, Nimrod, Nudelman,
13. Ozinga, Palmer, Partee, Regner, Rock, Roe, Romano, Saperstein,
14. Savickas, Schaffer, Scholl, Shapiro, Smith, Sommer, Soper,
15. Sours, Swinarski, Vadalabene, Walker,...Walker, Weaver, Welsh,
16. Wooten, Mr. President.

17. PRESIDENT:

18. Senator Newhouse, aye. On that question the ayes are
19. twenty-seven, the nays are thirty, and the motion is declared
20. lost. Senator Ozinga.

21. SENATOR OZINGA:

22. I would now...renew my motion.

23. PRESIDENT:

24. The question is, shall the Senate advise and consent
25. to the nomination just made? Senator Partee.

26. SENATOR PARTEE:

27. I would like to speak to the motion, if I might, Mr.
28. President.

29. PRESIDENT:

30. You are recognized.

31. SENATOR PARTEE:

32. Sir, I think it's a very important consideration
33. that the Senate faces in whether or not it advises and

1. consents to the appointment of a particular person who is
2. proffered to a governmental agency by the Governor. In this
3. case, I guess we knew for some time that there was some
4. controversy surrounding the appointment of Dr. Fogel, and
5. we came to know that by many newspaper articles and other
6. expressions throughout the media concerning this gentleman
7. and his course of action lastly in the State of Minnesota.
8. We were told that there were many, many things wrong with
9. this man, that he had not the qualifications to hold the
10. position, that he was in many ways disruptive and devisive,
11. and that a case, a very strong case would be made against
12. him when he came and appeared before our committee. I
13. want you to know, Mr. President, that I was present in the
14. committee yesterday, and I heard a large number of questions
15. asked this gentleman, and I've never been more satisfied
16. with the kind of forthright, intelligent, well articulated
17. answers as the ones that he gave. More than that, Mr.
18. President, I would like you know that we have in our file
19. here, a large number, an inordinately large number. of letters
20. which have come from persons in the State of Minnesota
21. who know what kind of man this is and who talked very
22. much about his innovative activities. I know that
23. innovation around this State is something that's an anathema
24. to a large number of people; people want things done like
25. they were done in the 20's or in the 30's and some people
26. are living in yesteryear. Some people see this man and
27. they talk to...when they ask him about certain groups
28. to which he belonged, they ask him about his days when he
29. was at the University of California, and I suppose they
30. imagize or reify a college professor as they knew him
31. in the days when some of these gentlemen were in college
32. forty or fifty years ago. They think of him probably with
33. baggy tweeds, vest, maybe a Phi Beta Kappa key hanging

1. around. They think of the ivy covered buildings and a
2. pipe, Sunday afternoon teas and chamber music. But those
3. days are not with us any more and our college professors
4. are now meeting and talking with young people who observe
5. their parents on Sunday mouthing pious incantations in
6. church, and see them again on Monday being the different
7. person than they were on the Sunday in church. And those are
8. the kinds of young people with whom professors are dealing
9. today. And ...the day when you could say to a young
10. person, it is so because I told you so, has faded into
11. evanescence. Hence, we have professors like Dr. Fogel and
12. perhaps one of his failings as far as those who would reject
13. him are concerned, is the fact that he took the time to
14. prepare himself scholastically in this rather limited
15. kind of preparational field. He has a doctorate degree in
16. the field of penology, which gives him perhaps a disadvantage
17. where some people are concerned. Perhaps he should
18. be a toothy kind of sycophantic sheriff from some county
19. who gets along with everybody on the County Board or who
20. doesn't know a great deal about Lambros's theory of penology
21. or anything else about penology except you've got to put
22. them in there and sit on them, you know. Maybe that's his
23. problem; I can't really analyze what goes through anyone else's
24. mind, but maybe that is a part of his problem. But it's
25. interesting to me when we see a letter from judges at all
26. levels in Minnesota, at the Circuit Court and the Federal
27. Court, letters from the Governor of Minnesota and many, many
28. letters from knowledgeable people in the State of Minnesota,
29. and they all say yes, he's innovative. Let me suggest to
30. you that whenever anybody is innovative in any field in
31. this State, he immediately incurs a disfavor of a large
32. segment of our population and of our Legislature. This
33. man would be the successor to another man who, in my opinion,

1. was a very fine Director of the Department of Corrections.
2. I say to you that Peter Bensinger, the Republican Director
3. of this division prior to this time, did a masterful job,
4. as the Commission...or Director of this Department of
5. Corrections. He was innovative and he too because of his
6. innovation, because of his desire to do things in another
7. way, calculated to bring about better results in this kind
8. of changing world in which we live; he too had his detractors,
9. and he too had persons who were not prepared emotionally
10. or responsively to his kind of program. I just looked, Mr.
11. President, at some figures I had brought in here this morning
12. on the rejections of candidates, and it's interesting to
13. me that the rejections that I'm looking at relate only
14. to civilian employees and it comes... this information comes
15. from the Library of Congress, and it relates to rejection
16. of civilian nominations by the Senate of the United States.
17. And I'll say to you my records go back, well, we just
18. went back to...back to the early 50's, I have it here,
19. and it's surprising, just really surprising how many people,
20. or really how few people, were rejected by the Senate of
21. the United States. The first one was in 1959, a man by
22. the name of Louie B. Strauss, who was nominated for the
23. Secretary of Commerce, and he was rejected by the Senate
24. on a vote of 46 to 49. And in 1969, ten years later, a
25. man named Clement Haynesworth was nominated for the Associate
26. Justice of the Supreme Court. And he was rejected by
27. the Senate 55 to 45. Can the gentlemen back there with you
28. hear? I can hear you over here. You must...give him a hearing
29. aid, would you? And number three, 1970, a gentleman by the name
30. of G. Harold Carswell, nominated for Associate Justice of the
31. Supreme Court was rejected by the Senate 45 to 51. In the years
32. under study, there were only three additional rejections
33. by the United States Senate of any personal appointments,

1. and in 1955, there were three postmasters rejected. Now,
2. I'm not trying to establish the fact that nobody should
3. ever be rejected. I certainly wouldn't say that. And I
4. don't intend to convey that impression. I'm only saying,
5. that when a person comes to this body to...and offers his
6. service to this State, that the rejection be based on some-
7. thing meaningful, on something realistic, on something of
8. a substantial nature. If you'd been there yesterday; and
9. you'd heard the questions, you'd heard the testimony, you'd
10. heard the answers given, you would know that this rejection
11. is bottomed on nothing of a positive nature. It is
12. bottomed on some sort of venom, some sort of vindicative
13. feeling or attitude, some sort of personal rejection, some
14. kind of personality antithesis, but not based on facts. I,
15. therefore, Mr. President, urge you and all members of this
16. Body to advise and consent to the appointment of Dr. David
17. Fogel.

18. PRESIDENT:

19. Sen...Senator Newhouse.

20. SENATOR NEWHOUSE:

21. Thank you, Mr. President. Mr. President, gentlemen,
22. I'd simply..to make one point and that is this, during the
23. last Session we had with us, during the last four years,
24. we had with us the Director whose name was Peter Bensinger.
25. Peter Bensinger was a young, innovative, strong-minded
26. man who set about changing the theory of penology in this
27. State from a punitive theory to a rehabilitive theory. He
28. fought a lot of battles, and I'm proud to say that in this
29. Senate, I was one of the sponsors of the new code of
30. corrections that came out of his administration. Those of
31. you who have taken a look at that new code of...those of you
32. who have taken a look at the new code of corrections, and
33. it quite an extensive document, realize that of the kinds

1. of changes that have been made in penology in this State
2. will require a person who has precisely the kind of
3. attributes that the candidate for that position presently
4. has. Without those kind of attributes, we may be in fairly
5. serious trouble. Because we have put in theory on...in the
6. laws on the books in this State, some of those forward-
7. looking plans that cannot be implemented without the full
8. support of this body, without the full support of a director
9. who has some notion of what they're all about. The record
10. shows that in the State of Minnesota, that David Fogel was
11. not reluctant to try new things under controlled conditions,
12. to find out whether or not they would or could work and when
13. they could work, he had them adopted. That kind of leadership
14. is going to be required in the State of Illinois. There's
15. almost no question that given the political realities of
16. life that almost anyone with a bland record who had appeared
17. before this Body would have been immediately confirmed.
18. And we could have had any mediocre director of corrections
19. that the Governor choose...chose rather, to bring before
20. the Executive Committee. Unfortunately, there are other
21. political realities here involved. I would hope, however,
22. that the last minute, and I've been here long enough to
23. have not too great faith in this suggestion, that some of
24. us would think very carefully about what we're about to do
25. in the area of penology and divorce from what ever thought
26. we have; David Fogel, as a personality, and look at the cold
27. record of what this man has done, the cold record of what he is
28. doing, the cold record of what he can produce for the
29. State of Illinois, and advise and consent in this nomination.

30. PRESIDENT:

31. Senator Wooten.

32. SENATOR WOOTEN:

33. Mr. President, I have received, as I am sure many

1. members of this Body have received, a number of letters
2. objecting to the appointment of David Fogel as Director
3. of the Department of Corrections, and so I took some pains
4. to check with the people in our community where the matter
5. of corrections is under study, where we have great hopes
6. for the future, and talked to them. I have identified
7. many of these letters as coming from one particular pressure
8. group. But I talked to them about Mr. Fogel's qualifications,
9. and the consensus was that he would be the man to carry
10. on in the spirit of Peter Bensinger. And it was their
11. judgment that this was perhaps one of the most important
12. and one of the most enlightened appointments to come from
13. our Governor. I, therefore, followed the proceedings in
14. Executive with great care yesterday, and am frankly puzzled
15. that the vote was to reject him, even though no case was
16. made against him. And... so I would urge my colleagues to
17. consider very carefully this vote and advise and consent
18. to this appointment.

19. PRESIDENT:

20. Senator Rock.

21. SENATOR ROCK:

22. Mr. President, members of the Senate, I too sat in the
23. Executive Committee yesterday and heard a dissertation
24. by a fellow Senator that lasted some twenty-four minutes,
25. and I think to reiterate what Senator Partee said, there are
26. allegations, and there are allegations, and there are allegations..
27. There were no facts. Those that proported to be facts were
28. in some instances misstated and others were directly
29. refuted in well articulated answers by the nominee. I
30. want to point out to the members of the Senate who did
31. not have the benefit of the hearing in the Committee...
32. the Executive Committee yesterday, that I too have received
33. numerous letters from the State of Minnesota and the officials

1. therein, highly placed officials, apparently well-qualified
2. officials, and I would like for the benefit of the member-
3. ship to share with the members of the Senate a few remarks
4. from just a couple of those letters. There have been
5. allegations that this is a man who does not stand for law
6. and order. I happen to live in a very inner-city type
7. neighborhood; in my judgment, Dr. Fogel stands for law and
8. order. The only thing that I heard yesterday that might
9. have been construed, at least, as some umbrage on this
10. gentleman's qualifications, was the fact that apparently
11. certain senior members of the various institutions were
12. upset. That same upset happened when Peter Bensinger took
13. over the Department of Corrections. I would like to share
14. with the membership some remarks from Robert Tenneson, Chair-
15. man of the subcommittee on Corrections of the State Senate
16. of the State of Minnesota, in his letter addressed to the
17. Chairman, Senator Ozinga. He says, "I am very grateful for
18. the effective leadership, management and administration he
19. brought to the Department. Others, he said, attest to Dr.
20. Fogel's leadership. In 1971, Governor Wendell Anderson
21. appointed Mr. Douglas Dayton to be chairman of a newly created
22. Loaned Executive Action Program. LEAP, as it was called, was made
23. up entirely of top executives from businesses throughout the area.
24. It's goal was to study State departments and suggest specific
25. programs for eliminating fat, improving organizations ef-
26. fectiveness in assisting state government to serve people
27. better. It was an effective study making evaluations and
28. concrete recommendations. And this is what LEAP, the
29. team said of the Corrections Department in December of
30. 1972. That month in which Dr. Fogel was contacted by our
31. chief executive, and I quote, "The Department has an out-
32. standing system of goals, objectives and action plans
33. developed by top management. A top management team with wide

1. experience in other correctional systems has been assembled
2. by the Commissioner. This team is willing to take the
3. issues to the public and is doing so whenever possible.
4. The Minnesota public is generally receptive and willing to
5. experiment and accept new methods of corrections within the
6. State." This Senator's letter goes on to say that virtually
7. no other department received such a favorable evaluation.
8. The one weakness that was noted, was the same weakness that
9. was noted by Director Bensinger. It was noted that there
10. was resistance by some lower staff personnel to improvement
11. and change. That same thing, I am sure, prompted much of
12. the adverse comment here in our State. I want to also
13. point out, that I have received a letter from the Minnesota's
14. Teamsters Joint Council number 32. And this letter
15. from the Secretary-Treasurer of that Council, says, our
16. Union is the largest representative organization of
17. employees in the Department of Corrections. Since his
18. arrival, that is Dr. Fogel's arrival, we have had no major
19. problems in labor relations. We have always been able to
20. resolve differences, and Dr. Fogel has always supported the
21. line officer. And finally, Mr. President and members of the
22. Senate... Senator Partee yesterday in the Committee
23. alluded to and made reference to a letter from the Warden
24. of the Minnesota State Prison. In this letter, the warden
25. asks us to advise and consent. He tells us that this is a
26. man who stands for security, for law and order. I would
27. hope, Mr. President and members of the Senate, that we would
28. give Illinois a chance and advise and consent in the
29. nomination of Dr. Fogel.

30. PRESIDENT:

31. The question is... Senator Donnewald.

32. SENATOR DONNEWALD:

33. Yes, Mr. President and members of the Senate, it's very

1. infrequent that I rise, but I feel compelled this after-
2. noon to address myself to this matter. I have, Mr. President,
3. a little prison experience, not within the walls, but
4. immediately outside of them. I resided when very young on
5. the prison grounds of Statesville Penitentiary when one of
6. the greatest wardens in the United States presided,
7. Joe E. Ragen, who happens to be from my home town. And
8. is now deceased, as we all know. Yesterday, a man came
9. before us with qualifications that I have never seen the
10. likes of before. A doctorate in penology. And I don't believe,
11. ladies and gentleman, that we've ever had the opportunity in
12. this State to have a man of this caliber to serve and now
13. that action today is a disgrace, a disgrace to the people of
14. the State of Illinois, if we do not confirm.

15. PRESIDENT:

16. Senator Bruce.

17. SENATOR BRUCE:

18. Mr. President, I was relieved to read in a newspaper
19. this morning that this would not be a partisan matter.
20. I am, however, upset with what may be a developing problem
21. in the State Senate. Let me tell you what I believe the
22. problem is; when David Fogel was proposed, certain gentlemen
23. in this body and throughout the State of Illinois, made up
24. their mind that under no circumstances would he ever become
25. the Director of the Department of Corrections. No evidence, no
26. amount of hearings, nothing that this Body could do would
27. mean that those minds would be changed and to date those
28. men have not changed their minds, and so I believe this
29. body has locked itself into a course of error. And today,
30. I believe that we are about to compound that error. The
31. error of those few gentlemen who decided that they would
32. oppose Director Fogel has been imposed on many gentlemen
33. in this body. I believe that we should continue as we have

1. in all appointments to accept or reject on the basis of
2. material presented to the Executive Committee and every
3. member of this Senate, not on the mistakes of any man or
4. men that may sit among us. I had an opportunity to hear part
5. of the Executive Committee proceedings yesterday. I was
6. somewhat upset with the manner of questioning. We did
7. not return to the era of the fifties, but we certainly did
8. knock on the door. One question, that I thought was amusing,
9. related to a gentleman named Hayward. The question was
10. asked whether or not Hayward was known. There was some
11. pause about Hayward, and finally it was pointed out that
12. Hayward was Hayward, California. And I think that indicated,
13. as I sat there and listened to other questions, the quality
14. of the research that had gone into the background of
15. Mr. Fogel. I'm most upset today, that it appears that in the
16. committee many members of another party asked questions, and
17. went into great detail with materials running some hundreds
18. of pages, I'm told, about Mr. Fogel's background. Yet today,
19. we have the press and the people in the galleries; I hear
20. none of that evidence brought forth. I hear no one from
21. the other side of the aisle stand and say, gentlemen the
22. reason we should reject Mr. Fogel is the following,
23. and that we should do it logically because he is unqualified,
24. or logically because he is incompetent. I hear none of that,
25. in fact, I hear nothing concerning Mr. Fogel's lack of
26. qualifications. We've heard letter after letter, gentlemen,
27. have spoken, testimony was given, about how qualified he
28. is and in my own mind, he is probably the best qualified
29. director of any agency put to this Body. And yet, I find that
30. we are on the brink of rejecting that person without
31. explanation. No, Senator Partee brought up the question
32. of confirmations within the United States Senate, and at that
33. time, a comment was made on an associate judge as a question

1. of mediocrity, and a statement was made that mediocrity
2. has a right to be represented. My fear today is that
3. mediocrity will be represented here today in the State
4. Senate, not on the appointment and presentation of David
5. Fogel, but I believe mediocrity is going to be represented by
6. his rejection. I would urge those who have been locked in to
7. opposing his appointment to stand up today and say, we want a
8. good director of this department.

9. PRESIDENT:

10. Senator Johns.

11. SENATOR JOHNS:

12. Mr. President, Ladies and Gentlemen of the Senate,
13. as a member of the Committee, I was shocked to see that
14. members of this committee on the other side of the aisle
15. were so preset in their convictions of this appointee.
16. Time after time, he answered their questions in a forthright
17. manner, still a relentless pursuit of this man. Time
18. after time, he had to recall and straighten out distortions
19. with clear and concise facts. And I can't help but laugh
20. at what Senator Bruce mentioned when they asked him what
21. about this guy Hayward, and it turned out to be a city.
22. Their questions were so arranged that it was like a ...like
23. a play. They would ask the questions and be ready for
24. him after he got rid of the next one. One of the wardens
25. critical of this man for not touring the prisons with the
26. wardens needs to be investigated, and I know for a fact
27. that he is rather a pathetic warden, and bares investigating
28. for malfeasance and dereliction of duty. As a member of ...
29. of the Executive Committee last Session, vice-chairman,
30. I was informed by my leadership that former Governor
31. Ogilvie deserved every one of his appointees, and I was to
32. give him those appointees unless there was a conflict of
33. interest. And only too well do we remember the only one that he

1. was denied. And this happened only once, as I said.
2. When I look back upon one of the other members, the
3. other side of the aisle, who stated his long experience
4. in criminology, I reflected as I sat there, that his
5. had been gleaned piecemeal, and it kinda reminded me of
6. orange koolaide against Sunkist orange concentrate
7. that this man has. And I'll tell you this, to me it
8. was a sad day in the State Senate of Illinois as I
9. sat there and witnessed what I did yesterday. Thank you,
10. Mr. President.

11. PRESIDENT:

12. The question is does the Senate advise and consent
13. to the nomination just made? Secretary will call the
14. roll.

15. SECRETARY:

16. Bartulis, Bell, Berning, Bruce, Buzbee, Carroll,
17. Chew, Clarke, Conolly, Course, Daley, Davidson, Donnewald,
18. Dougherty, Fawell...

19. PRESIDENT:

20. Senator Fawell.

21. SENATOR FAWELL:

22. A matter like this is, I think, difficult for all of
23. us, and I think it's sometimes hard to divorce oneself from
24. some of the emotions that can understandably arise.
25. I, first of all, want to say that I think that to approach
26. a conversation in regard to appointment by the Governor in
27. an assumption that either the proponents or the opponents
28. are biased or have their minds made up is not very persuasive
29. argument. I happened to have a great deal of respect for
30. my seatmate to my left, and I don't believe that in the
31. investigation that he has most sincerely carried out, and very
32. diligently carried out, that it is predicated on venom or
33. vindictiveness or personality which I think has been quite

1. literally expressed. I think that one has to approach,
2. and I, certainly, as I look at the job that John Graham has
3. done here in expressing his belief and feelings in regard
4. to this particular gubernatorial appointee; I don't com-
5. pletely agree with the conclusion that he has reached based
6. upon his investigation, but it has been a thorough one,
7. and I think that one has to say, at least from my view
8. point, that reasonable men can differ. And I have tried to
9. express to him that I do differ with his conclusion here.
10. I have had a number of people communicate with me pro
11. and con in regard to Dave Fogel. I've only had the opportunity
12. of talking with Dr. Fogel once or twice. Just this morning,
13. I had the opportunity to talk to him again. And I have
14. had people who I have worked with on the Criminal Diagnostic
15. Study Commission, such as Ben Meeker, the Chief Probation
16. Officer for the Federal District Court of the Northern
17. District of Illinois, Larry Pusateri, Norval Moore
18. Norval Morris, others in whom I have a great deal of
19. confidence and who have some detailed knowledge, the
20. background of this man, and I well recognize that perhaps
21. the conclusion that I make is not a reasonable one. I certainly
22. can be wrong and on many occasions have been, and may be
23. again, but I ... I do believe that the Governor has the
24. right to appoint to the Cabinet, men who reflect his basic
25. approach to the various problems that may be represented by
26. a given Cabinet post. He has seen fit to tap Dr. Fogel for
27. this position. I think that unless the evidence were to
28. show that clearly, you have a man who is unfit for the position.
29. Based upon the evidence, at least thus far that has been
30. brought to my attention and with complete, I repeat,
31. complete respect for the diligent pursuit of this matter that
32. my colleague, Senator Graham, has conducted, I... I simply
33. have to state that I do desire and do vote for the confirmation

of...of Dr. Fogel, and thus I vote aye on this question.

SECRETARY:

1. Glass,

2. PRESIDENT:

3. Senator Glass.

4. SENATOR GLASS:

5. Thank you, Mr. Chairman, Ladies and Gentlemen of the
6. Senate, explaining my vote, very briefly. I...I would note
7. that, as Senator Fawell has said, it is the Governor's
8. prerogative to make...certain appointments and to have
9. those appointments confirmed unless there is a compelling
10. reason to overrule them, override them, I think also, however,
11. this Senate is given a strong and important responsibility
12. in advising and consenting to those appointments. I
13. don't think it's our job to simply sit back and accept an
14. appointment that is handed to us if, in fact, we do not believe
15. the appointee is qualified. And, I think, in this case, the
16. Executive Committee report which is adverse to confirmation
17. should be given the same weight that committee reports
18. are given in all other legislative matters. I have not
19. heard expressed any reasons why this committee report
20. should be overruled. We know that Dr. Fogel, at minimum, has
21. been a very controversial character, that in his career in
22. public life controversy has followed him almost everywhere
23. he has been. The volume of mail that I have received
24. on this issue, and I think almost all of us in the Senate,
25. testifies to that fact. Now, Senator Newhouse mentioned
26. that we have a new code of corrections; it is an excellent
27. document. This code of corrections, I think, is a progressive
28. and forward looking law; I don't believe, however, that by
29. any stretch of the imagination, Dr. Fogel is the only one
30. that could implement it. In fact, I think the...the penal
31. system in Illinois can do very well under another appointee,
32. and I would just like to again urge support for the position of
33. the committee which I know was reached in good conscious, in good
faith and after a great deal of investigation. And I, therefore, vote
no.

1. SECRETARY:

2. Graham, Harber Hall, Kenneth Hall, Hynes, Johns, Keegan,
3. Knuepfer, Knuppel, Kosinski, Latherow, McBroom, McCarthy,
4. Merritt, Mitchler, Howard Mohr, Don Moore, Netsch...

5. PRESIDENT:

6. Senator Netsch.

7. SENATOR NETSCH:

8. Mr. President, the affirmative case, I think, for David Fogel
9. has already been made and made quite eloquently; I regret to say
10. mostly on this side of the aisle. And, on that basis, all I could
11. add is a plea with those who are choosing to vote the contrary
12. to keep in mind one thing. In this country, it seems to me we
13. have developed two massive programs that have been totally self-
14. defeating. One is the Welfare Program and the other is our Penal
15. System. I do not promise that this man could make a differ-
16. ence, but I think he holds out some real hope for changing
17. that. For heavens sake, give him a chance, but let's not kid
18. ourselves; it is not the affirmative case for or against David
19. Fogel that we are really talking about now. I'm reminded of
20. my last incarnation which took place in Springfield and involved
21. a great deal of time spent in the State Senate. And I'm remind-
22. ed of what was for me the most disgraceful episode of the four
23. years that I spent here working largely with members of the
24. Senate. That was when two very outstanding people, Earl Dickerson
25. and Ralph Hellstein, one a distinguished black Civil Rights Leader,
26. the other a distinguished Labor Leader, were turned down by the
27. State Senate on the...for appointment to the Federal...to the
28. Fair Employment Practices Commission on the same kind of
29. record that I think you have attempted to construct against David
30. Fogel. Innuendo, half-truths, fears, unsubstantiated claims. I
31. think it is disgraceful now, as it was then. I think what you are
32. doing is taking a remarkable man, a truly remarkable man, and you
33. are catching him in a political snare; and let there be no mistake,

1. this is largely a political ploy which is leading to his
2. defeat. I think you ought to sit back and reflect with your
3. consciences not just that the Governor has a right to the
4. people who reflect his views but to what you are doing to this
5. man's reputation. He must now carry through with him the rest
6. of his life the fact that he has been rejected theoretically
7. as unfit, by the Senate of the State of Illinois. I don't, for
8. one minute, think you believe he really is unfit, and I think it
9. is a disgrace to pin that on him. I would plead with you to
10. change your negative attitude to an affirmative one. My vote
11. is yes.

12. SECRETARY:

13. Newhouse, Nimrod, Nudelman, Ozinga, Palmer, Partee...

14. PRESIDENT:

15. Senator Partee.

16. SENATOR PARTEE:

17. The freshman members of the Senate...won't really get the
18. ...the remarks here but...most of you who have been here before
19. will and I...maybe I can say it so that they'll all understand
20. it. There was a gentleman here in the Senate who sat where
21. Senator Fawell sits now, who always waited to be the last one
22. on the roll call and...had some concluding remarks. I see him
23. in the gallery, and I guess he's still waiting to be the last one
24. on the roll call and would Ebbie Groen stand up. Still waiting
25. to be the last one ya know. I vote aye, Mr. President.

26. SECRETARY:

27. Regner, Rock, Roe, Romano, Saperstein, Savickas,
28. Schaffer, Scholl, Shapiro, Smith, Sommer, Soper, Sours,
29. Swinarski, Vadalabene, Walker, Weaver, Welsh, Wooten...

30. PRESIDENT:

31. Senator Wooten.

32. SENATOR WOOTEN:

33. Mr. President, I would just hope that the case which

1. allegedly can be made against this nomination will someday
2. be revealed. It was not in Executive Committee yesterday,
3. and I hope that we would someday all have the benefit of
4. the reasoning of the other side. I vote aye.

5. SECRETARY:

6. Mr. President.

7. PRESIDENT:

8. Senator Chew.

9. SENATOR CHEW:

10. President, I'm not...recorded on the roll call. I happened
11. to have been on the telephone when my name was called. There
12. have been many reports about the unfitness of the candidate, and
13. there have been reports of his fitness. I sat in the Executive
14. Committee on yesterday, and I listened to the sometimes insulting
15. remarks made and an intensive interrogation. I assume when I
16. came to this legislative hall that the purpose for presenting
17. a candidate to a committee, especially the Executive Committee,
18. was to ascertain the qualifications of that candidate to further
19. determine his fitness to serve in a post that he had been nominated
20. to. I can truthfully say with my limited knowledge that not one
21. thing was brought out in this hearing yesterday that proved this
22. man to be disqualified for the post in which he was selected.
23. We have some very knowledgeable men here, some trial lawyers that
24. are accustomed to asking questions that dig deep into one's back-
25. ground. That was done yesterday, and one would have to admire
26. Mr. Fogel because nobody riled him with all of those questions.
27. If the State of Illinois is to go forward with its Penal Program,
28. we must get men of his qualifications. The field narrows when
29. you find that you're looking for the highest academic award in
30. this particular field. A man who holds a Ph.D. and further studies.
31. He's not being rejected because of his qualifications; he's being
32. rejected simply on a political point of view, and our State needs
33. today not just political points of view, we need men and women

1. that are qualified. I must commend the Governor for having
2. sought the best man available for this position. I do not,
3. however, feel that the Governor searched the State of Illinois
4. thoroughly. Maybe we could have found one that would equal
5. him but be that as it may. I would ask...

6. PRESIDENT:

7. Senator, the three minutes have expired; will you conclude
8. your remarks.

9. SENATOR CHEW:

10. Yes, I will, Mr. President. I would ask that those of you
11. who that are voting against this confirmation would re-examine
12. your purposes and not let your conscious be your guide but
13. determine between right and wrong. I must vote aye.

14. PRESIDENT:

15. ...Senator Graham.

16. SENATOR GRAHAM:

17. How am I recorded, Mr. President?

18. PRESIDENT:

19. You are not recorded.

20. SENATOR GRAHAM:

21. I wasn't going to say anything, but I feel that now I must.
22. Some accusations have been made that this was a brainstorm of
23. John Graham's. That's not true. And the gentlemen on the other
24. side of the aisle know that it isn't true. The first call I
25. got from a man who is nationally respected in the field of Correc-
26. tions was from Doctor George Beto in Huntsville, Texas; a
27. former president of the American Conference on Corrections. In
28. my journeys in the two states, I talked to mayors and chiefs of
29. police; one, in particular, who had a great problem. Chief Walley
30. Abrahamson, Stillwater, Minnesota. I talked with Mr. Harold
31. Haggins, a former FBI agent, now with the Minnesota Bureau of
32. Criminal Apprehension. I talked with Mr. Alex Peterson, a former
33. Deputy Commissioner of Corrections in the State of Minnesota who

1. was not there long after Mr. Fogel. I talked to the Sheriff,
2. Ed Westfall, of Washington County, Minnesota where Stillwater
3. prison is located. I talked to Donald Garsey of the St. Paul
4. Pioneer Press. We talked to the members of the press of the
5. ...of the Minneapolis papers. I talked to Thomas Wnell Brownell
6. Investigative Supervisor, Organized Crime Control and Intelligence,
7. Minnesota Bureau of Criminal Apprehension. I talked to Charles
8. Pat Casey, the Assistant Director of Organized Crime and Criminal
9. Intelligence Branch of the California State Department of Justice
10. in Sacramento. I talked to Inspector Kenneth L. Irving, Intel-
11. ligence Unit of the Marin County Sheriff's Department, San Rafael
12. California. I talked to Joe Spangler, the Chief of Adult Division
13. ...in the Chief Adult Division in the California Department of
14. Corrections. I talked to Director Proconier, the Director of
15. Correction for the big State of California. I talked to Dick
16. Feider at the St. Paul Police Department. I talked to Lieu-
17. tenant Lawler in the San Francisco Intelligence Unit in
18. San Francisco, California. So this was not an idea propounded
19. by me.

20. PRESIDENT:

21. The Senator's time has expired; will he conclude his remarks.

22. SENATOR GRAHAM:

23. Now, let me tell you one thing in conclusion, one of my big
24. objections, is it...of the many qualities that Mr. Fogel possesses,
25. he has a quality to divide one force against another in the
26. institutions in the State which he resides. He's successful in
27. doing that. He has a...

28. PRESIDENT:

29. Senator will conclude his remarks. Your time has expired
30. Senator, will you conclude your remarks?

31. SENATOR GRAHAM:

32. ...Concluded by just saying this about a panic peddler in
33. the Mag...Maggie Daly Column, it says quote Mr. Fogel, "Illinois

1. Prisons are on the verge of another Attica."

2. PRESIDENT:

3. How does the Senator vote?

4. SENATOR GRAHAM:

5. I vote no.

6. PRESIDENT:

7. Senator Buzbee.

8. SENATOR BUZBEE:

9. How am I recorded?

10. PRESIDENT:

11. You are not recorded.

12. SENATOR BUZBEE:

13. Mr. President, I have a nasty little speech written here
14. that I was going to give today, but I think enough nasty little
15. things were said yesterday. I vote aye.

16. PRESIDENT:

17. Senator Smith. For what purpose do you arise?

18. SENATOR SMITH:

19. To explain my vote, Mr. President. I have not voted as
20. yet.

21. PRESIDENT:

22. Proceed.

23. SENATOR SMITH:

24. This is going to be one of the poorest demonstrations of
25. the reasoning ability of a lawmaker in the Great State of
26. Illinois. And then, the way and manner in which I shall cast my
27. vote. I think we have demonstrated, as of yesterday and today, the
28. futility of rhetoric, speech making, and so forth. I dislike,
29. more than any member on this Floor, the idea of a member getting
30. up here explaining his vote. I believe, with Senator Fawell and
31. others, that the nominee is competent and could and would serve
32. faithfully and honorably. Much has been said by the various
33. members who with regards to yesterday's testimony. I recall in

1. the city of Chicago, incarcerated there now, is a man named Speck
2. who was accused of killing eight nurses and he was found guilty.
3. I believe that if the case presented against Speck had been as
4. poorly presented as was the case that was presented against the
5. nominee as of yesterday that Speck would probably have been turned
6. loose and given a medal. It's useless for me to criticize, and
7. I've never criticized, and I will not now criticize anyone on how
8. they voted. I listen to men; I listen to everything that's said
9. here, and I see men get up and vote what, I assume, is their honest
10. conviction. Often times, I vote opposite because I differ with
11. their conclusions. On this side of the aisle, some have voted
12. yes and others no. I believe in the man but in keeping with a
13. deeper conviction; I'm forced to vote no.

14. PRESIDENT:

15. For what purpose does Senator Knup...Knuppel arise?

16. SENATOR KNUPPTEL:

17. I have not voted, and I would like to explain my vote.

18. PRESIDENT:

19. Proceed.

20. SENATOR KNUPPTEL:

21. I too may stand soon before this Body to be judged in an
22. election contest now pending. Most of the things I have heard
23. here today are that this man is controversial. I too am controversial.
24. And I submit to you that there is much to be said probably against
25. this man and much to be said for him. I'm not saying anything
26. critical about those who vote for him nor those who vote against
27. him. All I'm saying is this, that controversial people sometimes
28. harvest these things and when they really don't deserve them.
29. There was a man who walked the streets of Jerusalem almost 2000
30. years ago. He too was controversial. He was crucified, and even
31. as he hung on the cross, he said that it was possible for a thief
32. to be forgiven. My views are not those, I assure you, of liberalism,
33. or divisivism because I'm considered a conservative Democrat. I

1. have confidence in our Governor. He comes before us with a
2. mandate from the people, and my views although, they may differ
3. from his as to how the Penal System of the State of Illinois
4. ought to be conducted, I believe, he's the person who was
5. elected, and it is his right to choose those people who he
6. thinks will discharge those responsibilities. Yes that man
7. 2000 years ago and, Doctor Fogel is a human being, that man
8. 2000 years ago while He was God was also man and He suffered.
9. And I'm sure that Dr. Fogel will suffer from the action we take
10. here today. I, personally, cast my vote based on what that
11. Man taught; He taught love, forgiveness, give the other man
12. a chance, and my vote is one of mercy. I vote yea.

13. PRESIDENT:

14. Senator Sours.

15. SENATOR SOURS:

16. Me, no.

17. PRESIDENT:

18. On that question, the ayes are 18 the nays are 29. The
19. nomination having failed to receive the vote of a majority
20. of the members elected as required by the Illinois Constitution
21. is declared rejected. Introduction of bills.

22. SECRETARY:

23. SB 400 by Senator Fawell.

24. (Secretary reads title of bill)

25. PRESIDENT:

26. For what purpose does Senator Partee arise?

27. SENATOR PARTEE:

28. Parliamentary inquiry..I don't think we have come out of
29. Executive Session unless I'm...

30. PRESIDENT:

31. You are correct. ...Senator Ozinga moves that the...

32. Senator Ozinga. For what purpose does Senator Hall arise?

33. SENATOR (Harber) HALL:

1. Well Mr. President before we move from the Executive
2. Session, I...having voted on the...prevailing side, I would
3. move...for reconsideration by which that vote was taken.

4. PRESIDENT:

5. All right. Senator Hall has moved. Senator Ozinga...has
6. moved to reconsider. Senator Ozinga has moved to table. All
7. in favor of the motion to table signify by saying aye. Con-
8. trary no. The motion carries.

9. SENATOR OZINGA:

10. Now, Mr. President, I would move that the Senate do now arise.

11. PRESIDENT:

12. The...the motion is that the Executive Session do now arise.
13. All in favor signify by saying aye. Contrary nay. The motion is
14. carried. Senate will proceed with on the order of Introduction
15. of Bills.

16. SECRETARY:

17. SB 400 by Senator Fawell.

18. (Secretary reads title of bill)

19. SB 401 by Senators Fawell and Graham.

20. (Secretary reads title of bill)

21. SB 402 by Senators Newhouse, Partee, Rock, and Donnewald.

22. (Secretary reads title of bill)

23. SB 403 by Senators Partee, Harris, Clarke, McBroom, Dougherty,
24. Hynes, Regner, Knuppel, Knuepfer...Knuepfer, Rock, and Course.

25. (Secretary reads title of bill)

26. SB 404 by Senators Graham, Bell, Regner, Howard Mohr,
27. Newhouse, Mitchler, Rock, Donnewald, Partee, Dougherty, Hynes,
28. Welsh, Romano, Kosinski, and Shapiro.

29. (Secretary reads title of bill)

30. SB 405 by Senators Walker and McBroom.

31. (Secretary reads title of bill)

32. SB 406 by Senators Walker and Don Moore.

33. (Secretary reads title of bill)

1. SB 407 by Senators Ozinga, Davidson, Regner, Rock, Graham,
2. and Smith.

3. (Secretary reads title of bill)

4. SB 408 by Senators Ozinga, Regner, Rock, Graham, and Smith.

5. (Secretary reads title of bill)

6. SB 409 by Senators Regner, Berning, Harber Hall, Knuepfer,
7. Newhouse, Vadalabene, and Buzbee.

8. (Secretary reads title of bill)

9. SB 410 by Senator Knuepfer.

10. (Secretary reads title of bill)

11. SB 411 by the same sponsor.

12. (Secretary reads title of bill)

13. SB 412 by the same sponsor.

14. (Secretary reads title of bill)

15. SB 413 by Senators Walker, Howard Mohr, Don Moore, Dougherty,
16. Vadalabene, and Soper.

17. (Secretary reads title of bill)

18. SB 414 by Senators Swinarski, Rock, Partee, Donnewald,
19. Romano, and Kosinski.

20. (Secretary reads title of bill)

21. SB 415 by Senators Swinarski, Partee, Rock, Donnewald,
22. Romano and Kosinski.

23. (Secretary reads title of bill)

24. SB 416 by Senators Harris, Graham, Mohr, Weaver, Merritt,
25. Bell, Conolly, Scholl, Sommer, Ozinga, Regner, Romano, Savickas,
26. Mitchler, Schaffer, Berning, Latherow, Bartulis, Hall, Kosinski,
27. Course, and Swinarski.

28. (Secretary reads title of bill)

29. First Reading of the Bills.

30. PRESIDENT:

31. Senator Netsch is recognized.

32. SENATOR NETSCH:

33. Mr...Mr. President, with the concurrence of the Chairman

1. of both Committees, I would like to move to discharge the...
2. Education Committee with respect to HB 158 and re-refer it
3. to the Committee on Welfare where its companion already rests.
4. HB 159.

5. PRESIDENT:

6. You've heard Senator Netsch's motion. All in favor
7. signify by saying aye. Contrary nay. The motion is carried
8. and the bill is re-referred. ...Senator Shapiro. Senator
9. Shapiro.

10. SENATOR SHAPIRO:

11. ...Mr. President, I would like...consent of the Senate to...
12. to be added as co-sponsor to SB...336. I do have the permission
13. of the chief sponsor.

14. PRESIDENT:

15. The...Chair wishes to join in that same request. I've
16. consulted with...Senator Partee and...Senator Harris joins
17. Senator Shapiro, Senator Regner, Senator Hall, Roe...SB 336,
18. Bartulis, yes, Harber Hall, Don Moore, Senator Mitchler,
19. Senator Schaffer, Senator Merritt, Senator Weaver, Senator
20. Fawell, Senator Howard Mohr, Senator Davidson, Senator Carroll,
21. ...why...why...why don't you who want to join...Senator Glass.
22. We'll proceed. Senator Nimrod, Senator...are there any others?
23. The bill having received the constitutional majority is declared
24. passed. Senator Rock.

25. SENATOR ROCK:

26. I wonder if it is appropriate, Mr. President, I am a co-sponsor,
27. to ask that my name be withdrawn. I'm, you know, I...somebody
28. ought to stand out here and see what the bill says.

29. PRESIDENT:

30. Senator Partee.

31. SENATOR PARTEE:

32. Well, I was just going to say I appreciate all this con-
33. fidence in this bill, but I...I want to take another look at

1. it; maybe something in there I'm not sure... I don't know
2. is in there.

3. PRESIDENT:

4. Senator...Harber Hall.

5. SENATOR HARBER HALL:

6. Mr. President...President, I'd like leave of the Senate to
7. add as co-sponsors to SB 110 the following: Shapiro, Shapiro,
8. Fawell, Conolly, Glass.

9. PRESIDENT:

10. Senator ... have you completed Senator, the addition of? Yes.

11. SENATOR HARBER HALL:

12. Yes.

13. PRESIDENT:

14. Senator Vadalabene.

15. SENATOR VADALABENE:

16. Thank you, Mr. Pre...President, I would like to have leave to
17. have my name put on as co-sponsor of SB 183, 184, 185 and 186.

18. PRESIDENT:

19. ...Senator Vadalabene, would you slowly repeat the number
20. of the bills so that the Secretary's staff can get the numbers?
21. Is it 183 through....

22. SENATOR VADALABENE:

23. 184, 185, and 186, Mr. President.

24. PRESIDENT:

25. OK. It's clear here.

26. SENATOR VADALABENE:

27. Thank you, sir.

28. PRESIDENT:

29. All right. Senator Sours.

30. SENATOR SOURS:

31. A very brief announcement. Judiciary, the Guernsey Cream
32. of Committees in this Chamber, will be meeting on Wednesday, as
33. usual, but in the Chamber not down in room 212. We've been
relegated and elevated to this Chamber.

1. PRESIDENT:

2. The Chair wishes to announce to ... particularly ... the
3. members who formally served with this former colleague of ours,
4. that we are pleased to have present with us today a former
5. Speaker of the House; a man under whom I served as my speaker,
6. and I'm just delighted to introduce to the Senate, Mr. Speaker,
7. Warren Wood.

8. MR. SPEAKER (WARREN WOOD):

9. Please don't applaud, send money. ... Hi Vic. I had a
10. thirty minute address prepared for you. I'll condense it to
11. about two, and then, I'd like to have the Secretary take a bill,
12. will advance it with the unanimous consent to 3rd reading and
13. pass and sent it to the House; who'll send it back tomorrow
14. morning. The Fort Lauderdale Newspaper has every morning what
15. they call the Chuckle Box. I think I have a law suit pending be-
16. cause last Wednesday it said talk is cheap because there's so damn
17. much of it and such a little demand. I think maybe the members of
18. the Senate should listen to that. There's a message in there.
19. ... The only other thing I'd like to say to you gentlemen is
20. you can lose your health, you can lose your money, you can
21. lose your reputation; you get all that back but you blow a little
22. bit of time and that's gone forever. So what you say, we get
23. with it, uh? Thank you very much. The bill that I wanted to have,
24. Mr. Secretary, is a bill to give me the concession for the waste
25. paper. Ok? Because most of that paper on your desk is waste.

26. PRESIDENT:

27. Senator Mitchler.

28. SENATOR MITCHLER:

29. ... Mr. President, members of the Senate the Industry and
30. Labor Committee will meet immediately following adjournment of
31. the Session in A-1 in the State Office Building.

32. PRESIDENT:

33. Senator Regner.

1. SENATOR REGNER:

2. Mr. President, as the chief sponsor, I'd like to move to
3. table SB 85.

4. PRESIDENT:

5. Senator Regner has moved to table SB 85. All in favor
6. signify by saying aye. The motion would be to discharge the
7. Committee from further consideration and subsequent to the
8. carriage of that motion to ... then table. For ... the motion
9. is then to discharge. A what committee...in what committee is
10. the bill?

11. SENATOR REGNER:

12. Education.

13. PRESIDENT:

14. The motion is to discharge SB 85 from the Committee on
15. Education. All in favor signify by saying aye. Contrary nay.
16. The bill is now discharged from the committee. The motion is by
17. Senator Regner to table SB 85. All in favor signify by saying
18. aye. Contrary nay. The motion is carried. Senator Conolly.

19. SENATOR CONOLLY:

20. I have communicated with most of the members of the
21. Committee on Transportation and Public Utilities. It will be
22. cancelled for this afternoon.

23. PRESIDENT:

24. Senator Saperstein.

25. SENATOR SAPERSTEIN:

26. Mr. President and ladies and gentlemen ... with your
27. permission, I would like to table SB 397 which is a duplicate
28. of a bill that was introduced by Senator Weaver. This is the
29. University Merit Board ... Civil Service Merit Board...Appropriation,
30. and without deference to Senator Weaver, I'd like to table mine.

31. PRESIDENT:

32. Is the bill in Appropriations Committee?

33. SENATOR SAPERSTEIN:

No, it was assigned to Appropriations.

1. PRESIDENT:

2. All right. The motion is by Senator Saperstein to discharge
3. the Committee on Appropriations from further consideration of
4. SB 397. All in favor signify by saying aye. Contrary nay. The
5. motion is carried. Now the motion is to Table SB 397. All in
6. favor signify by saying aye. Contrary nay. The motion is
7. carried. Senator Soper.

8. SENATOR SOPER:

9. Members of the Senate, right after adjournment, Local
10. Government...Local Government Committee will meet in 2...212.
11. I want to take some bills that...we have...that are noncontrover-
12. sial, and if there are any witnesses at 4:15, we'll still be there.
13. Cause we've got a lot of bills. We continued last week. We can't
14. continue it again. So see ya a little later, gentlemen and ladies.

15. PRESIDENT:

16. Senator Buzbee.

17. SENATOR BUZBEE:

18. Mr. President, I have a bill on 2nd that I would like to
19. ask to be moved to 3rd. Am I in order in doing that now?

20. PRESIDENT:

21. ...Senator, we are...about to adjourn; if we take your bill,
22. I think we'll have to take them all. The committee witnesses
23. have been waiting very patiently for us. And it would be my
24. suggestion that we defer that until we reconvene.

25. SENATOR BUZBEE:

26. ...Thank you, Mr. President, can you tell me when we're
27. going to reconvene?

28. PRESIDENT:

29. ...The Adjournment Resolution provides for Tuesday at 11:30.

30. SENATOR BUZBEE:

31. Thank you.

32. PRESIDENT:

33. 11:30 to accommodate on the first day those who take the

1. train coming down from that great city of Chicago. Senator Chew.

2. SENATOR CHEW:

3. I want to congratulate you for being so thoughtful.

4. PRESIDENT:

5. Good. Now we have three Death Resolutions. Will the
6. Senator ... Senator Mohr, will indicate ... excuse me just a minute

7. Senator Mohr. For what purpose does Senator Berning arise?

8. Senator Berning.

9. SENATOR BERNING:

10. There's one congratulatory there. Are you not going to
11. take those today?

12. PRESIDENT:

13. Well ... there are innumerable ones of congratulatory type.

14. I think we should proceed with the adjournment. There is

15. restiveness readable. Senator Mohr.

16. SENATOR HOWARD MOHR:

17. Mr. President, all the committees have been set with their
18. times and ... meeting rooms announced. I move that we adjourn
19. until next Tuesday morning at 11:30.

20. PRESIDENT:

21. All right. We will act on that motion at the conclusion
22. of the consideration of the death ... Death Resolutions. Now
23. will the ... Senator Partee.

24. SENATOR PARTEE:

25. ... Because ... because many of our members have asked me,
26. I think I want to get this clarified, and if they would listen,
27. it wouldn't be necessary for me to ask them on an individual
28. basis. There are many members who are concerned about HB 89
29. and whether we're going to deal with that today. Now, the
30. question as I see it is, when is it going to arrive here, and they
31. are now on explanation of votes and roll call over there. I
32. just ... I don't know.

33. PRESIDENT:

34. Well, the House is ... involved with its consideration.

1. There is no way of evaluating when that determination will
2. finally be made. We are well passed the posted hour of our
3. Committee Hearings, and I can only say that when we receive
4. the message from the House on HB 89, we will respond.
5. ...I don't think there is anyway to anticipate when it will
6. be. So I...

7. SENATOR PARTEE:

8. Well, all I'm suggesting maybe is, thinking aloud, I don't
9. want to put those persons in the House, ...in a posture where
10. they will have an excuse to not complete action on it today.
11. That's what I'm really trying to avoid.

12. PRESIDENT:

13. I...I don't see how we can impose...a...a reaction on
14. the House. They are duly elected too...and they are on this issue.
15. I'm aware of that. Senator Mohr.

16. SENATOR MOHR:

17. Yes, Mr. President, I know that it's a very important issue
18. ...I'd like to suggest that...we...we adjourn here Pres... or
19. a Senator Partee and...when we come back on Wednesday; let's take
20. it up as the first issue if that's agreeable.

21. PRESIDENT:

22. Tuesday. We'll take HB 89 up if...is there agreement that
23. we...that HB 89 will be the first order of business. Now I would
24. admonish the members to be here, and we will convene just as close
25. to 11:30 on Tuesday morning as we possible can. And if there
26. is understanding that that will be the first order of business
27. ...the message is not here now...we'll proceed on that fact.
28. Secretary will proceed. Will the members be in their seats. The...
29. We have three Death Resolutions.

30. SECRETARY:

31. Senate Resolution No. 73 by Senator Daley.

32. PRESIDENT:

33. Senator Daley.

1. SENATOR DALEY:

2. I think you can dispense with reading it. He's a close
3. personal friend of the Daley families. I would ask all
4. Senators to join with me in this Death Resolution.

5. PRESIDENT:

6. Senator Daley has requested all members to join in co-
7. sponsorship of the Resolution. He moves to suspend the rules
8. for the immediate consideration of the adoption. All in favor
9. signify by saying aye. The Resolution is before us. Will
10. the members please be in their seat. All in favor of the
11. adoption signify by arising. The Resolution is adopted.

12. SECRETARY:

13. Senate Resolution 74 by Senators Carroll, Davidson, and
14. Wooten.

15. PRESIDENT:

16. Senator Carroll.

17. SENATOR CARROLL:

18. Thank you, Mr. President, I would also ... think that the
19. clerk could dispense ... the Secretary could dispense with the
20. reading of the Resolution. I would ask that all members
21. join; this is a Death Resolution for Charles Midden who was
22. a local labor leader here. His wife, his widow is a secretary
23. to Senator Wooten and myself here in the Senate. I think all
24. Senators would like to join in this Resolution. I would move
25. for the suspension of the rules for the immediate adoption
26. and then the passage.

27. PRESIDENT:

28. Senator Carroll has requested all Senators to join as
29. co-sponsor. Is there leave? So order. On the motion to suspend
30. the rules for the immediate consideration of the adoption. All
31. in favor signify by saying aye. Contrary nay. The motion is
32. carried. On the matter of adoption all in favor signify by
33. arising. The Resolution is adopted. There being no further

1. business to come before the Senate. The Senate pursuant to its
2. adjournment Resolution Senator Vadalabene.

3. SENATOR VADALABENE:

4. Thank you, Mr. President. I ... as a parliamentary inquiry
5. or as a suggestion, I understand you have a volume of Congratu-
6. latory Resolutions. Now, I was wondering, possibly next week,
7. when we come back, could you act on those all at one time if
8. they're not controversial.

9. PRESIDENT:

10. I'm certain that we can work that out.

11. SENATOR VADALABENE:

12. And that what ... this would save us a considerable amount
13. of time.

14. PRESIDENT:

15. Pursuant to the Adjournment Resolution, the Senate stands
16. adjourned until Tuesday, March 27 ... I believe ... at 11:30 a.m.