

84TH GENERAL ASSEMBLY

REGULAR SESSION

April 30, 1986

PRESIDENT:

The Senate will please come to order. Will the members be at their desks. Will our guests in the gallery please rise. Prayer this afternoon by the Reverend Scott A. Hatfield, Grace Lutheran Church, Springfield, Illinois. Reverend.

REVEREND HATFIELD:

(Prayer given by Reverend Hatfield)

PRESIDENT:

Thank you, Reverend. Reading of the Journal. Senator Kelly.

SENATOR KELLY:

Mr. President, I move that the reading and approval of the Journal of Tuesday, April 29th, in the year 1986, be postponed pending the arrival of the printed Journal.

PRESIDENT:

You've heard the motion as placed by Senator Kelly. Is there any discussion? If not, all in favor indicate by saying Aye. All opposed. The Ayes have it. The motion carries. It's so ordered. Committee reports, Mr. Secretary.

ACTING SECRETARY: (MR. FERNANDES)

Senator Savickas, the chairman of the Committee on Assignment of Bills, reports Senate Bill 1937...assigned to the Committee on Judiciary I.

Senator Jerome Joyce, the chairman of the Committee on Agriculture, Conservation and Energy, reports Senate Bills 1915, 2231, 2232 and 2233 with the recommendation the bills Do Pass.

Senate Bills 2207 and 2255 with the recommendation the bills Do Pass as Amended.

Senator Berman, the chairman of the Committee Elementary and Secondary Education, reports Senate Bills 1516, 1517, 1520, 1548, 1574, 1615, 1659, 1704, 1705, 1799, 1804, 1809, 1852, 1861, 1874, 1991, 2035, 2142 and 2164 with the recom-

mendation the bills Do Pass.

Senate Bill No. 1521, 1522 and 1666 with the recommendation the bills Do Pass as Amended.

Senator Newhouse, the chairman of the Committee on Higher Education reports Senate Bills 1608 and 1612 with the recommendation the bills Do Pass.

Senator Marovitz, the chairman of the Committee on Judiciary II, reports Senate Bills 1565, 1576, 1577, 1815, 1816, 2003, 2006, 2282, 2292, 2295 and 2296 with the recommendation the bills Do Pass.

Senate Bill No. 1845, 1942, 2008, 2293 and 2294 with the recommendation the bills Do Pass as Amended.

Senator Carroll, the chairman of the Committee on Appropriation, reports Senate Bill 1734 with the recommendation the bill Do Pass.

Senate Bill 1742 with the recommendation the bill Do Pass as Amended.

PRESIDENT:

Resolutions, Mr. Secretary.

ACTING SECRETARY: (MR. FERNANDES)

Senate Resolution 852 and...Senate Resolution 852 offered by Senator Kelly.

And 853 offered by Senator Poshard, both congratulatory.

PRESIDENT:

Consent Calendar. If I can have the attention of the membership, Senator Macdonald has requested leave for Mr. Kevin Kendregan from the Illinois Association of Park Districts are seeking leave to videotape. They're up in the gallery. With leave of the Body, no objection. Leave is granted. Senator Lemke, for what purpose do you arise?

SENATOR LEMKE:

For a purpose of a motion. I move to waive...I move to waive the Six-day Posting Rule in order that Senate Bill 1937 may be heard this afternoon in Judiciary I Committee in Room

A-1 immediately following the Committee on Local Government. The reason being that this bill was reported out of Rules April 17 but inadvertently was not assigned by a committee and was just assigned today. And I understand this bill is necessary in regards to the Narcotics Forfeiture Act, and I ask for this permission.

PRESIDENT:

All right. The gentleman has requested leave to waive the Six-day Posting requirement with respect to Senate Bill 1937 so that it can be heard in Judiciary this afternoon. Any objection? Without objection, leave is granted. Senator Lemke.

SENATOR LEMKE:

I also ask this...the bill to be sponsored Lemke-Geo-Karis.

PRESIDENT:

All right. The gentleman requests leave to show the sponsorship as Lemke-Geo-Karis. Without objection, leave is granted. Senator Smith, for what purpose do you arise?

SENATOR SMITH:

Thank you, Mr. President...merely want to report to this Body that Senator Charles Chew is ill.

PRESIDENT:

Thank you. The record will so reflect. If I can have the attention of the membership...if I can have your attention, we have with us a very special guest. Mr. William Penn Mott, Jr. was selected in May of 1985 to become the twelfth director of the National Park Service. He was appointed by the Secretary of the Interior, Mr. Donald Hodel. Mr. Mott is a career park professional having joined the National Park Service in 1933 as a landscape architect working in San Francisco. He served eight years as the director of the California Department of Parks and Recreation and six years as general manager East Bay Regional Park District, and

seventeen years as the superintendent of parks for the City of Oakland. He is a native of New York City, holding two degrees in landscape architecture from Michigan State University and the University of California at Berkley, married and the father of three children. He has been described by his Secretary of the Interior as one of the most widely respected conservationists in America today with an unparalleled record of achievement. Ladies and gentlemen, it's my pleasure to introduce to you, Mr. William Penn Mott, Jr., the National Park Service Director. Mr. Mott.

MR. MOTT:

(Remarks by Mr. William Penn Mott, Jr.)

PRESIDENT:

Messages from the House.

ACTING SECRETARY: (MR. FERNANDES)

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

Mr. President - I'm directed to inform the Senate that the House of Representatives has adopted the following joint resolutions, in the adoption of which I am instructed to ask concurrence of the Senate, to-wit;

House Joint Resolution 176, 177, 178 and 179, all congratulatory resolutions.

PRESIDENT:

Consent Calendar. Senator Joyce, for what purpose do you arise?

SENATOR JEREMIAH JOYCE:

Thank you, Mr. President and members of the Senate. With leave of the sponsors, I ask leave of the...with permission of the sponsors, I ask leave of the Body to be joined as a sponsor on Senate Bill 1576, 1577, 2292, 2293 and 2296.

PRESIDENT:

All right. The gentleman seeks leave of the Body to be added as a cosponsor on Senate Bills 1576, 1577, 2293, 2292 and 2296. Without objection, leave is granted. All right.

*SJR 22 C.A.
2nd Reading
SJR 11
2nd reading*

On the Calendar, on page 7,...the Chair is aware that we have a very heavy committee schedule this afternoon. There are two items of business remaining. Pursuant to an earlier agreement, we will go to the Order of Constitutional Amendments. Top of page 7 on the Calendar, on the Order of Constitutional Amendments 2nd Reading, Senate Joint Resolution 11, Mr. Secretary.

ACTING SECRETARY: (MR. FERNANDES)

Senate Joint Resolution No. 11 as amended by House Amendment No. 1.

(Secretary reads SJR No. 11)

2nd reading of Senate Joint Resolution No. 11 as amended by House Amendment No. 1.

PRESIDENT:

Have any amendments been filed, Mr. Secretary?

ACTING SECRETARY: (MR. FERNANDES)

No amendments.

PRESIDENT:

Any amendments from the Floor?

ACTING SECRETARY: (MR. FERNANDES)

No Floor amendments.

PRESIDENT:

3rd reading. Senator Davidson, do you wish to proceed? Top of page on the Calendar, with leave of the Body, on the Order of Constitutional Amendment 3rd Reading, Senate Joint Resolution 22. Mr. Secretary.

ACTING SECRETARY: (MR. FERNANDES)

Senate Joint Resolution No. 22 Constitutional Amendment as amended by House Amendment No. 1.

(Secretary reads SJR No. 22)

3rd reading of Senate Joint Resolution No. 22...Constitutional Amendment as amended by House Amendment No. 1.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Can we have some order, please? Senator Davidson.

SENATOR DAVIDSON:

Mr. President and members of the Senate, I'd like to make a statement of intent before we get into discussion of this Senate Joint Resolution 22. As the sponsor of this joint resolution, I want to make clear the intent of this Constitutional Amendment. The purpose of the amendment is to expand the type of cases in which bail can be denied prior to trial. Under current law, only capital offenses and offenses for which life imprisonment may be imposed qualify for denial of bail. My amendment adds felony offenses which carry a mandatory sentence of...imprisonment as a consequence of conviction. The phrase, "without conditional and irrevocable release" means without probation, conditional discharge or periodic imprisonment as a potential sentence if found guilty of the charged offense. My intent is to add these offenses to the list of offenses for which bail can be denied prior to conviction. The court will have to hold a hearing before bail can be denied in order to determine whether the proof is evident or the presumption great, that the defendant committed the offense and that their release pending further proceedings would pose a real and present threat to the physical safety of any person. The detail of the hearing will be flushed out by the Statutes implementing this new constitutional provision as does the current law on denial of bail. Mr. President, I move the adoption of Senate Joint Resolution 22 as amended by House Amendment No. 1.

PRESIDING OFFICER: (SENATOR DEMUZZIO)

All right. Discussion? Senator Marovitz.

SENATOR MAROVITZ:

Thank you, very much, Mr. President. Senator Davidson, is there any cost to the State of Illinois as a result of the passage of this resolution?

PRESIDING OFFICER: (SENATOR DEMUZZIO)

Senator Davidson.

SENATOR DAVIDSON:

There could be a possibility because the House amendment with the agreement of all the players who were involved that any cost which would occur to a unit of local government as a result of the denial of bail pursuant to this 1986 amendment to this section will...shall be reimbursed by the State to the unit of local government; meaning that if bail was denied and the housing cost or whatever it would be would add to the cost of the local government, the State would pick up that cost as we have done in all the other Statutes we've talked about where we've laid cost on local government.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Marovitz.

SENATOR MAROVITZ:

What if...what if a local judge who is elected countywide knew that if he denied bond instead of just setting an unreasonably high bond that he could get the costs reimbursed by the State rather than have the county pay the cost for that person, don't you think he would be inclined to set no bond instead of setting an unreasonably high bond so that the State, in all those cases, instead of the county will have to pick up the entire cost in those cases?

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Davidson.

SENATOR DAVIDSON:

In the hypothetical question you ask denying in relation to the judge, I'd say the answer is no, 'cause the judge would have the...the integrity of his own bench to not do such a thing.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Marovitz.

SENATOR MAROVITZ:

I would respectfully disagree with you that if a judge is going to set a unreasonably high bail because we...we have a

dangerous situation here which the amendment calls for...a dangerous individual which the amendment calls for, rather than have the county pick it up where he would set an unreasonably high bail and if the individual couldn't make it, the...the county would have to pick up the cost, he would set no bond at all and then the State would have to pick up the entire cost and the counties will be saving a tremendous amount of money and the State coffers will be having to cough up...cough up a tremendous amount of money which I don't think you've anticipated. Now what happens as a...now, I...I know in the County of Cook, we have a very...very overcrowded jail and now with the additional penalties, the mandatory sentences, this...the new DUI that we've put in, we have a very serious overcrowding situation. What if, as a result of this amendment, a new jail would have to be built, would the State of Illinois reimburse the County of Cook for the cost of that new jail as a result of the passage of Senate Joint Resolution 22?

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Davidson.

SENATOR DAVIDSON:

I'm not able to give you an answer on that 'cause I'm not sure anyone can give you an answer as you phrased the question. The fact that the bail was denied and whether the fact that you and I both know that Cook County Jail as well as a number of other jails have been in jeopardy with the Department of Corrections about expanding their jail. I don't think you can lay that on...all on what might be a denial of bail under this Constitutional Amendment, because you must remember the prosecuting attorney must make the case of the judge without...and the judge must make that decision. If he wants to deny bail for some other reason, that's not our responsibility.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Marovitz.

SENATOR MAROVITZ:

Just...just briefly, I think this is a great bill for the counties around the State and I think it's going to...it's going to open up the coffers of the State of Illinois, the likes of which you have no anticipation. It's going to cost the State millions and millions of dollars. Who's got the burden of proof here?

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Davidson.

SENATOR DAVIDSON:

The burden of proof will be set by Statute.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Marovitz.

SENATOR MAROVITZ:

But on whom would the burden be placed?

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Davidson.

SENATOR DAVIDSON:

This is will be similar to current law, the prosecution attorney has to make the presentation to the judge.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. Further discussion? Senator Geo-Karis.

SENATOR GEO-KARIS:

Mr. President and Ladies and Gentlemen of the Senate, I rise in favor of the adoption of this...resolution. To begin with, when you have cases of armed robbery or rape which are horrible crimes, under the present law that we have the...defendant cannot be denied bail. Now, when you have repeaters, for example, of those horrible crimes, then this Constitutional Amendment, it passes and is approved by the people, then that defendant is not going to get out just like that, he's going to stay in. This is...also a good safeguard for witnesses to horrible crimes like armed robbery and rape

which are Class X offenses and do...we have to realize that what this amendment says, in effect, is that where the release of the offender would pose a real and present threat to the physical safety of any person. We've had a case recently where a rape victim was going to testify; in fact, the case happened in Kansas, and what happened the victim never made it, she was killed. Who killed her? I'll let the people decide that and the courts of Kansas. What I'm saying to you is this is a good bill to safeguard the witnesses' appearances in these horrible crimes and, remember,...X...X...X crimes...Class X...crimes like rape and armed robbery and the like do not...preclude the defendant from getting bail under the present system but can preclude a judge from giving him bail and that's what we need. We've got to protect the rights of the public from these vicious people.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Further discussion? Senator D'Arco.

SENATOR D'ARCO:

Thank you, Mr. President. Will the sponsor yield for a question?

PRESIDING OFFICER: (SENATOR DEMUZIO)

Indicates he will yield. Senator D'Arco.

SENATOR D'ARCO:

Do you have a list of the offenses that would be included in this provision?

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Davidson.

SENATOR DAVIDSON:

Just minute. It's...that list of which is in 1005-5-3 and the list number...starting with No. 2...on C No. 2, murder where the death penalty is not imposed, attempted murder, a Class X felony, violation of Section 407 controlled substance, violation of Section 9 of the Cannabis Controlled

Act.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator D'Arco.

SENATOR D'ARCO:

Would...would residential burglary be included in that list?

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Davidson.

SENATOR DAVIDSON:

Yes, it would, I just didn't read you all the rest of it. F has a Class 2 or greater felony, G residential burglary, H criminal sexual assault is...provided in...Subsection E, et cetera.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator D'Arco.

SENATOR D'ARCO:

Well, we heard Senator Geo-Karis talk about armed robbery and rape and she said these are such terrible crimes that the judge should be able to deny somebody bail because of the terrible nature of these crimes. And she cited some situation in Kansas about some girl who was raped by somebody and then subsequently murdered, and that's a terrible, terrible thing and we all understand how terrible it is. But now we're talking about someone who commits a felony that is on the low end of the ladder, we're talking about residential burglary. In fact, Doc Davidson, you were the one that...that made residential burglary a nonprobationable offense; and I remember when Director Lane testified that when we passed that law to make it nonprobational, eight hundred more persons were imprisoned in our penal system as a...direct result of the residential burglary change that you initiated in this Chamber. And I know it's a great thing, I know, yeah, yeah, I did it, I did it, but that's not the point. We've learned to live with that law even though I

disagree with it, but what you're doing now is making a provision that provided for these heinous crimes, capital crimes like murder and treason, you're making that provision that said that in those very, very grave and serious situations a judge can deny a person bail. You're taking that provision and applying it across the board to every felony that's in the books, no matter how serious and some of them aren't that serious. That's not right, it's wrong and we should defeat this constitutional provision with a No vote and everybody in the Chamber should do so. Thank you.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Further discussion? Senator Collins.

SENATOR COLLINS:

I think Senator D'Arco...enough for me. Thank you.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Kelly.

SENATOR KELLY:

Thank you, Mr. President and members of the Senate. I'm going to rise to support Senator Davidson on his proposition. I do think there are problems in this area but the current system just isn't working. We all know that what we're talking about is people that are getting...bail and then go out on the street and perpetrating crime; and I don't care if the prisons are filled to capacity, maybe that's our fault, maybe it's the counties and maybe the State's and maybe the Nation. If we're going to have criminals, we can't allow them to go out on the streets and continue to keep perpetrating crime repeatedly; not only that, but we're building up...it's becoming a common practice and government is...by turning their head is actually encouraging more crimes to occur and more of these to happen. So, I think that we should support Senator Davidson on this proposal even though there are some problems with it.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. Further discussion? Senator...well, the...the Chair would like to acknowledge the Governor of the State of Illinois who's attempting to get comfortable is in the Chamber. Welcome to the Chamber, Your Excellency. Your Excellency.

GOVERNOR THOMPSON:

As a former presiding officer, for the purposes of an announcement, my congratulations to the new chairman of the State Democratic Party.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Maybe...maybe now you'll know that twenty-nine is not greater than thirty. Thank you. Further discussion? Senator Sangmeister.

SENATOR SANGMEISTER:

Thank you, Mr. President and members of the Senate. I, too, rise as a cosponsor of this legislation in support of it but I want to tell you why this Constitutional Amendment is before you today. It's because we're doing nothing more than what we should be doing here and that is responding to the people of the State of Illinois that we represent. As Senator Kelly started to say, the people of this State are...are simply tired of seeing judges that are handcuffed with people who have committed prior crimes, have a bad criminal record and unless they were being charged with a...a capital case or offense in which a life imprisonment would be imposed is the only two circumstances under which a judge could deny bail. Obviously, this is...opens it up to a lot of felony offenses; unfortunately, I would say that residential burglary is one of them and it's one thing that I think this General Assembly is going to have to...continue to struggle with. But I doubt under any circumstances that any judge is going to deny bail to someone charged with that offense because simply the court does have a right, and I think that's the important part in this resolution, when the court after a hearing...after a

hearing determines that release of the offender would pose a real and present threat to the physical safety of the person. So the safeguard is here and nobody is ramrodding or holding anybody incarcerated without good reason before they've had a chance to have a hearing on the merits of whether they are guilty or not guilty. But, again, we are responding to what the people of this State want, they want judges to be able to take a look at serious offenders, take a look at their previous record and possibly prevent them from being back out on the street committing more crimes before they are tried for the crimes for which this bail is going to be set. I think it's reasonable, I think it's good, I think it's well-worded and I think it ought to be passed.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. Further discussion? UPI has ask leave to have...to take still photographs. Is leave granted? Leave is granted. Further discussion? Senator Berman.

SENATOR BERMAN:

Thank you,...thank you, Mr. President, Ladies and Gentlemen of the Senate. I've heard the proponents talk about responding to the will of the people and that's what bothers me about this proposal. We are misleading the people. They think that by passing this and putting it on the ballot and they voting for it that we will have taken a very dramatic step to making the streets safer for the people of the State of Illinois. Nothing could be farther from the truth. One of the proponents talked about the judges being handcuffed to keep dangerous criminals off the street. Well, I would suggest to you that the judges are no more handcuffed under the present constitutional proposal than they will be under this constitutional proposal. The power of incarcerating persons before trial lies with the judges. They've got the power to do it today, this bill will not make any dramatic difference in that power. If you'll look at the

people that are able to raise all kinds of money, those are the smooth, sophisticated drug dealers, you're not going to find any judge that's going to deny them bail, stop kidding yourselves. It's the poor little guy that gets arrested who will be held in jail and to whom we are denying one...one of our very fundamental rights that our forefathers provided, and that right is this, that we are innocent until proven guilty...innocent until proven guilty. Now, ladies and gentlemen, if you or your son or your daughter were picked up on a charge and they said that they were innocent, let us take residential burglary or something more serious and they had to establish an alibi. They had to establish that although somebody says it looked like that person, like your son or daughter that broke into that house, your son or daughter says, Dad, it wasn't me; Mom, it wasn't me and I can prove it. They've got to be out on bail to be able to go out and to get those witnesses to establish a defense for when the case is tried to determine whether they are guilty or innocent. Sitting in that jail, you have denied them a very, very important right, the right to establish a defense. That's the whole difference here. The judges can...post and require...the judges can require under existing constitutional law very high bonds, bonds that the criminal cannot meet if they want to impose them and they want to keep them off the street, this...does nothing. An Aye vote on this is kidding the public because...a year from now, two years from now, we'll be back here and try to expand it again because you're going to have the same situation. What you need is judges with guts under the existing Constitution, not with phony measures that are going to say something more in the Constitution that judges aren't going to...impose upon the defendants anyways and at the same time probably deny people a very fundamental right of being admitted to bail and being able to establish their innocence when the trial of their

guilt or innocence takes place. I urge a No vote. It's a tough vote to vote No, but it's the right vote, it's the courageous vote. It's the vote that our forefathers envisioned when they passed the Bill of Rights.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. Further discussion? Senator Netsch. All right. Further discussion? Senator Geo-Karis, for a second time.

SENATOR GEO-KARIS:

Mr. President and Ladies and Gentlemen of the Senate, my name was used in debate. I might tell my colleagues here that residential burglary is no joke, absolutely no joke; and I might tell my colleagues here that the amendment specifically calls for the proof that is evident or the presumption great before a judge can deny bail. I think we better keep in mind that we're not here to mollycoddle repeaters of vicious crimes. We're here to protect the public and I'm sure there isn't going to be a judge in his right mind who isn't going to look at all the evidence before he denies bail. But let's not kid ourselves, we have a duty here, not to protect the defendant, we're...here to protect the people who've been violated; and surely if the proof isn't evident or the presumption great, I'm sure he's going to be allowed bond but then at least the court has that additional discretion. I support this amendment and let the people of Illinois vote for it in November, because at that time there will be arguments pro and con about this amendment printed and they will be...disseminated to the people and let the people decide. I think the public of Illinois should have a right to make a decision on it, not only us, so I say let's vote for the amendment.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. Further discussion? Senator Lechowicz.

SENATOR LECHOWICZ:

Thank you, Mr. President. First of all, I ask leave of the Body to be added as a cosponsor on House Joint...Senate Joint Resolution 22.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. Is...you've heard the request of Senator Lechowicz to be added as a hyphenated cosponsor. Is leave granted? Leave is granted. So ordered. Senator Lechowicz.
SENATOR LECHOWICZ:

I've just been informed by Senator Netsch that I may be No. 45 but this...this matter should really receive the support of every member here in this General Assembly on both sides of both aisles of both Chambers. If you go back and check with the people who elect us, one of the most impressive matters on their minds is public safety, and whether it's the judiciary in Cook County or Macon County or Union County, public safety is one of their main issues; and, unfortunately, the existing...judicial system in conjunction with the interpretation of the present Statutes, repeat offenders are put out on the streets and unfortunately repeat their crimes consistently. This measure will be brought to the matters of the voters to decide whether this should be eliminated as a measure of bailable offense. Put this matter on the ballot, you'll have a tremendous outpouring of support for this measure and more stringent measures in the future. I encourage an Aye vote.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Further discussion? Senator Rock.

SENATOR ROCK:

Thank you, Mr. President and Ladies and Gentlemen of the Senate. I rise, as I have risen before, in opposition to this Senate Joint Resolution 22. I don't know whatever happened to the presumption of innocence. I don't know, frankly, whatever happened to the right of an adequate defense that we afford to the accused in our society. This

is no more and no less than preventive detention and preventive detention, I suggest, flies in the face of one's individual rights. This is election year, law and order, and it's going to fly, no question about it. But I'd ask you to please consider what you're doing, because by virtue of incorporating those offenses, not only the ones that were specifically named, those offenses for which there is no conditional release, you are effectively opening up so that this General Assembly or success of General Assemblies can literally add to that list of persons who will be denied bail. It's a mistake. The present bail provision balances, I think, after many years of discussion, a Constitutional Amendment balances the rights of the individual and the rights of society. Senate Joint Resolution 22 unfortunately tips the balance badly and I'd ask you to reconsider. I urge a No vote.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. Further discussion? Senator Barkhausen.

SENATOR BARKHAUSEN:

Mr. President and members, I'd just like to add briefly one point which I don't think has been made in all of the debate. Much has been made during the course of this discussion about what our founding fathers might have intended, but I don't think it has been mentioned that...that under our Federal Constitution we have in the Bill of Rights in the Eighth Amendment very simple language that says, "bail shall not be excessive." And using that constitutional language, the Congress has within the last few years enacted legislation which is...makes it possible to deny bail under many more circumstances than will be possible under the Constitution...State Constitutional Amendment that is being proposed here. So, if we are using our founding fathers as an example, we might want to make bail even more restrictive than we're proposing to do with this particular amendment.

And I had in fact made the suggestion last year that we simply adopt the Federal constitutional language as our own bail amendment language, but rather it was decided to proceed with this language which I think is a...a fair compromise and kind of a middle ground between that which is permitted under Federal law and...and the more restrictive bail language that was adopted as part of the Illinois Constitution in 1970. So I think this is a fair compromise. I think it will not unduly deny defendants' rights and at the same time will assure the public that is...rightfully concerned about public safety, that many of those who are out on the streets awaiting trial will not be able to commit some of the crimes that have victimized our population up to this point, and I would join those who urge passage of the amendment.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. We...we have two additional speakers, the...the lights keep...just keep coming on. Senator Collins, for a second time.

SENATOR COLLINS:

I have...I'm sorry, Mr. President, but I had waived my right to speak at first but after hearing Senator Rock saying that this measure would, in fact, fly through here because of the circumstances being an election year and, of course, law and order is always a popular issue during election time, and I felt compelled to...for the record, to speak on this issue because it saddens me to think that we would in fact impose such a drastic step simply for political reasons. And we talk about law and order, and if you believe that you can have law and order if our system of justice is unbalanced as it is today, then I am really sad to...to...to say that you're sadly mistaken. If you don't believe that our system of justice is already unbalanced, I would...would advise you to take a ride out to our penal institutions, our State correctional centers and to see who's there and you will find

probably ninety percent of those persons currently incarcerated are minorities and the poor. If you go to our county jails, you will find the same thing, and I would ask you the question to ask yourselves if whether or not the only people in this State commit crimes are the poor and the majority. And I don't think any one of you would answer honestly to yourself and say, yes, those...that is the...the group of people who commits the crime; but if in fact you impose this measure you will have more poor and minorities incarcerated, because just as one of the speakers said that in many cases because the poor have to resort to a public defender for their defense, they do not have the money for high class investigators to go out and prove their innocence, and what will happen if you incarcerate these people, they will not be given the opportunity to work for their own defense. And for that reason, you will find more of the same category of people, the poor and the minorities convicted of crimes whether or not they are guilty. This is a sad day for...if this is the way...what it takes to get the Republicans elected.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. Further discussion? Senator Newhouse.

SENATOR NEWHOUSE:

Thank you, Mr. Chairman. Mr. President, I hadn't intended to speak on this bill. I was just sitting here sinking into a sort of a despondency. This bill is going to fly out, it has before and it's going to do it again. But, hark, there's a bright side to this bill. I think that by adopting this language today we will have taken a great step forward in international relations. We will have joined the Soviet Union where they believe in preventive detention. We will have...we will have joined the Third World cultures of the Middle East who believe in preventive detention. We will have...joined the countries of the Third World in the south

of us who believe in preventive detention. I think this is a fine bill. I think we ought to advertise it all over. I think we ought to advertise that Illinois has taken a great step in cementing relationships between people who couldn't live side by side previous to this day. Now...about to follow it up though with a lot of other things. We'll have to get...forget free enterprise, we'll have to forget democracy but that's all right, we can do that, this is the first step. No problem, let's get this bill out. Let's announce to the world that we're coming through with a whole new social system, that we agree with Joe Stalin, no problem; that we agree with all the other dictators in the Middle East, no problem; that we agree with the dictators to the south of us, no problem, step one. Let's go, call this bill, get it out of here, make the announcements, go to the press, make that a party of campaigns, all of you believe it, make it a party of campaigns that you're joining the Soviet Union, that you have no problem with that kind of a present government. Tell them that you believe in what's going on in the Third World in the Islamic countries. Tell them that you believe in that, bring it out, make it public, don't hide in this Chamber, go out front, announce it on television night. Go public, go public, that's what we're doing. I'm prepared to vote No. I'm prepared to be the vocal minority, I'm prepared to say I don't agree with all those things. Oh, fellows, what you are doing to this democracy, but it's going to happen. Let's vote, I got to go.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Further discussion? Senator Davidson may close.

SENATOR DAVIDSON:

Mr. President and members of the Senate, there's a number of things touched on by speakers both for and against. I'd like to remind some of the prior speakers who opposed this, there's a little difference between here and he talked about

the Soviet Union and the Third World. There's a little item known in United States of America known as due process. This bill has due process in it. This bill will not be as restrictive as someone over there quoted our founding fathers, 'cause under the Federal law, if you're charged a Federal offense your, opportunity being denied bail is greater or more...restrictive in this bill. A little item about residential burglary that someone mentioned. Yes, I did...I was the sponsor of that bill, but there's two things you forgot to read in this. One is where the proof is evident or the presumption great the person was...the individual committed the offense, and only after a hearing in front of the court where it's proven that offender would pose a threat to the physical safety of any person. Now, you're not talking about someone that someone over there spoke about, no reasonable judge or prosecuting attorney is going to ask for denial of bail under this to someone who's not been a bad actor. What helped generate this bill was an item that happened in the Chicago area, where the judge had stated he had no choice...no choice to deny bail on a individual who was awaiting trial for battery, robbery, indecent liberty, et cetera, the bond was reduced, the individual made bail. The day before he was set to appear in court, he abducted a nine-year-old girl and did murder her as well as other individuals in a crime spree across these United States. Ladies and gentlemen, the people, the public are tired of individuals being able to make bond or bail and be out and commit another crime as serious or worse than what they've already committed. And I want to tell you, I take serious offense to the remarks by one of the Senators saying this was for political opportunity. I can't say on the Floor of the Senate what I would like to say, but the area I come from, they want their representatives to represent them on what they think is a real and present threat and, frankly, I don't need this or

anything else for publicity to get reelected. You know that and I know that, and I really take umbrage at that remark. There are now thirty-nine hyphenated cosponsors to this bill, forty-six of you voted for it to pass it when it passed October the 31st, six voted No, six voted Present. One of the individuals who voted Present on October 31st, now by his remarks is going to vote No, sobeit. This is for the people. This is time for you to do something for justice. The individual is innocent until found guilty, he has a hearing in front of the court, in front of the judge, prosecuting attorney has to prove beyond any real reason the individual committed it or is a threat to public safety. It's time for you and I to do something for the public. Please vote Aye.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. The question is, shall Senate Joint Resolution 22 be passed and approved. Those in favor will vote Aye. Those opposed will vote Nay. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Have all voted who wish? Take the record. On that question, the Ayes are 46, the Nays are 11, none voting Present. Senate Joint Resolution 22 having received the required three-fifths constitutional majority is declared passed and approved. Further business to come before the Senate? Announcements? Senator Lemke.

SENATOR LEMKE:

I'd like to make an announcement, the Senate Judiciary Committee recessed today and will reconvene in A-1 of the Stratton Office Building immediately following the Local Government Committee hearing in that same room, approximately 4:00 p.m. Also, I'd like to have Senate Bills 635 and 636 reassigned to Insurance because that's where the insurance and tort reform bills all are, and these are to that...

PRESIDING OFFICER: (SENATOR DEMUZIO)

...well, Senator, I don't think...

SENATOR LEMKE:

...stumble into my...I checked with the President of the Senate...and this is where the bill should be.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right.

SENATOR LEMKE:

So I ask for that.

PRESIDING OFFICER: (SENATOR DEMUZIO)

They are Senate...what were the numbers again?

SENATOR LEMKE:

Senate Bill 635 and 636 should be assigned to Senator Jones' Committee on Insurance.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Where are they now?

SENATOR LEMKE:

They are in Judiciary I.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. Senator Lemke moves to discharge the Committee on Judiciary I from further consideration of Senate Bill 635 and 636 and that they be rereferred to the Committee on Insurance. Those in favor indicate by saying Aye. Opposed Nay. The Ayes have it. So ordered. Senator Sangmeister.

SENATOR SANGMEISTER:

Yes, members of the Executive Committee, we're going to meet immediately after we adjourn here in Room 212. We have a lot of bills, I don't know if we're going to get through them this afternoon or not, but the sooner we get down there, the sooner we get started.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Degnan.

SENATOR DEGNAN:

Thank...thank you, Mr. President. Local Government Committee will begin at three-thirty in Room A-1. Thank you.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Netsch.

SENATOR NETSCH:

Thank you, Mr. President. The Revenue Committee is going to meet tomorrow morning as well as tomorrow afternoon. I wish all of you would please note this, we will be begin at 10:00 a.m. on the Senate Floor, the Senate Revenue Committee. I think...the morning Session plus the afternoon will give us an opportunity to finish all of our work tomorrow. For those of you who are sponsors of bills in the Revenue Committee, please feel free to...in fact, I strongly encourage you to come to the Revenue Committee beginning at 10:00 a.m. on the Senate Floor tomorrow morning and you will get a fine hearing on your fine bills. Thank you, very much.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Thank you for the announcement and the editorial. Senator Barkhausen.

SENATOR BARKHAUSEN:

Senator Netsch, a question about the hearing time. You had said 10:00 a.m. tomorrow morning, your notice that I have on my desk says nine to one tomorrow morning.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Netsch.

SENATOR NETSCH:

I was not aware that a subsequent notice had come out. I think what happened was that we did some checking and learned that Executive might have to hold over till tomorrow morning, and so we compromised at 10:00 a.m. If there is an incorrect notice, I'm sorry, I was not aware that that had been distributed. The revised correct time is 10:00 a.m. on the Senate Floor. Thank you.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right...Senator Hall.

SENATOR HALL:

Thank you, Mr. President and Ladies and Gentlemen of the

Senate. I wish to announce that Appropriation II will begin sharply at 9:30 a.m. tomorrow morning in Room 212. 9:30 a.m. tomorrow, Room 212, Appropriation I. Please be there.

PRESIDING OFFICER: (SENATOR DEMUZIO)

All right. Senator Collins.

SENATOR COLLINS:

Yes, for the purpose of announcement. The Labor Committee will meet tomorrow morning at 10:00 a.m. in Room A-1, and if you'll be there on time because I have another committee meeting at the same time, it should take us about thirty minutes to dispose of the few bills that we have. So if you be there on time, we will get out very early.

PRESIDING OFFICER: (SENATOR DEMUZIO)

Senator Topinka.

SENATOR TOPINKA:

Just in this lull, Mr. President, if you could possibly put me down as a hyphenated joint sponsor of Senate Bill 2141 and a cosponsor of Senate Bill 1698.

PRESIDING OFFICER: (SENATOR DEMUZIO)

2141 and 1698? All right. You've heard the request of Senator Topinka. Is leave granted? Leave is granted. Further business to come before the Senate? Senator Rock moves that the Senate stands adjourned till tomorrow morning at the hour of one...tomorrow afternoon the hour of one.

03/03/88
11:00

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