

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

PRESIDENT PHILIP:

The hour of nine having arrived, the Senate will come to order. Will the Members please be -- our Members and guests please be -- in the gallery, please rise. Our prayer today is by Pastor William <sic> Robert Freeman, Grace United Methodist Church of Springfield. Pastor Freeman.

PASTOR ROBERT FREEMAN:

(Prayer by Pastor Robert Freeman)

PRESIDENT PHILIP:

Thank you, Pastor Freeman. Reading of the Journal. Senator Butler.

SENATOR BUTLER:

Mr. President, I move that reading and approval of the Journals of Thursday, March 4th; Tuesday, March 9th; Wednesday, March 10th; and Thursday, March 11th, in the year 1993, be postponed, pending arrival of the printed Journals.

PRESIDENT PHILIP:

Senator Butler moves to postpone the reading and the approval of the Journal, pending the arrival of the printed transcript. There being no objection, so ordered. The Senate will stand at ease for a few minutes for a Rules Committee meeting back here at the President's -- oh! Senator Weaver. Senator Weaver, the Rules Committee will meet in the President's Office. And the Senate will stand at ease just for a few minutes.

(SENATE STANDS AT EASE)

(SENATE RECONVENES)

PRESIDENT PHILIP:

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

Senator Geo-Karis, for what purpose do you arise?

SENATOR GEO-KARIS:

Mr. President, Ladies and Gentlemen of the Senate, I would just like to report that Senator Raica is still convalescing from his surgery. And we wish him well. And that's why he's not here today.

PRESIDENT PHILIP:

Thank you, Senator Geo-Karis. The record will indicate. Senator Geo-Karis, for what purpose do you arise?

SENATOR GEO-KARIS:

Mr. President and Ladies and Gentlemen of the Senate, I've been advised that all of the women in the Senate are - both Democrat and Republican; we don't have any Independents, I don't think - anyway - are invited to dinner on Wednesday, March 17, at Jim's Steak House, at 6:30 p.m. All of the women of the Senate and all of the women of the House are invited to this dinner. And would you please, colleagues, mention it to the other colleagues of our gender, that we have a meeting and a dinner - 6:30 p.m., Wednesday, March 17th, at Jim's Steak House. We will be guests.

PRESIDENT PHILIP:

Thank you, Senator. How exciting. Resolutions, Mr. Secretary.

SECRETARY HARRY:

Senate Resolution 146, offered by Senator Topinka.

Senate Resolutions 147 and 148, offered by Senator Tom Dunn. They're all congratulatory, Mr. President.

PRESIDENT PHILIP:

Consent Calendar. I might make this note: that we have the smallest amount of resolutions we've ever had in the history of the Senate. We've only had six, believe it or not. So we're certainly going in the right direction. And if somebody would use their influence with Senator Topinka, we would probably have less

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

than six. Also, as you know, we have the least amount of bills we've ever introduced - eleven hundred and six. So we're going in the right direction. Mr. Secretary, Resolutions. Have there been any objections filed?

SECRETARY HARRY:

Mr. President, no objections have been filed to the Resolutions Consent Calendar.

PRESIDENT PHILIP:

With leave, would you please add Senate Resolution 146, 147 and 148? Any objections? Senator Geo-Karis moves that the Consent Calendar be adopted. All those in favor, signify by saying Aye. Those opposed, Nay. Ayes have it. The Consent Calendar is adopted. Mr. Secretary, Committee Reports.

SECRETARY HARRY:

Senator Watson, Chairman of the Committee on Education, reports Senate Bills numbered 132, 135, 137 and 280 Do Pass; and Senate Bills 26, 127 and 282 Do Pass, as Amended.

Senator Madigan, Chair of the Committee on Insurance, Pensions and Licensed Activities, reports Amendments numbered 2, 4 and 5 to House Bill 157 Be Approved for Consideration.

Senator Hawkinson, Chair of the Committee on Judiciary, reports Senate Bills 25, 179, 181, 287 and 289 Do Pass.

And Senator Weaver, Chairman of the Committee on Rules, reports that the following Legislative Measure has been assigned: Referred to the Senate Without Reference to Committee - Senate Amendment No. 6 to House Bill 157.

PRESIDENT PHILIP:

I'd like to advise the Members we're now going to House Bills 3rd Reading at the bottom of page 3. Let me just make this comment: I want to compliment the Minority for their cooperation on this sensitive matter, and we thank you very much. Senator Hawkinson. House Bill 157.

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

SENATOR HAWKINSON:

Thank you, Mr. President. I would like to seek leave to return this bill to the Order of 2nd Reading for the purpose of amendment.

PRESIDENT PHILIP:

Is there leave? Leave is granted. On the Order of 2nd Readings, House Bill 157. Mr. Secretary, are there -- are there any amendments?

SECRETARY HARRY:

Floor Amendment No. 2, offered by Senator Cullerton.

PRESIDENT PHILIP:

Any further amendments? Senator Demuzio, for what purpose do you arise?

SENATOR DEMUZIO:

...(machine cutoff)...had a -- a question. You read in the amendment before you brought the bill back to the Order of -- of 3rd Reading to 2nd Reading, and so, according to the rules, the -- I -- I don't want -- I don't want to cause some trouble this morning, but you better check your rules, because I think your amendments now are automatically referred back to the Rules Committee.

PRESIDENT PHILIP:

Senator, we asked Senator Hawkinson if he wanted to return it to 2nd, and he answered yes. Senator Demuzio.

SENATOR DEMUZIO:

...(machine cutoff)...understand that, but -- as I -- I think you -- the Clerk already read the amendments prior to -- while the bill was on 3rd Reading - the committee report with the amendments in it - and therefore -- and therefore the -- the amendments now are automatically referred to the Rules Committee.

PRESIDENT PHILIP:

Thank you, Senator. I think you've misread the rules, and we

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

have the proper procedure. Senator McCracken, for what purpose do you arise?

SENATOR MCCRACKEN:

Just -- just to state that Senate Amendments 2 through 5, I believe, were considered by the Insurance Committee yesterday, for the purpose of determining whether to refer them to the Floor for consideration.

PRESIDENT PHILIP:

Senator Demuzio.

SENATOR DEMUZIO:

Well, on page 16, "All floor amendments, joint...motions and conference committee reports favorably reported to the Senate from a committee shall be before the Senate and eligible for consideration by the Senate when it shall be on the <sic> (an) appropriate order of business (amendments to bills that are no longer on Second Reading shall be out of order)." You read the committee report; the amendments are before the -- the Body. The bill was on the Order of 3rd Reading prior to it being brought back to 2nd, and therefore the amendments are automatically referred to the Rules Committee, under your rules.

PRESIDENT PHILIP:

Senator McCracken.

SENATOR MCCRACKEN:

The purpose of that rule is to ensure that a sponsor may move the bill to 3rd Reading and not be held up on 2nd. What we had that long debate for the other day. And these bills -- or these amendments have already gone to the standing committee, pursuant to reference by Rules Committee, and they are in order to consider at this time, since Senator Hawkinson has returned the bill to 2nd Reading.

PRESIDENT PHILIP:

Senator Jones, for what purpose do you arise?

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

SENATOR JONES:

Thank you, Mr. President. Just to clarify what Senator Demuzio was saying and a response to Senator McCracken. Procedurally, according to the rules, the bill should have been brought back to 2nd, then read into the -- then you would have read the committee report into the record afterwards. This way we would not be caught in this glitch. This is the way the -- the rules read in the King James' version of the English language. So -- so procedurally - procedurally - the bill should have been brought back to 2nd Reading first, then read into the record the amendments, and the bill would have been on 2nd Reading. So we're just trying to clarify it, so that we won't have this sort of glitch. That's the way I read it, and I think that it's crystal clear to all of us on this Floor. And I believe your Members on your side of the aisle will concur with that.

PRESIDENT PHILIP:

Senator McCracken.

SENATOR MCCRACKEN:

I suggest we end the debate at this point. The Gentleman does not read the rules correctly, and I respectfully disagree with the interpretation, and ask the Chair to so rule, and move on to the consideration of the amendments.

PRESIDENT PHILIP:

Thank you. And for the -- final time, the Chair rules the amendment is in order. Now, on the amendment: Mr. Secretary, please read Amendment No. 2.

SECRETARY HARRY:

Amendment No. 2, offered by Senator Cullerton.

PRESIDENT PHILIP:

Senator Cullerton.

SENATOR CULLERTON:

Yes. Thank you, Mr. President, Members of the Senate.

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

Amendment No. 2 is only one sentence. It just says that "This Act applies to all claims, civil actions, and proceedings pending on or filed on or before the effective date of this Act." The purpose of this amendment - and it was discussed in the Insurance Committee - is to make it clear that any lawsuits that are now pending, that the pleadings could not be amended so as to, perhaps, take advantage of the fact that some court might rule that our effort to reenact the Statute in question was unsuccessful. We're saying that this -- this bill that we are -- are passing applies to all of those claims that were pending on, or filed before, the effective date of this Act. It's just to clarify and to give further strength and improvement to the language that we adopted in Amendment No. 1.

PRESIDENT PHILIP:

Senator Hawkinson, for what purpose do you arise?

SENATOR HAWKINSON:

Just -- just to rise in support of the Gentleman's amendment.

PRESIDENT PHILIP:

Thank you. Any further amendments? 3rd Reading. I'm sorry. The question is, shall Floor Amendment No. 2 be adopted. On -- all those in favor, signify by saying Aye. Those opposed, Nay. Ayes have it. The amendment is adopted. Further amendments?

SECRETARY HARRY:

Amendment No. 4, offered by Senator Madigan.

PRESIDENT PHILIP:

Senator Madigan.

SENATOR MADIGAN:

Thank you, Mr. President. I would ask leave to withdraw Amendment No. 4.

PRESIDENT PHILIP:

Is leave granted? Senator Cullerton.

SENATOR CULLERTON:

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

Yes. Mr. President, I think procedurally -- I have a motion to discharge Amendment No. 3, and if that was successful, I think it would be appropriate to consider, in order, the amendments. So that -- I think it would be -- if the -- if the Chair is going to allow me the -- the right to discharge the committee, then -- then we have to do that before we proceed with the other amendments.

PRESIDENT PHILIP:

Is there an amendment on file, Mr. Secretary? Is there a motion of file, Mr. Secretary?

SECRETARY HARRY:

Yes, there is, Mr. President.

PRESIDENT PHILIP:

Read the motion.

SECRETARY HARRY:

Pursuant to Rule 7-9, I hereby move to discharge the Insurance, Pensions and Licensed Activities Committee from further consideration of Senate Amendment 3 to House Bill 157, for the immediate consideration and adoption of Senate Amendment 3 to House Bill 157.

Signed by Senator Cullerton.

PRESIDENT PHILIP:

Senator Cullerton seeks to go to the Order of Motions in Writing for the purpose of considering a single motion - the discharge of the Amendment No. 3 to House Bill 157 from the Committee on Insurance and Licensed Activities. Is there any discussion? Senator Madigan.

SENATOR MADIGAN:

Well, to the motion to discharge: I would rise in opposition to the motion. The Insurance Committee yesterday afternoon took the position - or the majority of the committee took the position - that this amendment inaccurately suggested that the State of Illinois, or quite frankly, any other party, could be or was

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

negligent in this matter. And further, I'd like to state, as Senator Hawkinson did, that the committee concurs with the findings in Senate Amendment No. 1, and would ask that this motion be defeated.

PRESIDENT PHILIP:

Senator Cullerton.

SENATOR CULLERTON:

Yes. Procedurally, if I can explain -- thank you, Mr. President. Procedurally, if I can explain to my colleagues what -- where we are. I'm a cosponsor of this bill. I filed Amendment No. 3 as a Floor amendment. It was sent to the Rules Committee; the Rules Committee sent it to the Insurance Committee, and we indeed debated this amendment yesterday in the Insurance Committee, and it did not on a -- it was defeated on a motion to approve it, on a party-line vote. So now I'm filing a motion to discharge, which requires thirty-six votes, and this is the only time, procedurally, that I, as a sponsor of a Floor amendment to my own bill, can have an opportunity to debate the merits of the amendment. So I want to thank the President for allowing me this opportunity to have this motion. I understand, though, that he does have the power to not even recognize me for this motion, in which case there would never be an opportunity to even have a roll call on the merits of an amendment that you want to offer to your own bill. So I point that out for -- for something that you should keep in mind when we go forward in the -- in the procedure. Now, as to the amendment, here's what the amendment does: The amendment says that the State Department of Public Health shall, from funds appropriated to it for that purpose, indemnify and hold harmless all units of local government and their employees and agents against liability based on the purported repeal of this Emergency Medical Services Act. So what we're doing with this bill is we're trying to go back in time, and we're trying to say

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

that this Act did not really go out of existence in 1986, and that's what the bill is all about. But someone's going to sue, probably, and some court might rule that we can't do this, that this was not effective. And then, if that's the case, someone could sue the city and claim that, for example, some paramedic was negligent in the way they treated that victim. And because this law would not have been on the books, the standard of care would be regular negligence, and they would not be afforded all the immunities that were afforded in this bill, and the city might be held liable. What this amendment says is that if that happens - if, in the unlikely event that happens - the State ought to indemnify the city. And the reason why that's fair is because the cities had nothing to do with the mistake that occurred with regard to this legislation. Now, somebody made a mistake here. Somebody didn't print something, and somebody didn't publish something; and as a result, this law went out of effect in 1986. It sure wasn't the cities' fault. Somewhere in the General Assembly was the place for it to be corrected. Now, what -- what we've done to the cities, and what we might be doing to the cities this term are: number one, putting property tax caps on them, so they can't raise their property taxes; number two, taking away their surcharge; and number three, with this type of a bill without the indemnity, telling them, "Hey! We made a mistake; you got sued; there's a big judgment against you; tough luck." So, I think this is a very fair amendment. I hope that it would never come to fruition where it had to be used. I hope that we reenact this -- this law and that there's no problems. But if the cities get sued, based on something that the General Assembly messed up on, I think that's not fair. And I -- the Municipal League testified in committee, obviously in favor of this amendment, because they thought it was fair. The opposition - the Governor's Office - was there, represented by their counsel. They said,

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

"Well, it's probably not going to happen. We'll worry about it then. We'll worry about it if it ever happens. You know, the cities can always come in later on and ask for an appropriation." Well, you know what the chances of that are going to be. The time to put the indemnity is right now, and that's what the amendment's all about. Be happy to answer any questions.

PRESIDENT PHILIP:

Thank you. Senator Hawkinson.

SENATOR HAWKINSON:

I -- I rise in opposition to the -- the motion; but more importantly, I rise in disagreement with several of the statements made by the prior speaker. Number one, as I will more fully explain on 3rd Reading, it is not the position of this General Assembly, or anyone else, that this Act went out of existence. There is an ambiguity created by the history of this Act and the fact that Section 25 was not explicitly repealed; but, as I will indicate later, there was a new Section 25 in 1985, and in every General Assembly since that time, this General Assembly has amended the Act in such a way as to show the clear intent of this General Assembly and prior General Assemblies that the Act never went out of existence. So to indicate in any way in this debate that the General Assembly, quote, "messed up" or that the Act went out of existence, I think is an inaccurate statement of the history of this legislation.

PRESIDENT PHILIP:

Thank you. Senator McCracken.

SENATOR MCCRACKEN:

My point is more procedural than anything else. The Gentleman had an opportunity to present his amendment to the committee, which not only considered his position and arguments, but also took testimony, as I understand it. So it had a thorough hearing. We have to remember this is a motion to discharge at this point,

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

and the proper issue to consider is whether he had a chance and whether the committee had a good chance to decide on the merits of the proposed amendment. I submit it did so, and I rise in opposition to the motion to discharge.

PRESIDENT PHILIP:

Thank you. Senator Jones, for what purpose do you arise?

SENATOR JONES:

Yeah. Thank you, Mr. President. In speaking to the motion, and response to those who speak in opposition to this, it gets back to the point about the absurdity of the rules that we have, and ample time for the citizens of the State of Illinois, as you so projected in your -- your -- your reasoning for having the committee hold hearings. I believe the hearings on this particular issue in the Insurance, License and Pensions Committee <sic> -- I think one hour notice was given for the hearings on a matter of this magnitude, and to have ample input into the process was not -- was not given. Now, we don't know where the blame lies. I -- I'm quite certain that the cities and villages across the State of Illinois do not write the rules. They are not in charge of the process. They are not the ones who made the error, as it relate to the -- the sunseting of this particular provision. However, by the same token, we believe that they should not be held liable for the glitch. The Office of the Governor -- we discussed this at length. So I believe, as the sponsor of the amendment pointed out, funds should be appropriated in the event there is a lawsuit, but we should do it now. It should be statutorily placed in the Act right now; not wait to see whether something might happen. So I don't see why there's opposition to this. We're not trying to lain blame -- lay any blame. But by the same token, if the lawsuits come in the future, whose fault is it? And it should not lie with the various local units of government, and this -- and this amendment should be

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

adopted.

PRESIDENT PHILIP:

Senator Carroll, for what purpose do you arise?

SENATOR CARROLL:

Thank you, Mr. President, Ladies and Gentlemen of the Senate. For further debate on the motion. Senator Hawkinson said that it didn't go out of existence. In that case, why are we here? We are here, obviously, because the Governor said, "Hey, there's a crisis. Somebody goofed." It might have been our Reference Bureau; it might have been West Publishing; it might have been the Office of the Governor; it might have been someone else. Clearly, though, there's a problem, or we wouldn't be here on Friday, with additional per diem and all that goes with it, but for the fact that a crisis exists. Clearly, though, it is not the fault of the villages, towns and cities of this State. Clearly, it is the fault of someone other than them. So it seems to me that we are only here because a crisis exists. And it seems to me, clearly, those who are not at fault are going to have to bear the brunt of this error, unless we adopt this amendment. And I rise in support of Senator Cullerton's motion.

PRESIDENT PHILIP:

Senator Geo-Karis.

SENATOR GEO-KARIS:

Mr. President and Ladies and Gentlemen of the Senate, clearly, Amendment No. 2 says, "This Act applies to all claims, civil actions, and proceedings pending on or filed on or before the effective date of this Act." And I think that cures that. And I don't think we need this other amendment. Therefore, I rise to speak against the amendment and ask for a roll call.

PRESIDENT PHILIP:

Senator Cullerton, what purpose do you arise? Would you like to close, Senator Cullerton?

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

SENATOR CULLERTON:

Yes -- yes, Mr. President. Thank you, Mr. President. I would just try to respond to some of the points made. First of all, with regard to Amendment No. 2, it is on the bill, but it doesn't address the issue of indemnity. Secondly, I would indicate that, yes, this is a motion to discharge committee, which is a good point to make. I'm just asking for the opportunity to have a roll call and a discussion on the merits of an amendment that's relevant to -- to a bill that I'm the hyphenated cosponsor of. And -- and that's really kind of an important principle as well -- that we ought to have the right to at least have the full Senate debate amendments when they're -- when they're relevant. And number three, let me say that I'm not trying to undermine the purposes of the bill. I agree with Senator Hawkinson's comments that we are saying that the -- we're trying to reenact the law as if it never went out of existence. In fact, in the very amendment that I offer, I say that all actions taken by any unit of local government are -- are validated -- all actions that were taken since December 31st, 1985, are validated. But all I'm saying is that if some judge says that we were not successful -- even though I think we ought to be -- and holds that the cities can be sued, and the cities are found liable, then why should they have to pay? We, in the General Assembly, are the ones that should have caught this in some fashion and corrected it. We're trying to correct it now; but if some court says we weren't successful, this, to me, is a mandate. This bill is an unfunded mandate, potentially, to local governments. It's a big one. And for that reason, we ought to include the indemnification. Thank you.

PRESIDENT PHILIP:

Yeah. For the benefit of the Body, it will take thirty-six affirmative votes to suspend those rules -- to discharge. Senator Cullerton has moved the discharge of Amendment No. 3 to House Bill

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

157 from the Committee on Insurance and Licensed Activity <sic>. The -- the -- those in favor will vote Aye. Those opposed, Nay. The voting is open. Have you all voted who wish? Have you all voted who wish? Take the record. Further amendments? Yeah. The -- the vote is 22 Ayes, 30 Nays. The motion is defeated. Any more -- any other amendments?

SECRETARY HARRY:

Amendment No. 5, offered by Senator Madigan.

PRESIDENT PHILIP:

Senator Madigan. Oh...

SENATOR MADIGAN:

Thank you...

PRESIDENT PHILIP:

Read the amendment. He's read the amendment. Senator Madigan.

SENATOR MADIGAN:

Thank you, Mr. President. I would ask leave to withdraw Senate Amendment No. 5. Senate Amendment No. 5 was prepared and offered and approved for consideration by the Insurance Committee, in order to give the City of Chicago any further assurances that they might -- that they might desire as a result of this problem, and apparently the City did not feel that was necessary. So at this time I'm asking leave to withdraw Amendment No. 5.

PRESIDENT PHILIP:

Senator Cullerton, for what purpose do you arise?

SENATOR CULLERTON:

He's withdrawing it?

PRESIDENT PHILIP:

He has asked leave to withdraw the amendment. If there's leave, the amendment is withdrawn. Withdrawn. Further amendments?

SECRETARY HARRY:

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

Amendment No. 6, offered by Senator Cullerton.

PRESIDENT PHILIP:

Senator Cullerton, on Amendment No. 6.

SENATOR CULLERTON:

Yes. Thank you, Mr. President, Members of the Senate. Amendment No. 6 was just filed this morning and referred to the Rules Committee, which discharged it because -- I assume because it was of an emergency nature. What it does is to simply delete the word "published", which is found on page 2, line 5, of the original Amendment No. 1, and put instead the words "included" and then change "the Illinois Revised Statutes" in capital letters to "Illinois revised statutes" in lower case. The purpose of this amendment is simply to remove from the original amendment the fact that this Section - this repealer Section - was not "published in the Illinois Revised Statutes." We're going to change that to just simply say it was not "included in the Illinois revised statutes." Be happy to answer any questions.

PRESIDENT PHILIP:

Senator Hawkinson.

SENATOR HAWKINSON:

Thank you, Mr. President. I rise simply to indicate support for the Senator's amendment.

PRESIDENT PHILIP:

Senator McCracken, what purpose do you arise?

SENATOR MCCRACKEN:

I have a question. Will the sponsor yield?

PRESIDENT PHILIP:

The sponsor indicates he'll yield.

SENATOR MCCRACKEN:

Senator, is Senate Amendment No. 6's purpose to make it clear that the Illinois General Assembly does not in any way make any finding with respect to where any error occurred, who may have

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

made any error, or that any error, in fact, was made? More particularly, does the amendment make clear that the General Assembly makes no express or implied finding that the Legislative Reference Bureau, the General Assembly, the State of Illinois, West Publishing Company, or any other party, was in any way negligent or blameworthy?

PRESIDENT PHILIP:

Senator Cullerton.

SENATOR CULLERTON:

Yes.

PRESIDENT PHILIP:

The question is, shall Floor Amendment No. 6 be adopted. Are there any questions? Senator Welch, for what purpose do you arise?

SENATOR WELCH:

Well, I -- I have a question of the sponsor. In -- in light of what Senator ...(machine cutoff)... said, we've now -- we've now got an amendment here that says nobody did anything negligent. So what we did apparently was right, but somehow the Statute continued to be acted upon as if it existed. I mean, how can we -- how can we pass a bill with an amendment that says nobody did anything wrong, but yet we're here passing a bill to rectify something that was wrong? This seems like -- this last amendment seems pretty meaningless to me. It's -- it seems to be -- it seems to be saying, "Hey! Anybody who reads this, we didn't do anything wrong; we weren't negligent. West Publishing wasn't negligent." Even though for six years they continued to publish a Statute which should have been repealed - which was repealed - they continue to publish it as if it existed. I don't understand it. It's kind of like -- why don't we pass a law that says the sun will not come up tomorrow? It would have about as much effect, I think, in my opinion, and would be about as -- as

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

relevant.

PRESIDENT PHILIP:

Senator Cullerton, what purpose do you arise?

SENATOR CULLERTON:

Well, to answer the question.

PRESIDENT PHILIP:

Go right ahead.

SENATOR CULLERTON:

The -- the intent of the amendment is not to say that no one was negligent; it's actually an attempt to say that we don't really know who, if anyone, was negligent. The -- the bill, as it reads before this amendment, says that this -- this Section appeared in the laws of Illinois but was not "published in the Illinois Revised Statutes." As it reads with the amendment, it simply says this Section appeared in the laws of Illinois but was not "included in the Illinois revised statutes." And that is a significant change, because West Publishing Company is the only one that published the Illinois Revised Statutes, and they are the ones that said -- that asked for this amendment, because they felt that that was an attempt to kind of point the finger at them. And we agreed that, at this point in time, we didn't want to put in the findings of this bill any blame. We'll let the blame fall where it may later on.

PRESIDENT PHILIP:

Senator Welch, for what purpose do you arise?

SENATOR WELCH:

Well, the legislative intent question read into the record by Senator McCracken is totally different from the explanation you just gave. Senator McCracken's statement of intent seemed to me to be that the Legislature wasn't liable, the Legislative Reference Bureau wasn't liable, any private company wasn't liable. And now you tell us that this is the amendment proposed by West

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

Publishing Company. So it seems to me that -- that even though we have an emergency situation, here we have West Publishing coming up to get in their little -- their little say, so that they have no liability.

PRESIDENT PHILIP:

All right. The question -- the question is, shall Floor Amendment No. 6 to House Bill 157 be adopted. All those in favor, signify by saying Aye. Those opposed, Nay. Ayes have it. The -- Amendment No. 6 is adopted. Further amendments?

SECRETARY HARRY:

No further amendments, Mr. President.

PRESIDENT PHILIP:

3rd Reading. On the Order of 3rd Reading is House Bill -- Senator del Valle, for what purpose do you arise?

SENATOR DEL VALLE:

Thank you, Mr. President. Just wanted to let the Body know that Senator Collins, today, is absent because she's back in Chicago conducting a meeting related to legislation.

PRESIDENT PHILIP:

The record would so indicate. I might say this, too - that Senator Raica, as you know, has been operated on on his hip. He is convalescing. I talked to him yesterday - sounds in very high spirits. Says he misses us all. I don't believe that, but that's what he says. And he's coming back around the 22nd, I believe. Senator Geo-Karis, for what purpose do you arise?

SENATOR GEO-KARIS:

Mr. President and Ladies and Gentlemen of the Senate, a point of personal privilege. I might add that Senator Raica, who has been convalescing, has now entered -- completed his thirty-ninth year. It is his birthday today.

PRESIDENT PHILIP:

Thank you. On the Order of House Bills 3rd Reading, Senator

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

Hawkinson, for House Bill 157. Mr. Secretary, read the bill.

SECRETARY HARRY:

House Bill 157.

(Secretary reads title of bill)

3rd Reading of the bill, Mr. President.

PRESIDENT PHILIP:

Senator Hawkinson.

SENATOR HAWKINSON:

Thank you, Mr. President. House Bill 157 now does a couple of things. As it came over from the House and as amended by the Senate Insurance Committee, it seeks to make equal the appeal period for orders in administrative review. There are currently five Acts that deal with the administrative review procedure. Currently some of them have no stated period of review - some have thirty days, some have thirty-five days. The Illinois Bar Association has introduced this measure to try and clarify the standard period of review, and this bill, as amended, makes that period thirty-five days for all actions of administrative review. As amended in the Senate, it also deals with who should be named parties in an administrative review, and seeks to clarify who ought to be made parties to the administrative review. Under current law, it's all parties who were parties to the administrative action. There have been some difficulties because, on occasion, the final order in the administrative agency does not name all parties who ought to be named. Therefore, this bill, as amended, provides that the petitioner - the person bringing the action for administrative review - will name all those parties who are named in the final order of the administrative action, and then if a court subsequently determines that another party ought to be named, the person bringing the action will be granted leave of twenty-one days to add those other parties to the petition for administrative review. Then the matter of the emergency nature

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

that we've been discussing for the last couple of days, and I want to explain that a little more thoroughly. House Bill 157, as amended by Senate Amendments 1, 2 and 6, is intended to clarify that the Emergency Medical Services, the EMS, System Act has continued in full force and effect since its original enactment in 1980. The bill explains that the -- the history of the Act in detail; but, to summarize, when the EMS Systems Act was originally enacted in 1980, it included a Section 25, which stated that the Act was repealed as of January 1, 1986. This Section 25 appeared in the Laws of Illinois, but was never included in any addition of the Illinois Revised Statutes. In 1985, the General Assembly added a new Section 25, relating to violations and penalties, but the old Section 25 was not explicitly referred to or struck out. Each subsequent General Assembly continued to amend the EMS Systems Act, and the Act has been administered without interruption by the Illinois Department of Public Health. A few days ago, West notified the Legislative Reference Bureau that during their compilation of the Illinois Compiled Statutes, they had discovered the existence of the old Section 25 repealer, and that they intended to include this old Section in the new Compiled Statutes books. In order to resolve any possible ambiguity regarding the EMS Systems Act in the new books, this bill clearly declares that the General Assembly's intention that the old Section 25 repealer was replaced by the new Section 25, and that the Act was, therefore, never repealed. Indeed, it is clear that the Act has continually been effect since 1980. The history of continuing amendments to the EMS Systems Act clearly manifests the intention of the General Assembly to remove the old Section 25 repealer and have the Act continue in effect beyond January 1, 1986. In 1986 the General Assembly amended the Act to add important provisions concerning trauma centers. In all, the General Assembly has amended the Act seventeen times since January

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

1, 1986. There should be no doubt that it was and continues to be the intention of the General Assembly and the Governor that the EMS Systems Act was the law of the State at all times since the original repealer date. As you all know, the EMS Systems Act contains a number of programs that are essential to the continuing health and safety of the people of the State. Any construction of Section 25 that results in a repeal of the Act on January 1, 1986, would be totally inconsistent with that manifest intention of the General Assembly and repugnant to the context of the Statute, and would create serious potential risks to the health and safety of the people of Illinois. Therefore, this bill is intended to clearly resolve any possible ambiguity regarding the continued effectiveness of the EMS Systems Act, and to clearly reassure both the courts and the people of the State of the General Assembly's intent. In addition, to ensure that the dedicated individuals who are part of the EMS System and who relied on the provisions of this Act in good faith have every possible protection, the bill also expressly validates all previously enacted amendments to the Act and validates all actions taken in reliance on, or pursuant to, the Act by the Illinois Department of Public Health or any other person or entity. At the core of the EMS System are emergency medical technicians, who in downstate Illinois are often volunteers, and any possible interpretation exposing them to the risk of liability is unacceptable. The bill also expressly states that this bill applies to all claims, civil actions and proceedings pending on or filed on or before the effective date of House Bill 157. I am confident that the courts will recognize the continuative effectiveness of the Act; but on the chance that a judge overrules the clear intention of the General Assembly, Sections 33(c) and (d) expressly validate and give retroactive effect to the Act. Finally, in order to further ensure the continuing effectiveness of the Act, the bill reenacts the entire

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

Act. While I am confident that the Act in fact continues to be the law of the State, this reenactment will give clear public notice of the provisions of this Act in the future. I ask for your support of House Bill 157, and would try to answer any questions.

PRESIDENT PHILIP:

Senator Welch, for what purpose do you arise?

SENATOR WELCH:

Well, I wanted to speak on the bill.

PRESIDENT PHILIP:

Senator Welch.

SENATOR WELCH:

Well, Senator Hawkinson's statement clearly points out that West Publishing never printed the repealing Section - Section 25 - which goes against what we just did with Amendment No. 6, which said that -- was supposed to be an -- indemnification of West Publishing Company. I'm not sure why West didn't just find it out until this week. It's kind of strange, because they've already -- they've already printed the new Illinois Compiled Statutes. They went over these Statutes for the last year rewriting them, and now suddenly they come up with it. And it's funny the same week they come up with it, they also come up with an amendment holding themselves harmless. So it's kind of a -- you know, I want to congratulate them on -- on taking their time to draw the amendment and notifying us the same week. I think it was a -- a great job on their part.

PRESIDENT PHILIP:

Senator Geo-Karis, for what purpose do you arise?

SENATOR GEO-KARIS:

Mr. President and Ladies and Gentlemen of the Senate, I speak in favor of the bill. And I might remind my colleagues on the other side that my party was not in control of the Journals or

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

anything else of the Act, so I think we're -- we shouldn't have had any more delay and let's pass this bill. We need it.

PRESIDENT PHILIP:

Is there further discussion? If not -- whoop... Senator Jones, for what purpose do you arise?

SENATOR JONES:

Yes. Thank you, Mr. President. I rise in support of the bill, but also I want to clarify some remarks that was made. This Act was amended several times by Members of the General Assembly. The Office of the Governor has - under Thompson, under -- under Governor Edgar - was in control, equally as well. And they signed many pieces of legislation as it relate to this Act. So we're not trying to lay blame; but then, too, when one's going to get up and make this a partisan issue, talking about we were not in control, well I don't think that is appropriate. I think the -- the tech review office - the lawyers who work for Governor Edgar and for Governor Thompson - and also they were in charge of all the Department heads - the Department of Public Health - so therefore, let's not make this a partisan issue as such. We -- we don't know who was in blame, but we know who was in charge of the Executive Branch of government.

PRESIDENT PHILIP:

Any further discussion? If not, Senator Hawkinson, to close.

SENATOR HAWKINSON:

Thank you, Mr. President. Just briefly in response, particularly to -- to Senator Welch's characterization of my statement. My statement used the words "included in any addition of the Illinois revised statutes" - small r, small s, just like the amendment. It's not meant to refer in any way to any particular publication. It is a neutral statement. And briefly, in response to Senator Jones: I don't think this has been a partisan issue, but we should -- we should clarify that that's not

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

entirely the case, that -- I believe Alan Dixon was Secretary of State in 1980 when this bill was originally enacted. But I think we've fully explained the bill, and I would ask for your favorable consideration and -- to pass House Bill 157, as amended.

PRESIDENT PHILIP:

On the question shall House Bill 157 pass, those in favor will vote Aye. Those opposed, Nay. The voting is open. Everybody voted who wish? Everybody voted who wish? Take the record. On that question, the Ayes are 52, the Nays are No. Senate -- House Bill 157, having received the required constitutional majority, is declared passed. Senator Palmer, for what purpose do you arise?

SENATOR PALMER:

Thank you, Mr. President. I'd like the record to show I pushed my green button but it did not record on the board.

PRESIDENT PHILIP:

The record will so reflect. Senator Carroll, for what purpose do you arise? Senator Palmer -- whoop! Your light's off. All right. Thank you. If there's no further business to come before the Senate, we will stand adjourned until Tuesday -- whoop! Excuse me. I didn't see your light. Senator Maitland.

SENATOR MAITLAND:

Thank you very much, Mr. President. Just an announcement. The Senate Committee on Appropriations will meet next Tuesday morning, March 16th, at 10 o'clock in Room 212. Thank you.

PRESIDENT PHILIP:

Any further -- Senator Demuzio, for what purpose do you arise?
SENATOR DEMUZIO:

Thank you, Mr. President. I'd like the record to also reflect that Senator Vadalabene is not here. He indicates that he is doing very well and could be back any day now. Thank you.

PRESIDENT PHILIP:

Well, let the record indicate that. And please give him --

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

21st Legislative Day

March 12, 1993

give him our regards. If there's no further business or announcement, the Senate will stand adjourned till Tuesday at noon.

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
SENATE
DAILY TRANSCRIPTION OF DEBATE INDEX

94/11/14
10:42:10

MARCH 12, 1993

HB-0157	RECALLED	PAGE	3
HB-0157	THIRD READING	PAGE	19
SR-0146	RESOLUTION OFFERED	PAGE	2
SR-0147	RESOLUTION OFFERED	PAGE	2
SR-0148	RESOLUTION OFFERED	PAGE	2

SUBJECT MATTER

SENATE TO ORDER-PRESIDENT PHILIP	PAGE	1
PRAYER-PASTOR FREEMAN	PAGE	1
JOURNALS-POSTPONED	PAGE	1
AT EASE	PAGE	1
SENATE RECONVENES	PAGE	1
RESOLUTIONS CONSENT CALENDAR-ADOPTED	PAGE	3
COMMITTEE REPORTS	PAGE	3
ADJOURNMENT	PAGE	26