

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

91st Legislative Day

February 19, 1998

Speaker Hannig: "The hour of 11:45 having arrived, the House will be in order. Members will be in their seats. Will all unauthorized personnel please retire from the Chamber? Can we have a little order in the House? As we begin our prayer today, we will be lead in prayer today by Lee Crawford, the assistant pastor at the Victory Temple Church in Springfield. Guests in the Gallery may wish to rise for the invocation. Reverend Crawford."

Reverend Crawford: "Let us all pray. Father, we come before You with humble hearts and sincere mind. Not full of a lot of words, but yet with a simple petition that may the strength of God sustain us, may the power of God preserve us, may the hand of God protect us, may the way of God direct us, may the love of God be with us this hour, this day, and forever. Amen."

Speaker Hannig: "Representative Coy Pugh will lead us today in the Pledge of Allegiance."

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

Speaker Hannig: "Roll Call for Attendance. Representative Cross, are there any excused absences?"

Cross: "Yes, Mr. Speaker. Representative Kubik wishes to be recorded as excused on the official House records."

Speaker Hannig: "Okay, and the record will so reflect. And Representative Currie, are there any excused absences on the Democratic side?"

Currie: "To my knowledge, there are none, Speaker."

Speaker Hannig: "Mr. Clerk, take the record. There being 117 Members answering the Roll, a quorum is present. Shortly we will be in the process of taking the picture, the official

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

91st Legislative Day

February 19, 1998

picture for the House of Representatives for this term. So, could the Members help us begin the process by taking their seats. Could we ask those who are not to be entitled to be in the picture to please retire from the Gallery. We need to begin to get the process moving, so could we please take our seats. The photographer has requested that we clear our desks for the picture, that we put away our computers and our other notes and that we have clear desk for the picture, which we will be taking in just a few minutes. I've been advised that if you close your laptops, that will be sufficient. Once again, I would ask the Members to please take their seats, so that we can see who's not here and perhaps try to get all the Members that are here today present for the picture, to close your desktop computer, and if you have bottles or if you have styrofoam cups on your desk, you may want to remove those as well. Representative Bost, for what purpose do you rise?"

Bost: "Thank you, Mr. Speaker. Today is a kind of day of mourning, and we need to recognize something. When certain Legislators reach certain ages, they have trouble getting to the Floor, and that's probably why he was the last one here. But, one of our Representatives today has reached the age of 50. Oh, is it 60? No, no, I guess it is 50. And, Representative Ron Stephens is celebrating his 50th birthday today. There is cake that is down here after the picture, and we all want to wish him well on his 50th birthday."

Speaker Hannig: "Happy birthday, Representative Stephens."

Clerk Rossi: "If everybody could take their seat, everybody's here and we'll take the picture and get on with the business of the House."

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

91st Legislative Day

February 19, 1998

Photographer: "Okay, I'm Doug Chadwick. The... You've probably seen the pictures from past sessions. It's going to take about two minutes for the camera to pan the chamber. You need to hold real still. You'll only be in the photograph for about a half a second. And it's going to be right when the light is blinding you, so you'll know roughly when it is. I think before we had most of the Members have their hands folded on their desks. One last reminder to clear any large, bright items off your desk. Is everyone here and ready? Okay. Okay, are we ready? Are we ready? I guess so. Okay. We're rolling. Starting out over on my left, getting to the first Members. And the two minutes will seem like a long time. Is the rewind crank cranking around on top? The rewind crank cranking around on the top? Not from up here, you'd be able to see it from the ground. That's fine. No, on the top. On the center. Okay. That looks good. I guess I don't need to wave, because the light is blinding you when it does get to you. Three-quarters of the way through. Okay, thank you very much."

Speaker Madigan: "Speaker Madigan in the Chair. Mr. Clerk."

Clerk Rossi: "Committee Reports. Representative Calvin Giles, Chairman from the Committee on State Government, Administration and Election Reform, to which the following measures were referred, action taken on February 19, 1998, reported the same back with the following recommendations: 'do pass' House Bill 2652; 'do pass' as amended House Bill 2509. Representative Lauren Beth Gash, Chairman from the Committee on Judiciary II - Criminal Law, to which the following measures were referred, action taken on February 19, 1998, reported the same back with the following recommendation: 'do pass' House Bill 2446. Representative

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

91st Legislative Day

February 19, 1998

Todd Stroger, Chairman from the Committee on Local Government, to which the following measure was referred, action taken on February 19, 1998, reported the same back with the following recommendation: 'do pass' House Bill 2424; 'do pass' Consent Calendar House Bill 2580. Representative Tom Dart, Chairman from the Committee on Judiciary - Civil Law, to which the following measures were referred, action taken on February 18, 1998, reported the same back with the following recommendation: 'do pass' House Bill 2474; 'do pass' as amended House Bill 2367 and House Bill 2369. Representative Larry Woolard, Chairman from the Committee on Agriculture and Conservation, to which the following measures were referred, action taken on February 18, 1998, reported the same back with the following recommendation: 'do pass' Short Debate House Bill 2721. Representative Jay Hoffman, Chairman from the Committee on Transportation and Motor Vehicles, to which the following measures were referred, action taken on February 18, 1998, reported the same back with the following recommendation: 'do pass' House Bill 2466; 'do pass' as amended House Bill 2295; and 'be adopted' House Resolution 313. Introduction of Resolutions: House Resolution 315, House Joint Resolution 48, House Joint Resolution 49, House Joint Resolution 51, and House Joint Resolution 53 are assigned to the Rules Committee."

Speaker Madigan: "Chair recognizes Representative Erwin."

Erwin: "Thank you, Speaker. I'd like my colleagues to join me in celebrating Ricca Slone's birthday today. You can join us with some cake. So congratulations, Ricca."

Speaker Madigan: "Chair recognizes Mr. Morrow."

Morrow: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. I rise on a Point of Personal Privilege. In the

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

91st Legislative Day

February 19, 1998

visitors' gallery to my left behind me, we have some teachers from Taiwan who are taking their Masters... Masters Degrees' programs at CSU, and I would like the General Assembly to give them a warm welcome. Teachers from Taiwan, stand up and raise your hand."

Speaker Madigan: "On page two of the Calendar, on the order of House Bills - Second Reading, there appears House Bill 21. Mr. Granberg, do you wish to move that Bill? Mr. Clerk, what is the status of the Bill?"

Clerk Rossi: "House Bill 21, a Bill for an Act amending the Taxpayers' Bill of Rights. Second Reading of this House Bill. No Committee Amendments, no Floor Amendments, no Motions filed."

Speaker Madigan: "Third Reading. House Bill 2385, Mr. Saviano. Do you wish to move the Bill? Mr. Saviano, I am told that there is an Amendment assigned to the Rules Committee. So, we can take this Bill out of the record at this time. On the order of House Bills - Third Reading, there appears House Bill 2400. Mr. Acevedo. Mr. Acevedo, on House Bill 2400. Mr. Clerk, read the Bill."

Clerk Rossi: "House Bill 2400, a Bill for an Act amending the Criminal Code of 1961. Third Reading of this House Bill."

Speaker Madigan: "Mr. Acevedo."

Acevedo: "Mr. Speaker, at this time I would like to take it back to Second Reading."

Speaker Madigan: "Place the Bill on the Order of Second Reading. Are there any Amendments?"

Clerk Rossi: "Amendment #1 was adopted in committee. No Motions have been filed. No Floor Amendments approved for consideration."

Speaker Madigan: "Mr. Acevedo, the Clerk advises us that there are no Floor Amendments approved for consideration. Mr.

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

91st Legislative Day

February 19, 1998

Clerk, is there an Amendment filed which is assigned to the Rules Committee?"

Clerk Rossi: "No Floor Amendments have been filed to the Bill."

Speaker Madigan: "Mr. Acevedo."

Acevedo: "Mr. Speaker, can I take this out of the record right now, please?"

Speaker Madigan: "Okay, take the Bill out of the record. House Bill 2471, Representative Slone. Do you wish to call the Bill?"

Slone: "Thank you, Mr. Speaker. Can that Bill be moved back to Second so that it can go back to Committee to have an Amendment adopted, please?"

Speaker Madigan: "All right, place this Bill on the Order of Second Reading. Mr. Clerk, on the Order of the Agreed Resolutions, read the Resolutions."

Clerk Rossi: "House Resolution 294, offered by Representative Morrow. House Resolution 295, offered by Representative Lou Jones. House Resolution 296, offered by Representative Leach. House Resolution 297, offered by Representative Black. House Resolution 298, offered by Representative Morrow. House Resolution 299, offered by Speaker Madigan. House Resolution 300, offered by Representative Tom Johnson. House Resolution 308, offered by Representative Morrow. House Resolution 310, offered by Representative Schoenberg. House Resolution 311, offered by Representative Andrea Moore. House Resolution 312, offered by Representative Black. House Joint Resolution 43, offered by Representative Lyons. Senate Joint Resolution 46, offered by Representative Lyons and Senate Joint Resolution 47, offered by Representative Black."

Speaker Madigan: "Representative Currie, on the Agreed Resolutions. Representative Currie, on the Agreed

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

91st Legislative Day

February 19, 1998

Resolutions."

Currie: "Thank you, Speaker. I move adoption of the Agreed Resolutions."

Speaker Madigan: "Lady moves for the adoption of the Agreed Resolutions. Those in favor say 'aye'; those opposed say 'no'. The 'ayes' have it; the Resolutions are adopted. Back on the order of House Bills - Second Reading, there appears House Bill 2385. Mr. Clerk, what is the status of the Bill?"

Clerk Rossi: "House Bill 2385, a Bill for an Act amending the Liquor Control Act of 1934. Second Reading of this House Bill. No Committee Amendments; Floor Amendment #1 has been referred to the Rules Committee."

Speaker Madigan: "Mr. Saviano."

Saviano: "Thank you, Mr. Speaker."

Speaker Madigan: "Mr. Saviano, we need action by the Rules Committee before we can consider the Amendment."

Saviano: "Okay, thank you."

Speaker Madigan: "Thank you. Anything further? Mr. Clerk, on the Adjournment Resolution."

Clerk Rossi: "Senate Joint Resolution #50, offered by Representative Currie, be it resolved by the Senate of the 90th General Assembly of the State of Illinois, the House of Representatives concurring herein, that when the two Houses adjourn on Thursday, February 19, 1998, the Senate stands adjourned until Friday, February 20, 1998, in Perfunctory Session. And when it adjourns on that day, it stands adjourned until Tuesday, February 24, 1998, at twelve o'clock noon. And when the House of Representatives stands adjourned on Friday...Thursday, February 19, 1998, at twelve o'clock noon in Perfunctory Session, and when it adjourns on that day, it stands adjourned until Tuesday,

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

91st Legislative Day

February 19, 1998

February 24, 1998, at one o'clock p.m."

Speaker Madigan: "We've all heard the Resolution. Representative Currie moves for the adoption of the Adjournment Resolution. Those in favor say 'aye'; those opposed say 'no'. The 'ayes' have it; the Adjournment Resolution is adopted. If the Members would please take their chairs, if the Members would please take their chairs. The Chair proposes that we adjourn today and pay tribute to Harry Carey. If the Members could please take their chairs. The members... Mr. Schoenberg, if you could take your seat, please. Mr. Biggins, take your seat. Ladies and Gentlemen, we are all saddened... we're all saddened by Harry Carey, long time baseball announcer. Spent many years in St. Louis; many, many years in Chicago, both for the White Sox and the Cubs, and has been reported by the media. He will leave an indelible mark upon Chicago, St. Louis, major league baseball. One example being that two of his descendants are major league broadcasters today. So, I would suggest that we take a moment of silence and each in our own way remember Harry and pay tribute to the wonderful life that he lived and the wonderful life that he gave to all of America, and then I would suggest after our moment of silence that we will adjourn with Representative Burke leading us in 'Take Me Out to the Ball Game'. So first, a moment of silence. The Chair recognizes Representative Burke."

Burke: "Thank you, Speaker. I think it would be appropriate for all Members to rise. And on the count of three. 'Take me out to the ball game. Take me out with the crowd. Buy me some peanuts and Cracker Jack, I don't care if I ever get back. So it's root-root-root for the ball team. If they don't win, it's a shame. So it's one, two, three strikes,

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

91st Legislative Day

February 19, 1998

you're out at the old ball game."

Speaker Madigan: "Representative Currie moves that the House stand adjourned until Tuesday, February 24, at 1:00 p.m. providing Perfunctory time for the Clerk. Those in favor say 'aye'; those opposed say 'no'. The 'ayes' have it. The House does stand adjourned until Tuesday, February 24, at 1:00 p.m. providing Perfunctory time for the Clerk."

Clerk Rossi: "The House Perfunctory Session will come to order. Committee Reports. Representative Skip Saviano, Chairman from the Committee on Registration and Regulation, to which the following measures were referred, action taken on February 19, 1998, reported the same back with the following recommendation: 'do pass' Standard Debate House Bill 2445; 'do pass' Short Debate House Bill 349. Introduction and First Reading of House Bills. House Bill 3835, offered by Representative Lopez, a Bill for an Act to amend the Illinois Public Aid Code. House Bill 3836, offered by Representative Daniels, a Bill for an Act making appropriations and reappropriations. House Bill 3837, offered by Representative Daniels, a Bill for an Act making appropriations and reappropriations. House Bill 3838, offered by Representative Daniels, a Bill for an Act making appropriations and reappropriations. House Bill 3839, offered by Representative Daniels, a Bill for an Act making appropriations. House Bill 3840, offered by Representative Daniels, a Bill for an Act making appropriations and reappropriations. House Bill 3841, offered by Representative Daniels, a Bill for an Act making supplemental appropriations. House Bill 3842, offered by Representative Daniels, a Bill for an Act making appropriations. House Bill 3843, offered by Representative Capparelli, a Bill for an Act to amend the Peace Officer

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

91st Legislative Day

February 19, 1998

Firearm Training Act. House Bill 3844, offered by Representative Black, a Bill for an Act to amend the State Treasurer Employment Code. House Bill 3845, offered by Representative Hannig, a Bill for an Act making an appropriation to the Supreme Court. First Reading of these House Bills."

Clerk Rossi: "Introduction and First Reading of House Joint Resolution Constitutional Amendment #18, offered by Representative Dart.

'BE IT RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETIETH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN, that there shall be submitted to the electors of the State for adoption or rejection at the general election next occurring at least 6 months after the adoption of this Resolution a proposition to amend Section 11 of Article VI of the Illinois Constitution as follows:

ARTICLE VI

THE JUDICIARY

SECTION 11. ELIGIBILITY FOR OFFICE

No person shall be eligible to be a Judge or Associate Judge unless that person he is a United States citizen, a licensed attorney-at-law of this State for at least 10 years, and a resident of the unit which selects him or her. The requirement that an attorney's period of licensure must be at least 10 years applies only to persons initially elected or appointed as a Judge or an Associate Judge after the effective date of this Constitutional Amendment of 1998. No change in the boundaries of a unit shall affect the tenure in office of a Judge or Associate Judge incumbent at the time of such change.

(Source: Illinois Constitution.)

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

91st Legislative Day

February 19, 1998

This Constitutional Amendment takes effect upon approval by the electors of this State.'

HOUSE JOINT RESOLUTION

CONSTITUTIONAL AMENDMENT #19

(Offered by Representative Schoenberg)

'BE IT RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETIETH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN, that there shall be submitted to the electors of the State for adoption or rejection at the general election next occurring at least 6 months after the adoption of this Resolution a proposition to amend Section 14 of Article IV and Section 15 of Article VI of the Constitution as follows:

ARTICLE IV

THE LEGISLATURE

(ILCON Art. IV, Sec. 14)

SECTION 14. IMPEACHMENT

The House of Representatives has the sole power to conduct legislative investigations to determine the existence of cause for impeachment and, by the vote of a majority of the members elected, to impeach Executive and ~~Judicial~~ officers. Impeachments shall be tried by the Senate. When sitting for that purpose, Senators shall be upon oath, or affirmation, to do justice according to law. If the Governor is tried, the Chief Justice of the Supreme Court shall preside. No person shall be convicted without the concurrence of two-thirds of the Senators elected. Judgment shall not extend beyond removal from office and disqualification to hold any public office of this State. An impeached officer, whether convicted or acquitted, shall be liable to prosecution, trial,

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

91st Legislative Day

February 19, 1998

judgment and punishment according to law.

(Source: Illinois Constitution.)

ARTICLE VI
THE JUDICIARY

(ILCON Art. VI, Sec. 15)

SECTION 15. RETIREMENT - DISCIPLINE

(a) The General Assembly may provide by law for the retirement of Judges and Associate Judges at a prescribed age. Except as otherwise provided in this Section, any retired Judge or Associate Judge, with his consent, may be assigned by the Supreme Court to judicial service for which he shall receive the applicable compensation in lieu of retirement benefits. A retired Associate Judge may be assigned only as an Associate Judge.

(b) A Judicial Discipline and Incapacity Commission is created. The Commission shall administer and have exclusive jurisdiction over matters of judicial discipline and incapacity. The Commission shall consist of twelve members in three categories: judges, lawyers, and public members. The Supreme Court shall appoint two Circuit Judges (one or both of whom may be retired Circuit Judges) and two Appellate Judges (one or both of whom may be retired Appellate Judges) as members. A committee of lawyers designated by the presidents of the bar associations headquartered in Illinois having seats in the House of Delegates of the American Bar Association shall appoint four persons who are lawyers as members. The Governor shall appoint four persons who are neither lawyers nor judges as public members. No more than two of the public members appointed by the Governor shall be members of the same political party. No Supreme Court Justice may be a Commission member. The terms of Commission members shall be six years. The Commission shall implement a method for staggering

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

91st Legislative Day

February 19, 1998

initial terms of members so that the terms of four members expire every 2 years. No member shall be eligible for reappointment for consecutive terms. A vacancy on the Commission shall be filled for a full term in the manner the original appointment was made. Commission members shall not be subject to removal except for cause. Removal of a member shall be by the authority appointing the member under rules and standards to be adopted by the appointing authority.

The Commission shall have jurisdiction over the conduct of judges alleged to be in violation of a Supreme Court Rule on judicial conduct or any other applicable law or ethical code, regardless of whether the alleged conduct occurs in the course of the judge's official duties.

The Commission shall have jurisdiction over a former judge to require the former judge to respond to a complaint of misconduct that occurred before or during the former judge's service as a judge, but only if the complaint is brought within six months following the last day of the former judge's service. The Commission shall exercise caution and discretion before initiating an investigation of a former judge and shall take into consideration factors such as the seriousness of the complaint, the likelihood that the former judge will return to judicial service, and the extent to which the matter can and will be appropriately handled by the agency of the Illinois Supreme Court that has administrative supervision over disciplinary proceedings affecting lawyers.

A judge shall be disqualified from acting as a judge, without loss of salary, while there is pending any indictment or information charging the judge in the United States with a crime punishable as a felony under Illinois or federal law, or if there is a petition to the Illinois Supreme Court to review a determination by the Commission to remove or retire a judge. The

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

91st Legislative Day

February 19, 1998

Commission may disqualify a judge from acting as a judge, without loss of salary, upon notice of formal proceedings by the Commission charging the judge with judicial misconduct or disability.

The Commission shall suspend a judge from office without salary when in the United States the judge pleads guilty or no contest or is found guilty of a crime punishable as a felony under Illinois or federal law or of any other crime that involves moral turpitude. If the conviction is reversed, the suspension of the judge shall terminate and the judge shall be paid the salary for the judicial office held by him or her for the period of suspension. If the judge is suspended and the conviction becomes final, the Commission shall remove the judge from office.

The Commission may retire a judge for disability that seriously interferes with the performance of the judge's duties and is or is likely to become permanent. The Commission may censure a judge or former judge or remove a judge for action occurring not more than five years before the commencement of the judge's current term, or of the former judge's last term, that constitutes willful misconduct in office, persistent failure or inability to perform the judge's duties, habitual intemperance in the use of intoxicants or drugs, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute. The Commission may publicly or privately admonish a judge or former judge found to have engaged in improper action or dereliction of duty. The Commission may bar a former judge who has been censured from receiving an assignment, appointment, or reference of work from any Illinois State court.

Upon petition by the judge or former judge, the Supreme Court may, in its discretion, grant review of the determination by the Commission to retire, remove, censure, admonish, or disqualify a judge or former judge. When the Supreme Court reviews a

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

91st Legislative Day

February 19, 1998

determination of the Commission, it may make an independent review of the record, but if the Supreme Court has not acted within 90 days after granting the petition, the decision of the Commission shall be final.

If the Commission removes a judge, that judge shall be ineligible for judicial office and shall be ineligible to receive an assignment, appointment, or reference of work from any Illinois State court, and, pending further order of the Supreme Court, shall be deemed suspended from practicing law in the State of Illinois. The agency of the Supreme Court that has administrative supervision over disciplinary proceedings affecting lawyers may institute appropriate attorney disciplinary proceedings against any judge who retires or resigns from office while judicial disciplinary charges are pending.

If the Commission admonishes or censures a Justice or former Justice of the Illinois Supreme Court or removes or retires a Justice of the Illinois Supreme Court, the determination of the Commission shall be reviewed by a tribunal of seven elected judges of the Appellate Court, selected by lot.

The Supreme Court shall have sole jurisdiction in a civil action or other legal proceeding of any kind brought against the Commission by a judge. Any request for injunctive relief or any other provisional remedy shall be granted or denied within 90 days after the judge files the request for relief.

Absolute immunity shall be granted to members of the Commission, the Commission staff, and any examiners and investigators employed by the Commission from suit for all conduct at any time in the course of their official duties. No civil action may be maintained against a person nor may any adverse employment action be taken against a person by any public or private employer based on statements presented by the person to the Commission.

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

91st Legislative Day

February 19, 1998

The Commission shall adopt rules setting forth standards under which investigations and investigatory proceedings shall be public and when they shall be confidential. When the Commission institutes formal proceedings, the notice of charges, the answer, and all subsequent papers and proceedings shall be open to the public. The Commission may make explanatory statements. The Supreme Court shall continue to make rules for the conduct of judges, both on and off the bench, and for judicial candidates in the conduct of their campaigns.

Upon request, the Commission shall provide, to the Governor of any state of the United States, the text of any private admonishment, advisory letter, or other disciplinary action, together with any information that the Commission deems necessary to a full understanding of the Commission's action, with respect to any applicant whom the Governor states is under consideration for any judicial appointment.

The Commission shall provide to the President of the United States or his or her designee the text of any private admonishment, advisory letter, or other disciplinary action together with any information that the Commission deems necessary to a full understanding of the Commission's action with respect to any applicant the President indicates is under consideration for any federal judicial appointment.

The Commission shall divide itself into a hearing panel of nine members and an investigative panel of three members. Hearing and investigative panels shall consist of equal members of members from each category of membership; however, membership on the panels may rotate in a manner determined by the Commission, and no member shall sit on both the hearing panel and investigative panel for the same proceeding. The Commission shall set the schedule as to when the panels shall meet, and the full Commission shall also meet periodically to consider general administrative matters.

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

91st Legislative Day

February 19, 1998

Meetings of the Commission, other than regularly scheduled meetings, may be called by the Chair upon the written request of three members of the Commission."

Clerk Bolin: "A quorum shall be seven members of the full Commission, five members of a hearing panel, and two members of an investigative panel. However, a quorum of the Commission or any panel must include one member from each category of membership. The Commission shall provide for the full appointment of alternate members when necessary to fulfill the quorum requirements.

The Commission shall adopt rules of procedure for matters concerning discipline and incapacity, and shall propose amendments to the Supreme Court Rules governing judicial conduct. The Commission shall appoint both a disciplinary counsel and a Commission Council.

An investigative panel shall review the recommendations of disciplinary counsel after preliminary investigation and either authorize a full investigation or dismiss the complaint. An investigative panel may also review the recommendations of disciplinary counsel after full investigation and approve, disapprove, or modify the recommendations.

A hearing panel shall rule on pre-hearing motions, conduct hearings on formal charges, and make findings, conclusions, and recommendations to the full Commission for sanctions or to dismiss the case. A hearing panel may appoint a hearing officer or a subpanel of the hearing panel to conduct a hearing in appropriate cases. The hearing officer or subpanel shall make findings of fact and submit a report to the full hearing panel. The Disciplinary Council and the respondent judge shall be given an opportunity to make final objections. The hearing panel shall then review the report and record and make its findings, conclusions, and recommendations to the full Commission regarding the disposition of the matter.

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

91st Legislative Day

February 19, 1998

Disciplinary counsel shall be appointed by the Commission for a term of six years, and shall be eligible for reappointment. Full-time Disciplinary Council may not otherwise engage in the practice of law or serve in a judicial capacity. Disciplinary counsel shall receive and screen complaints, refer complaints to other agencies when appropriate, conduct preliminary investigations, recommend to an investigative panel of the Commission and upon authorization conduct full investigations, notify complainants about the status and disposition of their complaints, and make recommendations to an investigative panel on the disposition of complaints after full investigation. Disciplinary counsel shall file formal charges when directed to do so by an investigative panel, and shall prosecute the formal charges and file notices of exceptions to the findings, conclusions, recommendations for sanctions, or orders of dismissal of hearing panels.

The Commission shall appoint a Commission Council. The Commission Council shall advise the hearing panel during its deliberations and draft decisions, orders, reports, and other documents on behalf of the hearing panel, employ and supervise other staff necessary to the performance of the Commission's duties, assist the Commission in providing the support necessary to the efficient functioning of the hearing process, and perform other duties assigned by the Commission.

In any hearing regarding charges of misconduct and grounds for transfer to and from incapacity inactive status, the standard of proof shall be clear and convincing evidence. The burden of proof in all proceedings seeking transfer from incapacity or inactive status shall be on the judge. The rules of evidence applicable to non-jury civil proceedings and the rules of formal procedure shall apply in judicial discipline and incapacity cases. The judge shall be entitled to retain counsel and to have the assistance of

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

91st Legislative Day

February 19, 1998

counsel at every stage of the proceedings.

Before the filing and service of formal charges with the hearing panel, all proceedings shall be confidential. Once formal charges have been filed and served upon the judge, all proceedings shall be public, except incapacity proceedings. Before the filing and service of formal charges, all information relating to a complaint that has not been dismissed shall be held confidential by the Commission and by its staff, except that the Commission may disclose information when the Commission has determined that there is a need to notify another person to protect that person or to notify a government agency to protect the public or the administration of justice, or upon a waiver in writing by the judge. All information relating to a complaint that has been dismissed without formal charges being filed shall be held confidential by the Commission and disciplinary counsel and its staffs. Rules shall provide for service upon the judge of formal charges in person or by registered or certified mail, the Commission shall maintain subpoena power and the authority to enforce subpoenas. There shall be written acknowledgement of every complaint, if the complainant is known, and the complainant shall be notified in writing of the final disposition of a proceeding. The notification shall be mailed within ten days of the order disposing of the proceeding.

When disciplinary counsel believes there is evidence supporting the allegations against a judge, he or she shall recommend to the investigative panel of the Commission assigned to the case that the panel authorize a full investigation. The investigative panel shall review disciplinary counsel's recommendation and either dismiss the complaint or authorize a full investigation. Within 10 days after the investigative panel authorizes a full investigation, disciplinary counsel shall give a detailed notice to the judge. This notice shall contain a

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

91st Legislative Day

February 19, 1998

specific statement of the allegations being investigated and the canons or rules allegedly violated, with the provision that the investigation may be expanded if appropriate. The notice shall also inform the judge of the duty to respond and that the judge has an opportunity to meet with disciplinary counsel. The notice shall also afford the judge the name of the complainant unless the investigative panel determines that there is good cause to withhold that information. Disciplinary counsel may request that the judge file a written response within 30 days after service of the notice.

Upon the conclusion of the full investigation, disciplinary counsel may recommend to the investigative panel that there be dismissal, private admonition or a deferred discipline agreement, the filing of formal charges, the filing of a petition for transfer to incapacity inactive status, referral to an appropriate agency, or a stay. The investigative panel may adopt, reject, or modify the recommendations of disciplinary counsel. If the investigative panel imposes a private admonition, the panel shall condition the private admonition upon the judge's execution of a waiver of the right to a hearing. The waiver shall bar the judge from objecting to the use at any subsequent proceeding against the judge of the findings that are the basis of the admonition. The private admonition shall be in writing.

The Commission shall adopt rules providing for the contents of formal charges, the necessity of a written answer to be filed by the respondent, discovery, agreements regarding sanctions, and the conduct of public hearings.

(c) The Judicial Inquiry Board and the Courts Commission are abolished. Any matter filed with or pending before the Judicial Inquiry Board or the Courts Commission and any pending impeachment investigation or proceeding against a judge shall be transferred to the Judicial Discipline and Incapacity Commission for

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

91st Legislative Day

February 19, 1998

appropriate action.

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

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

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

(e) -- A -- Courts -- Commission -- is -- created -- consisting -- of -- one -- Supreme Court -- Judge -- selected -- by -- that -- Court, -- who -- shall -- be -- its -- chairman, -- two Appellate -- Court -- Judges -- selected -- by -- that -- Court, -- and -- two -- Circuit

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

91st Legislative Day

February 19, 1998

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

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

(e) (g)--The--Commission--shall--adopt--rules--governing--its procedures--and--shall--have-power-to-issue-subpoenas. The General Assembly shall provide by law for the expenses of the Commission.
(Source: Illinois Constitution.)

SCHEDULE

This Constitutional Amendment takes effect upon approval by the electors of the State.'

First Reading of this Constitutional Amendment. Message from the Senate, Mr. Harry, Secretary. 'Mr. Speaker, I'm directed to inform the House of Representative that the Senate has accepted the Governor's specific recommendations for change which are attached to a Bill of the following title. The acceptance of which I am instructed to ask the concurrence of the House. Senate Bill 9, a Bill for an Act in relation to harrassing and obscene communications.' Having no further business, the House Perfunctory Session will stand adjourned. The House will reconvene in Perfunctory Session February 20th at noon, and the House will reconvene in

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

91st Legislative Day

February 19, 1998

Regular Session on February 24th at one o'clock p.m."